The London School of Economics and Political Science

When is EU conditionality effective? The terms of Poland's accession

Justyna Glusman

A thesis submitted to the European Institute of the London School of Economics for the degree of Doctor of Philosophy, London, December 2008

ProQuest LLC
789 East Eisenhower Parkway
P.O. Box 1346
Ann Arbor, MI 48106-1346

Declaration

I certify that the thesis I have presented for examination for the PhD degree of the London School of Economics and Political Science is solely my own work other than where I have clearly indicated that it is the work of others (in which case the extent of any work carried out jointly by me and any other person is clearly identified in it).

Abstract

The aim of my thesis is to investigate the reasons behind the mixed effectiveness of the EU pre-accession conditionality applied to the Central Eastern European candidates for membership.

The process of enlargement to the East, concluded in 2004 with the accession of ten new countries, involved an unprecedented scope of EU conditionality applied to the prospective members. However, as the findings of this research demonstrate, the results of the grand European project of policy transfer to its new members have been mixed. Using a one-country cross-policy framework, I try to answer some open questions arising from the empirical analysis that the literature on conditionality has not thus far answered.

The study draws on Putnam's two-level game model (Putnam 1988), analyzing international negotiations in their dual, domestic and international context. In theoretical terms, the interest of the research is in the entanglement between domestic and international policy processes. The key claim is that external pressures must be matched with the specific domestic context since none of these variables alone can explain the dynamics of adaptation. The effectiveness of EU conditionality is contingent on the type of acquis communautaire and the presence or absence of opposition to the reforms. The project aims to identify which properties of this framework or their combinations facilitate adaptation and which, to the contrary, impede prompt adjustments.

The findings from the case studies challenge the conventional static approach to conditionality and demonstrate how instrumentalization of the international (EU) level of the bargain at the national level may lead to endogenous changes of the latter, namely mobilization of the social interests. This effect could explain why conditionality has not been as effective as the asymmetric bargaining power and the material advantages of compliance would lead one to expect.

Acknowledgements

Writing a dissertation is a solitary experience, and yet it is not possible without the personal and practical support of many people.

First and foremost, my gratitude goes to my supervisor, Dr. Waltraud Schelkle, for her unceasing commitment, constructive and perceptive comments and belief that this lengthy process has an end. Without her support and invaluable, always timely advice my thesis would not have materialized.

I am also grateful to other European Institute professors, in particular Dr. Abby Innes, who stepped in at a critical moment of the writing and Dr. Vassilis Monastiriotis, who was kind enough to take over at the very end of the process.

I am also indebted to my colleagues and academic staff at the European Institute and Hellenic Observatory, who create the special ambience of this place. I appreciated it particularly well while completing the thesis in Poland, away from this stimulating environment.

The assistance of the Polish public administration officials from the Office of the Committee for European Integration was invaluable for the empirical part of this work. I would like to extend my thanks to all other people who agreed to devote their time in order to share their knowledge and experience during the interviews conducted for the purpose of this thesis.

I would also like to thank my dear friends, Aga and Marc Verlet, who always kindly offered their company and accommodation in London, and thanks to whom completion of this dissertation was at all possible and has proven a far more pleasant experience than it could have been.

Finally, my special thanks go to my parents for their support and patience in coping with an eternal student. The completion of this thesis would not be possible without my husband Matias and his incessant encouragement, patience and belief that this process would come to a happy end. Last, but not least, I am grateful to my little daughter Julia, who stood up to the task and developed a sleeping pattern allowing for this dissertation to be completed.

TABLE OF CONTENTS

CHAPTER VI: NEGOTIATION DEADLOCK ON THE REFORM OF THE STAET AID SYSTEM IN POLAND

CHAPTER VII: THE FLAWED ADAPTATION OF POLAND'S REGIONAL AID SYSTEM TO THE EU COHESION POLICY

CHAPTER VIII: CONCLUSIONS

LIST OF ANNEXES

CHAPTER I

INTRODUCTION

Introduction

Different approaches have been used to explore the adaptation of the candidate countries to the EU. There is a growing body of literature that uses conditionality as an analytical framework for understanding the process of accession. Joining the Community required from the candidates far-reaching structural adjustments in practically all spheres of economic and political life. Successful completion of these reforms was an indispensable condition of membership. However, as the empirical studies on transformation processes in Central and Eastern Europe (CEE) demonstrate, the adjustment processes have not always advanced in accordance with expectations. Therefore, the conjecture that high incentives or material advantages certainly bring rapid policy and institutional modifications seems premature. In this project I will try to assess the effectiveness of conditionality as a mechanism of shaping the trajectory of the adaptation processes. Such an investigation may have significant political relevance for future enlargements, already on the EU agenda. In a theoretical sense, the study aims to contribute to the host of literature on the role of external influences in shaping domestic political and economic choices.

The demise of the communist systems in (CEE) at the end of the 1980s triggered aspirations among the countries in the region to EU membership. From the moment the communist bloc was dismantled, a 'growing alignment with Western European and Atlanticist structures'[1] has become an overriding foreign policy goal of the CEE transition countries (Balcerowicz 1995: 84). However, since the Copenhagen summit of

[1] The key principles of the Polish foreign policy as outlined by Krzysztof Skubiszewski, Polish Foreign Minister in 1989.

1993 it became clear that the applicants would need to meet a broad array of economic and political conditions prior to joining the Community. These criteria, gradually specified in the course of the pre-accession process and during the accession negotiations, formed the core of the EU conditionality regime. Conditionality is defined as the mutual arrangement by which a government takes, or promises to take, certain policy actions, in support of which the EU or other agency will provide specified benefits: membership, financial assistance etc. (Killick et al. 1998; Grabbe 2001a; Grabbe 2002; Grabbe 2002a; Hughes 2003).

The literature on enlargement takes various perspectives on pre-accession conditionality. Some studies take a generalist approach and analyze it from the International Relations standpoint, with a focus on the way it plays itself out in the accession process (e.g. 1998a; Bronk 2002; Moravcsik and Vachudova 2003; Smith 2003). Others, in turn, take the comparative government perspective and start the analysis from the country seeking accession, examining how conditionality is used in its relations with the European Union. While a number of these accounts see conditionality as the effective external reform anchor (Bronk 2002), in others it merely presents a moving target for underlying power struggles and its impact on policy output remains uncertain (Jacoby 2004). The cross-country accounts assessing the working of conditionality within one policy area (Hughes et al. 2003; Schimmelfennig et al. 2003) have established that it is not homogenously effective in all candidate countries. Alternatively, the single case analyses (e.g. Marek and Baun 2002) inform about the compatibility/tension between demands of the EU and domestic political agenda. More recent studies attempt to reconcile some of the contradictory findings of these two streams of the literature, matching the properties of EU conditionality with the domestic contexts (Jacoby 2004; Vachudova 2005). The current project, while falling into this latter category, shifts away from the government-centric view of conditionality, which is a mainstream of the literature[2], and emphasises domestic dynamics of accession negotiations and post-negotiations adaptation. With the benefit of hindsight, it will try to synthesize some of the contradictory findings of different 'schools' of conditionality.

[2] Although Jacoby (2004) is an exception.

Using a one-country cross-policy framework, I try to answer some open questions that other studies on conditionality do not or, by design, cannot answer. In theoretical terms, the interest of the research is in the entanglement between domestic and international policy processes. The argument of this study is that EU enlargement is a foreign policy project, which can be implemented successfully (in terms of adaptation) under particular domestic conditions. The construction of the acquis communautaire[3] and, on the other hand, of the domestic politico-economic systems, provides the institutional framework in which political decisions are undertaken. The project aims to identify which properties of this framework or their combinations facilitate adaptation and which, to the contrary, impede prompt adjustments. It is argued that the ample experience of the International Financial Institutions (IFIs)[4] with conditionality may provide useful insights for understanding the political economy of the relatively new EU conditionality regime[5]. The general conclusion from the empirical studies on the use of conditionality by the IFIs holds that a 'good' domestic political environment is crucial for the effectiveness of conditionality (Reynolds 1995; Burnside and Dollar 1997). It thus calls for a re-examination of domestic factors and their role in the course of adjustment to the demands of an international agency[6].

The study draws on Putnam's two-level game model (Putnam 1988), analyzing international negotiations in its dual, domestic and international context. This project, however, utilizes an interpretation of the model de-emphasizing the strategic choices of the negotiators, and focuses instead on the institutional constraints pertaining to the negotiation process and historical legacies of the candidate country. The pace and structure of negotiations are broadly framed by the asymmetric bargaining power of the EU, accession timetable and position of the EU as delegated negotiator for the old EU member countries. However, the dynamics of the process to a large extent is defined by domestic contingencies, such as the political prerogative of 'return to Europe', the

[3] It varies between particular policy fields as a result of a different pace and depth of integration in various areas. As a consequence there is a divergent degree of integration in different policy fields signified by varying shares in decision-making power between the responding national (sub-national) and supranational institutions.

[4] World Bank (WB) and International Monetary Fund (IMF) stand for IFIs.

[5] The scale of conditionality in the current enlargement process to Central Eastern Europe (CEE) gives the notion another dimension and significance, especially when combined with the relatively low level of development of the new members. It is thus more relevant than ever before to draw parallels between the EU conditionality regime and the IFIs' conditioned structural adjustment programmes.

[6] Be it EU or IFI. At this point supranational features of the EU do not make much change.

absence of alternative ideological or systemic paradigms, volatile political systems alias strong entrenched interests in some areas as well as social mobilization traditions. The model thus expands on the domestic level and its dynamics, which are given in the original Putnam framework. It demonstrates how instrumentalization of the international (EU) level of the bargain at the national level may lead to endogenous changes of the latter, namely mobilization of the social interests. This effect could explain why conditionality has not been as effective as the asymmetric bargaining power and the material advantages of compliance would lead one to expect.

The study argues that properties of the acquis communautaire (thin or thick) are important for mitigating various social reactions to adaptation and provide the Commission with better or worse tools for insisting on candidates to reform. On the other hand, domestic opposition to adaptation prior to accession structured the behavior of the government during the accession negotiations and influenced its ability to deliver on the undertaken commitments. The combination of these two variables is crucial for the effectiveness of EU conditionality in instigating policy change.

The study consists of an empirical analysis of four different policy areas, which illustrate different realizations of these variables. While the acquis is thick in the Fisheries and Competition policies, the number of rules and regulations in Regional policy and Taxation remains considerably smaller. In turn, the strong opposition from entrenched interests accompanied adaptation in the Competition policy area and Taxation, while domestic groups were weak in the Fisheries and Regional policy. The process of adaptation to the EU, however, instigates social mobilization in these two latter areas. The selected case studies are policies crucial both for transposition and for EU membership. At the same time, they belong to the 'problematic' negotiation chapters, thus defying explanations of varying effectiveness of conditionality based on the mis-fit concept (Boerzel and Risse 2000). The research hypotheses maintain that where there are strong prior interests a thick acquis mobilizes domestic opposition against regulation and thus renders conditionality less effective. However, in policy areas without prior interests, a thick acquis provides better guidance for implementation and therefore may serve as a more appropriate tool for the policy transfer.

Poland was the largest of the applicant states in the fifth round of enlargement and as such, she enjoyed the highest political bargaining power. It makes it a

particularly interesting case study in the context of asymmetry of power (between the EU and a candidate) and conditionality of enlargement. On the one hand, the reform processes in Poland have been underpinned by the strong desire of 'return to Europe' but on the other by a conviction that for political reasons and thanks to support of Germany the potential failures in adaptation may be overlooked. The leadership ambitions based on this *a priori* 'supremacy' made it arguably a country setting the precedent for all other applicant states. This has been visible especially in the early stages of the accession negotiations where Poland sought to set the standards for other applicants, in terms of demands for transition periods as well as the pace of negotiations[7].

Furthermore, the episode of the "Solidarity" movement makes Poland an especially interesting case for studying domestic interest groups and social conflict. The historical institutionalist framework, which this project draws upon, utilizes these traditions and validates previous experience for explaining present policy-making processes and policy choices. It also acknowledges the primary role of the institutional structures, in which political cleavages take place and through which the preferences of actors are channelled. Access to the original documentation in the Polish language will enable an in-depth empirical study on the domestic political preferences and their evolution throughout the pre-accession process. Such a policy-tracing method as proposed in this project requires detailed examination of these internal documents in their original version.

The next section highlights the extensive *ex ante* conditionality used in the fifth enlargement by the Commission to promote policy reforms in the Central Eastern European (CEE) candidates for membership in line with the acquis. The following part outlines the puzzle arising from the examination of literature on the fifth enlargement and accession conditionality of the EU. A further section presents in what way the single country multi-policy study may resolve some unanswered questions arising from the empirical research and literature on the subject. It charts the variables used in this research project. Further, the methodology and case studies proposed for testing the hypotheses of the research will be presented. The conclusions summarize the arguments and present the research outline.

[7] On 1 September 1998 Poland, as the first negotiating country, submitted to the Commission the Negotiating Positions in the seven chapters. In that way it effectively started the accession negotiations.

1. The conditioned nature of the fifth enlargement

... This is the key justification for conditionality; if you ask for a gift, you must listen to your patron.

(Carlos F. Diaz-Alejandro 1984)

Conditionality is a mechanism by which various international agencies, be it International Financial Institutions (IFIs) or the European Union, promote policy reforms of particular countries in line with their preferences. In other words, the patrons (IFIs) use various incentives or disincentives "to alter [a] state's behavior or policies" (Checkel 2000: 1). In formal terms, conditionality signifies a mutual agreement by which a target government takes, or promises to take, certain policy actions, in support of which an IFI or other agency will provide specified amounts of financial assistance or other benefits (Killick et al. 1998: 6). The two key implications from application of this definition are that, firstly, it presupposes the voluntary character of the agreement and secondly, it does not exclude the possibility of punitive action once the deal has been signed. Formally, however, the conditionality regime is not coercive. It is assumed that countries subjected to conditionality approve the pre-agreed measures exercised towards them, no matter whether they imply awarding positive behavior or penalizing for failures.

Although it is the International Financial Institutions, in particular the World Bank (WB) and the International Monetary Fund (IMF), that have championed the use of conditionality towards the states provided with financial assistance, the EU has increasingly followed the 'conditionality path' in its pre-accession strategies[8]. In particular in the fifth enlargement leading to inclusion of some of the CEECs (Central Eastern European Countries) into the EU, the latter applied an extensive *ex ante* conditionality regime towards the candidates. Since the signing of the Europe Agreements recognizing post-communist countries' aspirations to membership, and moreover, the 1993 Copenhagen summit setting broad criteria for accession, the

[8] For a detailed comparison of the two types of conditionality regimes, applied by the IFIs and the EU, see Chapter II.

comprehensive framework of political, economic and legal conditions structured relations of the EU with the CEECs (Cremona 2003: 1). In a nutshell, they served to encourage the potential members to implement the acquis communautaire prior to enlargement. However, the EU also aimed to lock the CEECs on the politico-economic reforms path by tying the hands of policy-makers committed to bringing their countries into the Western zone of civilization and economic prosperity (Bronk 2002). Thus, EU conditionality has had a dual role to play. On the one hand, it may be seen as a political tool of external governance (Schimmelfennig and Sedelmeier 2004) and on the other, a technocratic measure of assistance in the adoption of particular legal solutions.

The distinct features of the fifth enlargement, in particular candidates' relative poverty, their recent undemocratic past and large number, have been used as justification for a more intense pre-accession conditionality regime than exercised by the EU at any time in the past. Apart from the features pertinent to the candidates, the contextual conditions in the fifth expansion also favored the use of some additional policy tools towards the applicants. While shared objectives and historical experience lay as the underlying assumptions of the past enlargements (see Preston 1997; Smith 2003), they came under severe pressure during the 2004 expansion. Moreover, in the beginning of the 1990s, the threat that shattering the social and economic order of CEECs may unleash forces able to topple the fledgling democracies became imminent. Grave consequences of such scenario were exposed by the events taking place in South-Eastern Europe. This international context reinforced the Community's dedication to ascertain applicants' firm commitment to the undertaken course of the reforms. It was of particular importance if the expansion East were to fulfill its basic political goal "to extend the zone of economic prosperity and 'democratic peace' as a prophylactic against war, nationalism and autocracy" (Hill 2002: 96). These broad motives stood behind the unprecedented scope and what some authors interpret as excessive strictness (Grabbe 2002a) of EU demands.

Together with crystallization of the membership offer, in particular after the formal recognition of accession to the EU as CEECs' ultimate foreign policy goal in the

trade and cooperation agreements (so-called Europe Agreements)[9], the second, technocratic element of conditionality, has gradually gained salience. The agreements (EAs) focused on trade measures and "consolidated objectives of the earlier trade and co-operation agreement[s] through extending the liberalization process" (Preston 1997: 198). The key objective of the accords was to create free trade area between the EC and associated countries[10] by gradual removal of trade barriers (within ten years)[11]. However, the EU also requested that the candidates approximate their laws with the acquis in several areas beyond the customs union, such as company law, accounts and taxes, banking, intellectual property, rules on competition, protection of workers in the workplace, financial services etc. (see Art 69, Europe Agreement with Poland 1991). The request for adaptation in these fields was not, however, matched by any timetable for accession or the prospect of concrete rewards. The linkage between these 'conditions' and the prospect of membership remained rather vague. In consequence, the EU's ability to reinforce the implementation of these measures, in particular with respect to competition and public aid rules, was at best mixed, at least until the accession negotiations commenced.

In line with the definition of conditionality presented above, the relations between the CEE candidates for membership and the EU acquired a 'conditioned' nature from the moment the Community recognized applicants' aspirations to membership and the latter accepted that it comes with some conditions attached. The membership conditions evolved throughout the pre-accession period, from the broadly formulated 'Copenhagen criteria', to stipulations of implementation of the specific directives in the domestic legal systems, upon which the progress of accession negotiations was contingent. Although side-payments, in particular from the regional policy budget in the framework of Phare, Sapard and ISPA programs, served as encouragement for adaptation, the real benefit on offer was one, full membership in the European Union.

---

[9] The trade and cooperation agreements, Europe Agreements, were signed with the applicants between 1991 and 1996 (with Poland in 1991) and included recognition of membership in the EU as an ultimate objective for the states that wish to join.

[10] Hungary and Czechoslovakia also signed the agreement.

[11] However, trade liberalization in 'sensitive' industries and agriculture were excluded from the scope of the accord. The agreements embraced a wide range of issues beyond trade measures, such as the establishment of a platform for political cooperation and cultural dialogue[11]. Specific goals included provision of the appropriate framework for the political dialogue, promoting trade and harmonious economic relations and a basis for the Community's financial and technical assistance (Art. 2 of the Agreement with Poland). See Bull. EC 12-1991, 1.3.2.

On the other hand, the only reliable 'stick' of the Commission in non-distributive policy areas was the threat of suspension of the progress of accession process, most ostensibly used in Slovakia's case after the Mečiar government came to power.

The Community explicitly formulated its membership criteria for the CEE countries aspiring to membership during the 1993 Copenhagen summit[12]. The so-called Copenhagen criteria stipulated that the prospective members are "stable democracies, respecting human rights, the rule of law, and the protection of minorities; have a functioning market economy; adopt the common rules, standards and policies that make up the body of EU law". The Madrid European Council of 1995 extended the list to include also the 'administrative capacity' condition. One year earlier, during the Essen European Council[13], the term 'pre-accession' was assigned to depict relations between the applicants and the Community[14]. The pre-accession strategy of the EU enshrined in detail the accession conditions for the applicants for membership. It comprised the bilateral treaty commitments, 'Accession Partnerships', technical assistance and participation by the candidates in the Community programs (Cremona 2003: 1).

The pre-accession conditionality was refined or re-defined in the subsequent pre-accession documents. In this context, the Single Market White Paper, published in 1995, was of particular importance. It furthered the provisions of EAs by covering a number of additional policy areas, which candidates were to align with the acquis. The document listed the Single Market legislation, which needed to be adopted in the first order, but also described administrative and technical structures needed to ensure that the legislation is effectively implemented and enforced. In fact, the White Paper did constitute some revision of EU conditionality since it prioritized and specified the adjustment process. The conditionality of accession was further re-emphasized by the 1997 Luxembourg European Council, which explicitly stipulated that the candidates ensure not only that the acquis is transposed into their legal system but also "actually applied". These conditions were further taken on by the Reinforced Pre-accession

[12] Copenhagen criteria; http://www.europa.eu.int/comm/enlargement/enlargement.htm
[13] The Conclusions of Essen European Council.
[14] The terms 'European Union' and the 'European Community' are used interchangeably throughout the paper.

Strategy[15] announced on 13 July 1997 in the Commission's Agenda 2000[16]. The Commission explicated that the scope of certain problems (with enlargement) make it necessary from 1998 onwards, "to establish intermediate objectives with precise conditions attached" (CEC 2000:83). In that way, the Commission elevated the pre-accession conditionality to the position of a key element of the 'method' of CEE enlargement.

Since the launch of the Accession Partnerships in 1998, conditionality became the legal cornerstone of EU pre-accession strategy (Maresceau 2003). The Accession Partnership Regulation 622/98 explicitly mentioned the insufficient progress towards meeting the Copenhagen criteria or meeting Europe Agreement obligations as possible grounds for suspension of the assistance granted to an applicant.[17] It thus upgraded the Copenhagen criteria from political pre-conditions of the European Council to "legally binding conditions, subject to sanctions alongside the conditions contained in the Europe Agreements" (Maresceau 2003: 37), which earlier lacked the leverage. In that way the Copenhagen criteria have acquired features that distinguish them from the mere 'membership rules' (Smith 2003) and are thus treated in this research as an instance of conditionality.

In consequence, apart from the candidates' commitment to implement appropriate reforms within a set timetable, the verification of their fulfillment became the inherent element of EU conditionality. This second aspect, of particular political sensitivity, was absent in the previous expansions of the Community (Mayhew 2002: 19). A range of tools was developed to observe candidates' progress in realization of their pre-accession commitments. They included the Avis (Opinion) of the Commission

[15] The Strategy was created in order to facilitate the reforms in the candidates' countries with the aim of focusing on the priorities of accession. It put the elements of pre-accession policy under one umbrella of the Accession Partnerships.

[16] Prepared at the request of Dublin European Council. The strategy added two elements of the pre-accession, which were to guarantee consistency between the preparations of accessions and negotiations, bringing together under a single framework all the resources and forms of assistance available for facilitating adoption of the acquis and extending participation of the applicant countries in the Community programs and mechanisms to apply the acquis (see Agenda 2000).

[17] Accession Partnership Regulation 622/98 anticipates a sanctioning mechanism: "Where an element that is essential for continuing to grant pre-accession assistance is lacking, in particular when the commitments contained in the Europe Agreement are not respected and/or progress towards fulfilment of the Copenhagen criteria is insufficient, the Council, acting by a qualified majority on a proposal from the Commission, may take appropriate steps with regard to any pre-accession assistance granted to an applicant State".

about the candidates, the annual Regular Reports, the accession negotiations documents (screening lists and negotiations Position Papers) and National Programs of Preparation for Membership (NPPM). They formed the cornerstones of the institutional framework facilitating accession. While the first two documents were prepared unilaterally by the Commission (although on the basis of the information provided by the applicants), since the start of the accession negotiations the timetables for adaptation became a 'common' affair, bringing EU conditionality closer to the IMF and WB policies applied to the borrowing countries. This evolution was linked to the fact that at the negotiation stage the membership offer became more viable, which also increased the political weight of EU conditions. Thus, they needed to acquire the character of a 'mutual agreement' instead of previously imposed unilateral conditions.

The accession negotiations, which started with Poland and five other candidates in 1998[18] and a further six in 1999, gave the EU conditionality regime new dynamics. Since, the candidates' progress in adaptation was assessed fully on an individual basis rather than collectively. The decision to start negotiations with a particular candidate was taken by the European Council on the basis of the Commission's recommendation prepared in the 1997 Avis. It was actually the first formal tool of differentiation between the applicants. The Luxembourg European Council in 1997 gave the green light for commencement of negotiations with six applicants (Cyprus, the Czech Republic, Estonia, Hungary, Poland and Slovenia)[19] and in 1999 in Helsinki the EU took a decision to start talks with the six remaining candidates (Bulgaria, Latvia, Lithuania, Malta, Romania and Slovakia). The EU member states also demanded during the Helsinki European Council that "progress in negotiations must go hand in hand with progress in incorporating the *acquis* into the legislation and actually implementing and enforcing it"[20]. Although by that time some of the candidates, Poland included, were already well into the course of negotiations, the real talks on controversial issues had not yet commenced. Thus, the rule applied to all the countries negotiating their terms of accession, from the so-called Luxembourg and Helsinki groups.

[18] On the basis of recommendations from the Avis of the European Commission, the Council of Ministers took a decision to commence the negotiation process with eleven candidate countries (Bulgaria, Cyprus, Czech Republic, Estonia, Lithuania, Latvia, Poland, Romania, Slovenia, Slovak Republic, Hungary) and to commence the accession negotiations with five of the CEE states (Czech Republic, Estonia, Poland, Slovenia, Hungary) and Cyprus. Since, this group of countries has been named the 'Luxemburg Group'.
[19] And the negotiations kicked off in March 1998.
[20] Helsinki European Council, 10–11 December 1999, Presidency Conclusions, Introduction (par.11)

During the accession negotiations, EU conditionality was specified to the level of adoption of concrete legal acts. The process began with 'stock taking', that is preparation of the list of discrepancies between the candidates' domestic laws and the acquis. Apart from pointing to the missing or incoherent with the acquis legal acts, the candidates presented the timetables for their adoption. If it exceeded the anticipated date of enlargement, the problem was left aside to the 'real' negotiations. Nevertheless, the progress of negotiations in their later stages was contingent on the implementation of commitments declared in the negotiation positions of the candidates. The candidates adopted their National Programs of Preparation for Membership including commitments and timetables for their implementation. The annual Regular Reports, which at the beginning focused on the fulfillment of the Copenhagen criteria, gradually became the tool of verification of the progress in adoption of the acquis, in line with negotiation (Mayhew 2002: 22) and NPPC commitments.

The accession negotiations were the strongest tool of conditionality mainly due to the precision of included demands and exact timetables attached[21]. The negotiation documents provided tangible benchmarks against which the progress of the candidate was assessed and in that way solved the 'ambiguity problem' (Grabbe 2002) of the Copenhagen criteria.

The EU demands for transposition of the practically full acquis communautaire before enlargement, by no means matched by concrete prospects or deadlines for accession, constituted, however, a persistent source of domestic political pressures. Thus, the incumbent governments of the candidates faced a dual challenge of accommodating the EU requests on adaptation on the one hand and on the other, sustaining the popular support for integration at a sufficiently high level as to win the accession referendums.

2. Unanswered questions on the EU conditionality

[21] Together with the National Program of Adaptation to the Acquis accepted in July 1998, which determined the direction of the necessary adaptations together with the timetable of implementation. However, the EU judges the progress in adaptation primarily on the basis of commitments from the accession negotiations.

The expanding scope of EU conditionality and, arguably, its effectiveness in promoting reforms in CEE, resulted in a host of studies analyzing this phenomena[22] This rich body of literature on the application of EU conditionality may be disaggregated into the two key parallel, yet intertwined debates.

The starting point for analysis of the first stream is the general nature of EU conditionality and its impact on transition in CEECs. Some of these studies see it predominantly as an external reforms anchor, with generally positive contribution to the politico-economic transition processes (Bronk 2002; Moravcsik and Vachudova 2003; Vachudova 2005) or for maintaining the coherence and values of the EU (Smith 2003). On the other end of the spectrum remain scholars stressing the inappropriateness of the EU conditions for states undergoing the transformation process (Grabbe 2002; Grabbe 2002a; Hughes 2003; Hughes et al. 2004a). The debate originates from the fact that the European systemic solutions and the body of law have not been created with the idea of tackling the specific problems, which the transition economies encounter. However, the implicit assumption of this literature is that the EU matters as a policy-maker in CEE and the conditions put in front of the candidates for membership are powerful instruments of inciting policy change.

The second stream of debate questions exactly this premise and addresses the issue of the effectiveness of conditionality, exemplified by its potential to bring policy change. The analysis in these studies start from the country in which conditionality is applied and examine how it is played out in domestic politics and is used in the accession negotiations (Jacoby 2004). The policy-tracing accounts on the mechanisms of EU conditionality also reveal the mixed results of its application across countries and/or policy areas (Hughes et al. 2002; Marek and Baun 2002; Hughes et al. 2003). Evidence for the effectiveness of conditionality in steering systemic changes in CEE is doubtful despite the asymmetry of the bargaining power in favor of the Commission (Grabbe 2002), emphasized by the absence of an alternative (to EU membership) ideological or systemic paradigm (Hughes et al. 2004a), as well as the malleability of domestic institutions in transition countries.

[22] See e.g. Grabbe 1999, 2002; Bronk 2002; Moravcsik and Vachudova 2003; Hughes et al. 2003, 2004, 2004a; Schimmelfennig et al. 2003; Smith 2003; Schimmelfennig and Sedelmeier 2004; Vachudova 2005; Grabbe 2006; Mastenbroek and Keading 2006; Steunenberg and Dimitrova 2007.

The studies on the effectiveness of conditionality attribute these ambiguous empirical results to various factors. Some focus on the varying degree of misfit between the European- and domestic-level processes, policies and institutions (Boerzel and Risse 2003; Schimmelfennig et al. 2003), compounded by varying domestic veto points, actors and/or institutions responding to the adaptational pressures from the EU or learning and socialization (Boerzel and Risse 2003). Other accounts point to the shifting results of costs–benefits calculations in the pre-accession period (Schimmelfennig and Sedelmeier 2004; Steunenberg and Dimitrova 2007), inconsistency in the Commission's attitudes or absence of a clear-cut policy model (Hughes et al. 2003) undermining the efficiency of EU conditionality. Nevertheless, despite broad research work tackling the topic from various perspectives, there remains a series of unresolved questions on the effectiveness of EU conditionality, in particular concerning the reasons behind the mixed results of the CEECs' adaptation in cross-policy areas. The key findings of the literature on EU conditionality presented below allow the juxtaposition of the alternative model proposed in this research project with the existent literature.

The effectiveness of EU conditionality in promoting policy change in transition countries

Empirical studies on the adaptation of CEE candidates towards EU demands focusing on the implementation of both economic and political conditions have shown an array of results. Hughes et al. (2003), in their analysis of the adaptation of CEECs to the EU regional policy, have demonstrated diverse patterns of regionalization across candidates for membership. The study has questioned the implicit assumption of some of the enlargement literature (Grabbe 2001a; Grabbe 2002; Smith 2003) about the strong causal effects of conditionality on policy and institutional change. Hughes et al. (2003: 28) assign the limitations of the "conditionality model" in regional policy to the incoherence of the Commission's strategy applied in CEE, facilitated by the sparse acquis communautaire in the field and the persistence of national idiosyncrasies and historical legacies difficult to overrule, in particular in the context of ambiguous EU regulations in the field. Heather Grabbe (2006) shares this view while adding that the EU has not fully used its potential to shape policy outcomes effectively in the 'Free

movement of persons' area due to the inconsistency and lack of precision inherent in the membership criteria.

Other studies focused more on the domestic context of application of EU conditionality. In an analysis of transfer of democratic and human rights standards to Latvia, Slovakia and Turkey, Schimmelfennig et al. (2003) argue that the impact of the EU was rather uneven. The study of the "democratic conditionality" applied in these countries demonstrated that the effectiveness of the EU in promoting change was negatively correlated with the domestic political costs of compliance. Thus, larger political costs of the reforms for the target government decreased the EU's ability to promote its policy model. Similar conclusions are found in the later analysis by Schimmelfennig and Sedelmeier (2004: 664), who argue that adoption of the EU rules takes place when the benefits of EU rewards exceed the domestic costs of adjustment. The effectiveness of EU conditionality varies with its credibility and domestic costs of rule adoption. The study, however, makes a distinction between the two contexts of conditionality: "democratic conditionality" and "acquis conditionality". In the case of the former, in line with conclusions from an earlier work by Schimmelfennig et al. (2003), the effectiveness of EU external governance in promoting adoption of EU rules in areas of human rights and liberal democracy depended primarily on the size of adoption costs. In countries with poor democratic and human rights standards, the political costs of adjustments appeared prohibitive and EU conditionality ineffective. Thus, authoritarian governments, such as the Mečiar government in Slovakia, failed to comply even when benefits offered by the EU were credible (Schimmelfennig and Sedelmeier 2004: 670). Vachudova (2001), however, challenged this view, arguing that even in such cases the EU incentives could make a difference through domestic empowerment and electoral change.

By contrast, when it comes to the adoption of specific rules of the acquis ("acquis conditionality"), the causal linkage between EU demands and successful rule transfer was strongest when credible membership perspective was on offer. Before that, the rule adoption was patchy and selective. Thus, the most important condition for rule transfer was the credibility of EU threats and rewards, which clearly increased with the start of the accession negotiations (Schimmelfennig and Sedelmeier 2004: 671). The likelihood that the EU would deliver on its promise (increasing with the start of negotiations) was critical for the candidates' cost–benefit calculations. Schimmelfennig

and Sedelmeier also argue (2004: 672) that in cases of the 'acquis conditionality', once explicit membership offer was put on the table, the size of adoption costs became largely irrelevant, also due to the fact that they would then be discounted against larger aggregate benefits accruing from the membership. Thus, unlike in the political context, under certain conditions (credibility of membership), the costs of adaptation did not matter.

Yet another approach to the study of EU conditionality based on cost–benefit calculations was taken by Steunenberg and Dimitrova (2007). The cross-country analysis of candidates' compliance with the Commission's demands (in Regular Reports) takes upon the credibility argument of Schimmelfennig and Sedelmeier (2004) and demonstrates that declaration of the date of accession had key importance for the working of EU conditionality. However, their game-theoretical study presents exactly the opposite view by arguing that an increase of credibility, clearly associated with provision of the date of accession, raises the risk of candidates' defection from the reform course. The examination of the acquis transposed into domestic law has revealed that countries most certain of their accession into the EU (the "frontrunners"), such as the Czech Republic, scored relatively low in terms of adoption of the acquis[23] (Steunenberg and Dimitrova 2007: 13). The certainty about future membership would thus be a demobilizing factor rather than encouragement for more effective adaptation. Under these conditions the EU conditionality should be more effective before the date of accession was publicized, a view clearly shared by the Commission, which refused declaring the likely enlargement date until late 2000.

In general, EU conditionality is argued to be most effective when one-time benefits from defection are relatively small and the membership provides considerable benefits to both the EU and the candidate (Steunenberg and Dimitrova 2007: 3). The key problem with such reasoning, however, is that in empirically confirmed cases of non-compliance the candidates have failed in fulfillment of their own commitments rather than 'broke off negotiations' because of the rational assessment of the benefits from defection as high. Secondly, the 'utility-maximizing' candidates evaluated the

[23] However, Steunenberg and Dimitrova (2007: 13) admit that domestic factors, such as administrative capacity or domestic incentives for change should be considered for more reliable interpretation of the presented scoreboard of legal transposition.

costs and benefits from EU membership at the time of submission of the formal application for membership, in Poland's case in 1994. No further specification of EU conditionality could seriously affect their calculation. In particular, the 1993 Copenhagen criteria already pointed to the ability of the candidate to adopt the acquis communautaire in full as a condition for accession. The applicants were thus aware very early on that no option of adaptation *à la carte* was available.

Unresolved questions on the application of EU conditionality

Despite a vivid debate on the EU conditionality regime and its potential to instigate policy change in the candidate countries, as outlined above, there are still several unresolved questions pertaining to conditionality. As mentioned above, apart from the opposite views on the role of credibility of EU threats and rewards, the scholars disagree about the importance of the quality of the acquis communautaire in promoting reforms and the impact of the costs from adaptation upon the decisions of the candidates. There are also varying accounts of how exactly the domestic institutional environments of countries seeking accession matter for the effectiveness of conditionality and in what way the latter affects the former (Jacoby 2004; Vachudova 2005). The underlying issue in these debates is the role of the domestic context in responses to external pressures, and thus entanglement between the two factors.

EU conditionality is to a large extent defined by the acquis communautaire, which delineates the scope of possible actions of the European Commission towards the candidates or provides the framework for its negotiation strategy. An increasing number of studies analyzes the impact of properties of the acquis upon the EU's ability to instigate policy change in a particular policy area (Hughes et al. 2003; 2004; Jacoby 2004; Hughes et al. 2004a; Grabbe 2006). The analysis of the acquis communautaire as a tool of conditionality, however, poses a series of problems. While a particular type of the acquis may facilitate adaptation in one area, it can slow it down in another. There is a general tendency to consider thin acquis as a less effective 'tool' of conditionality. Hughes et al. claim that "it is plausible to expect that thick acquis would provide strong leverage for the Commission to achieve particular outcomes in its interactions with the CEECs, while the explicit leverage of thin acquis would lead to weak formal conditionality" (Hughes et al. 2004a: 525).

Theoretically, however, a thin acquis may work both ways. It could also increase the informal conditionality since it gives the Commission greater scope for ambiguity and imprecision in defining its policy recommendations. On the other hand, as Jacoby presents in his "embedded rationality model" (Jacoby 2004: 10), thin acquis (low density of rules) matched with the high density of well-established domestic actors, may lead to the smoother "emulation" and unpressured learning, instead of the high-profile struggles impeding adaptation. Moreover, even without strong entrenched interests, a high density of rules leads to bigger problems with approximation due to the technical difficulties as well as possibly being seen as an undue limitation of the governments' strategies. The studies on the conditionality regime exercised by the International Financial Institutions (IFIs) seem to confirm this line of argument. An excessive number of conditions is simply difficult to fulfill and overly limits the flexibility of the national authorities in their policy design. A large number of conditions may therefore have counterproductive effects when applied in the poorer policy environments (see Elborgh-Woytek & Lewis 2002; Erbas 1998, IMF 2001a). The 'streamlining conditionality' agenda of the IMF anticipates, therefore, a reduction of the specificity and scope of the structural conditions. "The emerging broad consensus is that IMF programs should go back to the basics and contain fewer conditions rather than many" (Erbas 1998).

As this debate points out, the acquis may produce different results in terms of adaptation depending on the type of domestic institutional environment it is applied in. In this context, early scholarly accounts on EU conditionality focused predominantly on the gap between the policies in the EU and a country seeking accession. The studies on effectiveness of conditionality drawing on the misfit concept or "goodness of fit" logic of policy-change[24] (Heritier 1995; Knill and Lenschow 1998; Green Cowles and Risse 2001; Boerzel 2003; Boerzel and Risse 2003) claim that the timing and quality of implementation of the EU laws in the domestic systems of its member countries depends on the congruence between the EU policies and the relevant national legislation. The smaller the gap between domestic and EU policies and institutions, the easier the adaptation. However, due to rather inconsistent empirical evidence on the centrality of the misfit for adaptation (Knill and Lenschow 1998; Haverland 2000), a number of auxiliary variables have been developed to supplement and improve the

[24] These accounts have as their source research on Europeanization focusing on adaptation of the EU member countries to the EU rules, norms and policies.

empirical soundness of the model. Some studies have dismissed the "goodness of fit" hypothesis in its entirety on the grounds that it is too deterministic and leaves little room for domestic contingencies (see e.g. Mastenbroek and Keading 2006: 348).

Nonetheless, the domestic context has continued to occupy a focal place in the studies on adaptation inspired by accession to the EU. The utility-maximization approaches employed perception of the costs of adaptation as the key determinant of the working of EU conditionality (Schimmelfennig and Sedelmeier 2004; Steunenberg and Dimitrova 2007). As mentioned above, Schimmelfennig and Sedelmeier (2004: 664) demonstrated the existence of a negative correlation between the effectiveness of the EU in promoting change and the domestic political costs of compliance. They argued, however, that a credible membership offer rendered these costs largely irrelevant[25], as they would be discounted against larger aggregate benefits accruing from the membership.

The rational choice approaches focused on interest bargaining present, however, a very government-centric view of conditionality. They implicitly disconnect the decision-makers in their intergovernmental material bargaining from the constituencies, which seems overly parsimonious even in countries of such weak civil societies as in CEE (Schimmelfennig et al. 2003). The CEE elites had to consider the opinions of the affected actors and the society at large due to the fact that the negotiated terms of accession required approval in a national referendum. Gradually falling support for accession in most of the applicant countries throughout the 1990s[26] (CBOS 2002: 4), called for a revision of the premise on consistent social support for membership based on the "interest asymmetry" argument.

Bringing the non-governmental actors into the analysis, however, requires reconsidering the concept of the net benefit of adaptation. They may no longer represent aggregate values, but rather the specific costs or benefits for particular policy sectors should be accounted for. The general costs-benefits balance from membership in the Community, while a key component of a government's decision to submit the application, did not figure as highly for specific social groups likely to lose out or

[25] For the 'acquis conditionality'.
[26] This tendency has been reversed after implementation of the active pro-membership campaigns and other domestic measures.

benefit from accession. Therefore, consideration of the multiplicity of social interests brings about the need to disaggregate the notion of costs-benefits from accession. This balance may look entirely different in various policy fields and may thus encourage support for or resentments towards the EU from the relevant social groups. Therefore, while the "massive benefits from accession" have been of key importance at the decision-making stage of application to the European structures, they do not necessarily secure quality adaptation in the later stages of the pre-accession process.

The external and domestic elements pointed out by the conditionality literature as important for the trajectory of the pre-accession process provided the basis for studies that attempt to link the two arenas. They follow the clues provided by the International Relations literature on interstate negotiations. It recognizes the complexities of entanglement between domestic and international affairs and the reciprocal influence on domestic and international political outcomes (see e.g. Putnam 1988; Grossman and Helpman 1994; Milner and Rosendorff 1997; Milner 1998). With the benefit of the hindsight, the examination of results of the accession negotiations and the record of compliance carried out a few years after accession reveals a few contingencies difficult to explain from either international or domestic perspective. Surprisingly, the CEECs negotiated transition periods or failed to comply with the acquis even in the areas where adaptation would bring tangible benefits (as in distributory polices, for instance Regional policy or Fisheries). On the other hand, as Grabbe (2006: 202) argues, in the area of 'Free movement of persons' the EU "managed to achieve its central goals despite having to override strongly principled objections from the candidates and contradictions with its own policy paradigms". The pattern of the transition periods as well as compliance with the pre-accession commitments cannot be fully explained neither by the cost-benefits calculations nor negotiation powers, based on the asymmetry of the enlargement process, alone.

The cross-policy variation of the results of EU conditionality may be captured by institutionalist accounts, which assign the explanatory power of actors' behavior to institutions, in which political cleavages take place and through which actors' preferences are being channeled. Varying institutional and bureaucratic capacities across policy domains (Jacoby 2004: 39) may provide at least part of the explanation for the diverging scores in adaptation, not always in correlation to the costs of

approximation or the material benefits on offer. The key claim of the historical institutionalist approach (Pierson 1996: 126) is that the decisions of the interest-maximizing actors, although in a strong initial position, are 'path-dependent'[27] and thus unanticipated or undesired. The institutional stickiness makes it difficult to change a policy quickly and profoundly from outside.

The implicit assumption about the institutional stickiness argument is that CEECs do not represent an institutional vacuum. While they might have gone through the stage of the 'systemic vacuum' at the moment of systemic shift in 1989–1990, the communist systems presented a complex institutional framework, which was not instantly dissolved together with the communist authorities (Hausner et al. 1995). Rather, obsolete institutional structures and social relations as well as patterns of behavior inherited from the previous system have proven on a number of occasions the serious obstacles to transition and reform implementation (Balcerowicz 1992). There is no reason to assume that the role of these factors, although diminished due to the timing of accession and progress in politico-economic reforms achieved, would come to nothing in the case of approximation to the EU.

The tenets of the historical institutionalist approach have been incorporated by Jacoby (2004) into the model of adaptation, which grounds the explanation of the pattern of "emulation" jointly on external and domestic factors. While the former includes leverage of the International Organizations based on the density of the institutional environment, the veto players, norm congruence, state capacity and societal capacity define the domestic context (Jacoby 2004: 35). Jacoby argues that CEE elites respond to the International Organizations' institutional demands but also consider their national capacities and interests, which condition their choices. The domestic context for adaptation matters in the sense that the elites emulate differently in policy areas with strong preexisting actors, and those where actors are weak or nonexistent (Jacoby 2004: 39). While Jacoby's comprehensive study of adaptation (to the EU and NATO) in several policy areas provides valuable insights into the entanglement between the pressures from International Organizations and the domestic contexts, he takes the domestic context as given and static.

[27] It is important to note that for 'path dependence' to operate the impact of institutions on subsequent action must be unintended. If people set up certain institutions to 'tie hands' than it is impossible to claim that institutions themselves worked as a commitment device. In such a case the decision to act within particular institutional patterns preceded the institution (see Parsons 2007: 73).

The mutual impact of the external and domestic pressures, in turn, assumes the possible shifts in domestic context in response to the international demands during the adaptation process, which in turn impact upon its quality. As Vachudova demonstrated in the general analysis of the reform trajectory in CEE (Vachudova 2005: 107), "the relationship between the EU and credible future members gradually changed the domestic balance of power in illiberal states against rent-seeking elites, undermining the strength of their domestic power base by making the political system more competitive". Thus, while the density of actors defines the government's strategy of compliance, the adaptation processes may also structure to some extent social groups' behaviour or lead to shifts in social representation. In particular, perceptions about the costs linked to the reforms or the need to incur the costs mobilize domestic interests, which may impede an initially smooth adaptation. Therefore, I will argue that Putnam's concept of the win-set as a constraint for decision-making elites may be useful for analyzing the results of the external pressures.

While the external geopolitical and historical context of EU conditionality has been broadly analyzed (see e.g. Hughes 2003; Smith 2003), there are gaps for conceptualizing the domestic dynamics leading to adoption of EU rules. Although a number of studies have included domestic variables in the research on conditionality (Börzel 2003; Börzel and Risse 2003; Jacoby 2004; Schimmelfennig and Sedelmeier 2004) or pointed to the domestic context as explanatory variables to some unresolved issues indicated above, there is little research in which the domestic context carries the merited weight. Zubek and Goetz represent the scholars turning in this direction; however, they focus on the legal transposition records in the candidate countries, which represent only a partial element of the effectiveness of EU conditionality (Zubek 2005). A few years after enlargement, with the benefit of the hindsight, there is a possibility to go further with the analysis and assess also the factual adaptation record and even policy results in specific fields.

3. An alternative model: comparison across policy areas

While literature on the EU conditionality regime has established that EU pressures have produced a varying impact across member countries and policy areas, it

provides an array of explanations behind this differentiation. This project, using single country/multi-policy analysis, aims to contribute to this stream of literature, which attempts to conceptualize the various responses in answer to the EU entry conditions.

In line with some of the accounts outlined above, the research starts from the premise that EU conditionality has not been applied in a policy or political vacuum and that national considerations played a considerable role in policy reforms (Hughes et al. 2003: 29). In line with these arguments, the project draws on the historical neo-institutionalist approach considering historical idiosyncrasies and path-dependancy as factors intervening in the trajectory of CEECs' adaptation to the EU.

At the same time, as the accounts on conditionality applied by the International Financial Institutions (IFI) have demonstrated, the type of requirements posed for a country benefiting from assistance does matter for its capability/willingness to adapt. This research project, therefore, undertakes a two-fold approach, in which properties of the acquis would be examined in relation/context to the particular policy and especially the social actors and their preferences with regard to compliance.

Moreover, the research will also demonstrate the dynamic nature of the process of adaptation to the EU, which affects not only the shape of the policies expected to align with the acquis, but also the social and political realities of the applicant countries. The new costs-benefits framework but also transfer of the novel norms and ideas (Grabbe 2006: 205) contribute to the social mobilization in response to EU conditionality. The government's ability to adapt to the EU measures and room for manoeuvre during the accession negotiations is contingent on these dynamics framed by existent social pressures. In that sense, the project will demonstrate how technocratic politics may paradoxically lead under certain conditions to politicization. The ownership concept employed by the International Relations literature (Khan and Sharma 2001: 13) does not grasp this phenomenon since in itself it is driven by a technocratic interest in soliciting support for the measures agreed between the incumbent governments and the international agency.

The effectiveness of EU conditionality is contingent on both domestic and external factors, the properties of the acquis communautaire and the presence or absence of opposition to the EU-inspired reforms. The first variable establishes a direct link between the Commission's strategy towards candidates (Hughes et al. 2003) with the

institutional environment of EU conditionality. Since the unclear membership criteria (Grabbe 2006) were eventually specified prior to start of the accession negotiations and disaggregated into the specific legal acts, the construction of the acquis became the basis for applicants' commitments and the EU's monitoring actions in the later stages of the pre-accession process.

On the other hand, the study draws on the accounts focusing on the domestic context for adaptation (e.g. Schimmelfennig et al. 2003). However, it disaggregates the general domestic costs of compliance through the introduction of the notion of prior opposition to adaptation. The social attitudes towards the EU have been constructed based on the perceptions of costs from approximation to the EU for particular social groups rather than society at large.

The underlying question is how the type of the acquis has played itself out in the accession negotiations, whether for instance the thin acquis facilitated or impeded negotiations and, later on, adaptation, and whether it had a de/mobilizing effect on the society. Thus how much do the various institutional arrangements at the EU level matter for the process of incorporation of EU law (as well as norms and practices) into the domestic level of CEECs and how does the latter respond to particular types of pressure?

Working hypotheses and research variables

The two prime hypotheses put forward in this research are that conditionality is not always effective, and secondly, that its effectiveness varies across policy areas. It is argued here that properties of the acquis communautaire are important for mitigating various social reactions to the necessity of adaptation and provide the Commission with a better or worse tool for pressuring the candidates to reform. Domestic preferences with regard to EU demands (referred to as 'prior opposition') and the features of the acquis communautaire (thin or thick) will thus provide for the independent variables influencing the effectiveness of EU conditionality. The research explores whether the particular configuration of these two (domestic and external) factors matters for the effectiveness of conditionality.

I will argue that in areas where there are strong prior interests against accession, a thick acquis mobilizes domestic opposition against regulation and thus renders

conditionality less effective. However, in policy areas without prior interests, a thick acquis may provide better guidance for implementation and therefore could possibly serve as a more appropriate tool for the policy transfer.

Putnam's two-level game model (Putnam 1988) is utilized for conceptualization of the relations between the EU, national government and domestic interest groups. The model assumes that all international negotiations consist of two parallel games, at international and domestic levels. While domestic groups pressure the government to adopt favorable policies, the national governments seek power by "constructing coalitions among those groups". At the international level (Level I) national governments strive to "satisfy domestic pressures, while minimizing the adverse consequences of foreign developments" (Putnam 1988: 434). Thus, the presence of domestic entrenched interests narrows down the negotiation win-set and paradoxically may strengthen a government's position internationally, leading to more favorable results (temporary derogations) in the accession negotiations.

Definitions

Conditionality in this research is defined as a mutual arrangement by which a government takes, or promises to take, certain policy actions, in support of which the EU or other agency will provide specified benefits: membership, financial assistance etc. (Killick et al. 1998; Grabbe 2001a; Grabbe 2002; Grabbe 2002a; Hughes et al. 2003). The study assumes that conditionality is a mutual and voluntary agreement between the applicant country and the EU. In exchange for certain systemic reforms and adoption of the acquis into the legal system (outlined in the 1993 Copenhagen criteria) the EU promised to the candidates membership in its structures (although an exact schedule was not provided at the beginning of the process). The pace of the accession process and disbursement of any additional benefits were made dependent upon the assessment of the progress made by the candidate. However, the EU could also apply penalizing measures for apparent failures in adaptation. The conditioned relation between the CEECs and the EU commenced the moment both sides recognised the mutual dependence between the pre-conditions (Copenhagen criteria at first) and the prospect of membership and other benefits, such as pre-accession funding, institutional ties etc.

The EU conditions in each examined policy area will be identified in the pre-accession documents: Conclusions of the European Councils (starting from the Copenhagen Conclusions of 1993), Europe Agreements, Single Market White Paper, Accession Partnerships, Regular Reports, National Program of Preparation for Membership, screening tables, Position Papers in the accession negotiations and their amendments.

The project does not make a conceptual distinction between the pre-negotiation conditions and the requirements set during the phase of accession negotiations. However, the stress is on the negotiation phase conditionality due to the fact that it was only in the course of the screening of laws that a systemic check of the incoherence between domestic legal orders and the acquis was undertaken. The results of the screening of laws provided the basis for specification of the Commission's requirements and after which the possible terms of accession were outlined.

Thus, the dependent variable of the research, *effectiveness of conditionality,* is defined based on three key elements: (i) results of the accession negotiations, (ii) formal rules adoption, (iii) policy output. EU conditionality may be considered effective when the candidate agrees to implement a particular section of the acquis communautaire without requests for transition periods, in line with Commission's general request from the Copenhagen criteria. Secondly, appropriate legal provisions from the pre-accession documents mentioned above were transposed into the domestic legal system according to the pre-agreed schedule (such commitments may be traced in the National Program of Preparation for Membership or candidates' screening lists and Position Papers). Thirdly, the policy goals were achieved, which may be assessed after transition periods pass by for the areas, where they were granted. Achievement of the policy outcome is examined based on the policy goals outlined in the acquis communautaire, the Treaties or other relevant documents. Conditionality would be only partially effective if one of these elements was not fulfilled. The timeframe of the project (1993–2006) limits an examination of the effectiveness of EU conditionality to the measures, the implementation of which was completed within this period.

The purpose of the current research is to assess the effectiveness of conditionality through the cross-policy, single state empirical analysis. I explore, in particular, whether it has a differential impact on various policy fields. The focus is on

the relation between the character of the acquis and the effectiveness of conditionality. The study will allow establishing which particular features of EU conditions or domestic institutional environments facilitate or infringe the ability of the EU to influence reforms in CEE candidates. The focus on one country, on the other hand, allows insulating the effects of conditionality from unobservable country-specific factors influencing compliance (like different bargaining positions related to the size of a country). The key *independent variables* of the project are: (i) presence/absence of the 'prior'; (ii) thin/thick acquis and the effectiveness of the acquis on the combination between these variables.

The project assumes that the a*cquis communautaire* has a different construction in various policy chapters. The terms thin/thick acquis are broadly used in the literature on enlargement although there is no standard definition of the exact meaning of these terms. Therefore, in this research, *thick acquis* signifies those policy areas[28] where the member countries are obliged to achieve particular policy outcomes in a clearly defined manner, i.e. it is prescriptive as regards the means. *Thinness of the acquis* refers to the policy areas where there are sparse regulations at the EU level, which stipulate the achievement of a particular policy/institutional outcome without specifying the means to attain it. These are softer modes of regulation allowing for more flexibility with regard to the modes of implementation of the policy measure.

'*Prior domestic opposition*' refers to policy areas where there are strong and organized social actors, such as business or sectoral representation, trade unions, civil society organizations etc. The negative attitude towards adaptation may result in Poland's application for a transition period in a given policy chapter or problems with adaptation.

'*No-prior domestic opposition*' refers to situations where there are no such groups opposing adaptation or where implementation of the acquis has not been contentious, either due to the thinness of the acquis or where concurrence between the domestic law and the acquis precluded any conflicts about adaptation. Since the project takes historical institutionalism as a theoretical perspective, the prior and no-prior are

[28] The terms 'policy areas' and 'negotiating chapters' are used interchangeably (according to the division into 29 chapters in the negotiations' documents).

defined on the basis of actors' preferences entrenched in particular institutional structures rather than the mere existence (or not) of a policy template before accession to the EU.

A particular permutation of these variables may impede or facilitate adjustment and it is the properties of the acquis communautaire that are important for mitigating various social reactions to adaptation. In general terms, a thick acquis seems to provide a better guidance for the applicants' governments in policy areas where adaptation does not incur significant costs for the social actors. On the reverse, social interests opposing adjustment to the EU may be more easily accommodated in policy areas where the acquis is thin and the member states' governments enjoy greater leeway when it comes to the method of adaptation. In both of these cases, EU conditionality and the following, the process of candidates' adaptation is likely to work more efficiently. During the research, four policy areas representing different realizations of the independent variables will be examined: Taxation, Regional policy, Competition policy and Fisheries.

Table 1.1: Two-level game outcome of the accession negotiations

Research hypotheses	**Thin acquis** [effects of large international win-set depends on domestic context]	**Thick acquis** [effects of small international win-set depends on domestic context]
Pre-existing organized opposition [small domestic win-set, room for 'national ownership' depends on thickness of conditions]	Small win-set strengthens government vis-à-vis EU; national ownership and accommodation of interests possible [asymmetry of EU power less assertive]. Conditionality partially effective. **Taxation**	Two small win-sets are bound to lead to conflict; social mobilization effect and threat of backlash against EU accession. Conditionality least effective. **Competition/state aid**
No or fragmented pre-existing opposition [large domestic win-set; degree of mobilization/ shrinking of win-set depends on conditionality because thickness gives nascent opposition a target]	Blueprint filling a gap, conditionality can be used as [weak] reform lever by domestic elites [asymmetry of EU power strong and discretionary]. Conditionality partially effective. **Regional policy**	Small international win-set can be used as [strong] reform lever; potential mobilization effect at [limited] cost of effectiveness, possibly 'democratization against the odds'. Conditionality effective due to the mobilization effect against adaptation. **Fisheries**

In line with the framework outlined above, the tentative order of the policy chapters from the one in which conditionality was most effective to the least effective area follows.

I. Fisheries represents the policy area where a thick acquis is matched with no prior opposition to the reform. Thus, a small international win-set may be used as an effective reform lever and presumably the conditionality works effectively. However, possible social mobilization may take place at a cost to the effectiveness of conditionality.

II. In the area of Taxation a small domestic win-set due to the existence of strong domestic groups opposing the EU-inspired reforms may be relatively easily accommodated by a thin acquis.

III. The acquis communautaire in the Regional policy field is thin and no domestic opposition to reforms existed prior to accession to the EU. Thus, conditionality may be used as a (relatively weak) reform lever by domestic elites. Nonetheless, the absence of a clear policy blueprint guiding the reform may impair adaptation.

IV. A thick acquis combined with strong domestic opposition produce the worst results in terms of conditionality in the Competition policy area. Two small win-sets are bound to lead to conflict and the social mobilization effect poses a serious threat of backlash against EU accession. Therefore, in this area conditionality is presumably least effective.

An interesting finding of the research may be that counter to the simple notions of the thin–thick acquis, adding another dimension, the prior opposition may produce radically different results from those conventionally suggested by the literature. Thus, while a thick acquis presumably is the most effective in the area of Fisheries, strong domestic opposition to the reforms in the Competition policy field renders it the least effective from all analyzed cases.

The case studies

The case study for the research is Poland. This choice was motivated by a number of factors. Firstly, the broad political consensus on the break with the past

makes it an interesting case for studying conditionality, as one may assume that the malleability of the domestic institutions should render the EU conditionality regime particularly effective. Also, Poland is not an obvious case from the perspective of 'asymmetry of power' arguments. On the one hand the country has projected a strong desire of 'return to Europe' since the beginning of the 1990s, but on the other, throughout the pre-accession period the country based its projections for membership on the political incorrectness of leaving it out of the first-line candidates, as well as Germany's political support. Moreover, the transition process commenced in Poland relatively early and was driven predominantly by domestic forces, at least in its first phases. Thus, it allows the exploration of various policy areas, in which there may or may not be social opposition to accession. Poland's experience with the 'Solidarity' and social movement tradition make the exploration of this aspect in the context of adaptation to the EU particularly interesting.

Policy areas under scrutiny

The choice of case studies was motivated by differing realizations of the variables indicated above as important for the working of conditionality. However, in order to control for the 'misfit' arguments, all areas represent difficult fields from the adaptation perspective (although to varying degrees due to the different qualities of the acquis in each policy area). Additionally, the cases do not include politically highly contentious areas, such as Free movement of persons or Free movement of capital (land acquisition), where the conduct of negotiations and adaptation were to a large extent influenced by broad public opinion on EU requirements.

Case 1: Taxation – thin acquis/prior opposition

The EU regulations on Taxation are sparse but adaptation involved an increase of several types of taxes. The policy field is characterized by strong prior interests, in particular in the examined sub-area of excise tax on cigarettes, where social actors are represented by country-wide business organizations as well as the sectoral organization of the tobacco producers. A small number of economically strong (foreign owned) actors arguably force the government to consider their demands (Olson 1965).

Case 2: Fisheries – thick acquis/no prior opposition

The thick acquis communautaire, regulating in detail all commercial activities related to fishing, created a small negotiation win-set at the EU side of the table. On the other hand, no active prior opposition to adaptation at home allowed Poland's government to close the negotiation chapter without applying for transition periods. Adoption of the Common Fisheries Policy acquis prior enlargement placed, however, heavy burden both on the Polish fishing industry and public administration services. The adaptation record will thus depend on ability of the government to mitigate potential social discontent with such terms of accession.

Case 3: Competition policy – thick acquis/prior opposition

The acquis in the Competition policy (state aid section) is thick and stipulates in detail the amount of public aid that might be disbursed by public authorities to support regions and enterprises. From the outset the negotiations in the area have been very controversial since adjustments to the EU would have adverse effects for a particular group of actors (enterprises which invested in the Special Economic Zones). Strong vested interest opposing adaptation have a potential to stall the accession negotiations and compliance with the EU competition rules.

Case 4: Regional policy – thin acquis/no prior opposition

The thin acquis in the Regional policy field leaves the means of adaptation to the discretion of the member countries. The absence of social opposition towards adaptation combined with fragmented vested interests and positive distributory effects from policy adoption should facilitate compliance with the EU. Implementation of the EU cohesion policy rules and in particular of the partnership principle is likely to contribute to social mobilization.

Empirical research

The empirical work will involve examination of the governmental documents (policy programmes like National Development Programs) and documents from the

accession negotiation period (Regular Reports, screening tables, Draft Common Positions, Common Positions, Negotiation Positions etc.). However, less formal recommendations, reports from the social consultations, interpretations of the *acquis* and materials from the technical consultations will also be examined. Additionally, a series of open interviews will be conducted with key persons involved in the process on the Commission side, mainly from DG Enlargement, representatives of the Polish governments and relevant social groups. The study requires detailed policy tracing to assess what were the motivations behind the particular decisions on the application for the transition periods, and the granting of those concessions on the other hand. Since evolution of the actors' position took place throughout the pre-accession period, the study will identify the learning processes among the actors involved and the consequences for the evolution of their respective positions.

The progress in implementation of EU demands will be examined against the benchmarks provided in the commitments undertaken in the accession negotiations (screening documents and Negotiation Positions) and in the National Programme for the Adoption of the Acquis (NPAA). Special attention will be paid to the timetables for implementation of the particular measures, which have been included in these documents. Therefore, the bulk of the empirical work focuses on legal requirements and the implementation of the measures from the NPAA and the Negotiating Positions (subsequent versions) in the relevant negotiating chapters.

Theoretical contribution of the research project

An investigation into EU conditionality in the context of social mobilization literature may explain more accurately some unresolved questions pending in the 'conditionality' stream of literature. When the social groups mobilization is considered as a domestic factor playing a role in the accession negotiations, the outcome of the study coincides with Putnam's two-level games paradox (Putnam 1988) of domestic weakness contributing to the international successes of state negotiators. The originality of the research lies in combining two streams of literature that have not been confronted yet.

The project utilizes the two-level game framework (Putnam 1988) in an interpretation that de-emphasizes the strategic choices of the negotiators and instead focuses on the institutional constraints, such as the asymmetric bargaining power, accession timetable, EU as delegated negotiator for old EU members etc. On the other hand it focuses on the domestic context of an applicant, namely the historical legacies and national idiosyncrasies (no foreign policy alternatives apart from 'return to Europe', authoritarian state traditions, weak political party systems but in certain areas strong organized interests, tradition of social movements). Thus, the project expands on the domestic level and its dynamics, which are taken as given in the original Putnam framework. The research demonstrates the possible instrumentalization of one (EU) level for the bargain at the other (domestic), which may lead to endogenous changes at the domestic level, such as social mobilization of interests.

The strong emphasis on the domestic context and its inherent dynamics signifies that the project drives away from the state- or government-centric view of conditionality, which has been the mainstream view of the literature. As was already mentioned above, the research shows concretely how technocratic politics, paradoxically, may lead to politicization. This effect could explain why conditionality has not been as effective as the asymmetric bargaining power and the material advantages of compliance would lead one to expect.

Conclusions

Drawing on the International Relations literature (Putnam 1988; Milner 1997; Milner and Rosendorff 1997), which underscores the significance of domestic factors for the results of the intergovernmental negotiations and rich empirical experience of the IFIs with conditionality[29] this project argues that consideration of the domestic context may overcome the inherent problems with modeling conditionality, underlined above.

The further chapters of this thesis will demonstrate that the internal dynamics within a country subjected to conditionality are important for the effectiveness of the external governance tools applied by the EU or other institutions. Similarly, the cross-policy variations may be explained by consideration of the specific policy contexts, in which conditionality is applied. This argument follows Checkel's (2000) and others'

[29] See e.g. Reynolds (1995); Burnside and Dollar (1997); Killick et al. (1998); Khan and Sharma (2001).

observation (Steunenberg and Dimitrova 2007) that conceptualization of conditionality should consider the peculiarities of domestic conditions.

The two following chapters are devoted to the analysis of the two variables defined as key for the working of the EU conditionality regime applied towards the applicants for membership. Chapter II presents the inconclusive outcomes of the debate on conditionality applied in the international context by the International Financial Institutions. Further, it points to the commonalities and differences between the IFIs' conditionality regime with that applied by the European Community. It presents the principles guiding the past enlargements and differences between those and the Fifth expansion. Further, the two-level games context of the accession negotiation is presented. Chapter III focuses on the domestic context, in which EU conditionality towards Poland was applied. In particular, it discusses the evolution of the state-society relations in the post-communist countries and outlines the existent social mediation mechanisms in-built in the accession negotiation process. The next four chapters analyze the case studies, and conclusions summarize the research findings.

CHAPTER II

ACCESSION CONDITIONALITY AS A TWO-LEVEL GAME

Introduction

Conditionality, as a tool of policy change, has been extensively applied by the International Financial Institutions (IFIs)[30] in countries benefiting from international financial assistance schemes. This chapter will demonstrate the interesting analogy that may be drawn between the EU and IFIs' conditionality and examine which lessons from the ample experience of the latter may be learnt to the benefit of the EU as well as the candidate countries. In both cases the focus is the relations between a multilateral agency representing other states and a sovereign country. It is consequential for the legitimacy of the conditionality regime and available enforcement mechanisms. The starting point, however, is the uneven distribution of wealth, political power, political or economic status etc. between the two players. This asymmetry provides the basis for usage of mechanisms inducing domestic policy change, such as conditionality.

Nonetheless, the material advantages and asymmetric bargaining power between the provider of resources or membership status do not assuredly secure compliance. The amount of empirical research on the behavior of states receiving international financial assistance as well as more recent studies on the EU accession conditionality show the inconclusive effects such policies have produced.

The question about the effectiveness of conditionality applied by the IFIs or the European Union is in principle about the domestic response to international pressures. Conventionally, studies on IFIs' conditionality utilized the principal–agent (PA)

[30] International Monetary Fund (IMF) and World Bank (WB) stand here for International Financial Institutions (IFIs).

framework to conceptualize reciprocal relations between the donor and a recipient country. According to the model, the international institution is the principal and delegates specific tasks to the agent, i.e. the applicant for international assistance, such as implementing certain laws or policies, the fulfilment of which is seen as a precondition for international assistance achieving its goals.

However, systemic deficiencies in-built in such relations may and often do lead to non-compliance and in effect failure to accomplish the stated goals of the programme. The body of literature and IFIs' empirical analyses have examined the inadequate effectiveness of the international conditioned aid schemes, and the design of the IFIs programmes has been evolving in response to the reached conclusions.

As this chapter will demonstrate, the so-called structural conditionality of the IFIs translates well into the thin/thick acquis of the EU and thus the latter is as susceptible to similar criticism and flaws as the former. This chapter presents that Putnam's (1988) two-level game model of international negotiations offers more promising theoretical approach for examination of the EU pre-accession conditionality. As argued in the Introduction to this work, the characteristics of the acquis communautaire in the policy area (conceptualized as 'thin' or 'thick') are vital to the ability of the EU to promote policy change. Through Putnam's view, the acquis delineates the scope of the viable win-sets, that is, the terms of an accession deal acceptable for the European Union. The applicant's negotiators adapt their negotiating strategies accordingly. While this chapter focuses on the acquis communautaire and its role in structuring adaptation, the next section of the thesis analyzes the domestic response to EU pressures. I will show how the international 'game' in the two-level bargain may lead to endogenous changes at the national level, namely social mobilization. Putnam's framework captures both sides of this complex process, explaining the causal linkage between events at the international and domestic scene in a more comprehensive way than the principal–agent model.

The chapter proceeds with an outline of the key arguments in the international debate on the usage of conditionality by the IFIs and its evolution over time. A further section shows the analogies between the EU pre-accession conditions and the IFIs' regime, pointing to the common dilemmas related to application of conditionality in both contexts. The next part presents Putnam's two-level game framework of the

international negotiations as an alternative to the principal–agent model. It applies the Putnam's framework to the fifth enlargement negotiations of the EU and explains the role of the acquis in application of EU conditionality. The conclusions summarise the presented arguments, which will be supported by the empirical evidence, sought in the further chapters of this thesis.

1. The international debate on conditionality

The IFIs' experience with conditionality has shown how difficult it has proven to introduce policy change, in particular in the short-term. Evidence that was openly debated under Koehler's chairmanship at the IMF indicated a dilemma: structural conditionality that tries to induce profound changes in the policy regime of a country that gets credit (and does not simply serve to ensure repayment of credit), has a relatively bad implementation record. Yet the consensus in the international development community was driving exactly in the direction that aid without profound changes in the policy regime of a country that gets credit is unsustainable[31].

The ineffectiveness in application of the political-structural conditionality has been conventionally analyzed as a principal–agent problem related to asymmetry of information and difficulties in setting appropriate incentives for change. Efforts to induce 'national ownership' (see Johnson and Wasty 1999; Khan and Sharma 2001; Erbas 2003) of the IFIs' programmes in the 1990s attempted to remedy these deficiencies. Successful compliance of beneficiary countries was to be asserted by fostering understanding and commitment to reforms' goals and their implementation among incumbent governments and other stakeholders.

However, if ensuring national ownership was to be the key for success of the aid schemes, it raises the question of why have conditions continued to be imposed in the first place? Moreover, despite undertaken efforts to secure national ownership of the applied measures, the effectiveness of the IFIs' programmes remains broadly questioned.

Nonetheless, the focus of recent debates on implementation of the conditioned aid programmes turned to domestic contexts, in which the conditions are applied. They

[31] For a review of the structural conditionality of the IMF see e.g. IMF (2001b).

point to the 'good policy environment' (Burnside and Dollar 1997; Collier et al. 2000) as a variable essential for the programme success. Likewise, the tailor-made type of conditions is broadly seen as a remedy to some of the problems encountered by the early, across-the-board programmes for the Third World countries. The analysis of the type of conditionality applied by the EU to the candidates for membership in this context reveals that to some extent it remains largely isolated from these vigorous debates on the International Monetary Fund (IMF) and World Bank (WB) measures.

The rationale for utilization of conditionality in the international aid schemes

The emergence of 'multilateral' conditionality is intrinsically linked with the formation of the International Financial Institutions. Although the origins of multilateral conditionality may be traced to the League of Nations and its 'reconstruction schemes'[32] for some European countries, the upsurge of its usage took place after World War II and the creation of the Bretton Woods international institutions in 1944, the World Bank (WB) and the International Monetary Fund (IMF). Their initial objective was to assist in overcoming economic difficulties in the war-torn Europe. The IMF was to provide a short-term balance of payments credits and to stabilize the post-war financial system while the Bank's objective was to promote long-term growth in its member countries[33]. With time, however, both institutions became the primary financiers of development projects in the Third World and conditionality of aid programmes the basic strategy to ensure compliance of the national governments with policy programmes attached to aid schemes.

The initial 'hard' IFIs' conditions attached to aid programmes covered principally monetary and fiscal policy. Compared with the IMF, the conditions attached to WB programmes were much less specific and sparse and concerned public sector budget deficits, credit to the private sector, and reduction of the current account deficit and currency devaluation (Kapur et al. 1997). The composition of IFIs' conditionality until the mid-70s reflected a strong reliance on the monetarist approach viewing excess demand as the root cause of budget deficits and inflation, exchange-rate disequilibria,

[32] They took the form of demands for the currency reforms, setting fiscal equilibrium and introduction of monetary discipline. Various means have been used to guarantee enforcement of the League of Nations' programmes and to safeguard the interest of the foreign creditors (see Santaella 1993).
[33] On history of the Fund see De Vries and Horsefield (1969); Dell (1981); Kahler (1990); James (1998).

currency overvaluation and hence payment difficulties (Stokke 1995: 8). In answer to the so-defined problems, IFIs designed largely standardized adjustment programmes focused on correction of the economic policies of the borrowing countries. Conditions attached to the programmes aimed to restore control over the money supply, reduce current account deficits through import substitution and export promotion, lead to exchange-rate devaluation, deregulate prices and cut consumer subsidies and eliminate tariff and non-tariff trade barriers (Dreher 2002: 8).

Domestically, conditions served predominantly as a commitment device. Since participation in the IFIs' conditioned programmes locked the government into the particular set of policies, it increased the confidence that the anticipated economic outcomes would be achieved. Rejection of policy measures being a part of the deal with the IFIs was also more costly and thus conditionality was to reduce the general risk of default (Vreeland 2001). Conditionality, therefore, may be seen as a solution to the credibility problem of the governments suffering from it, which may be exemplified in the low international credit ratings or other evidence (Killick et al. 1998: 15). Governments are also more willing to accept the IFIs' conditions for reputational reasons as their indirect effects may be increases by private investments. In that way conditionality aims to contribute directly as well as indirectly to the improvement of its economic policies.

The theoretical framework conventionally used to conceptualize relations between the IFIs and the borrowing countries is agency theory and the principal–agent (PA) model (Martin 2000; Drazen 2001; Khan and Sharma 2001). The framework explains how to organize relationships, in which one party (the principal) determines and delegates tasks to another party (the agent). In the version of the theory applied to the international setting, the IMF or the World Bank play the role of the principals delegating the implementation of a particular policy to the agent, a country benefiting from financial assistance, in exchange for provision of funding. The key question to be solved in such relations is how the principal may control the actions of the agent, or inversely, to what extent an agent is able to pursue its tasks independently of the principal. The key assumptions of this model are conditions of imperfect (asymmetrical) information (Pollack 1997) and some degree of divergence of actors' preferences.

The source of potential conflict between the principal and agent is the likelihood that "... agents behave opportunistically, pursuing their own interests subject only to the constraints imposed by their relationship with the principal" (Kiewiet and McCubbins, 1991: 5). There are two types of agency problems in-built in such relations: adverse selection and moral hazard. Adverse selection refers to the situation when the principal cannot ascertain whether the agent accurately reveals his ability to do the work, for which he is being paid (Eisenhardt, 1985). Therefore, the agents least fit to fulfill the tasks may apply for the job. In the IFIs and borrowing countries setting this means that countries with the poorest policy environments and weakest abilities to implement the programmes have more incentive to apply for funding. The problems inherent to the efficiency of foreign aid schemes stem from the fact that states where aid would work do not actually need it. In turn, the absence of effective institutions prevents aid from working in places that need it most.

Moral hazard, the second agency problem, occurs due to the "possibility that bureaucracies will choose policies that differ from the preferences of the enacting coalition" (Tsebelis and Yataganas, 2002). In the IFIs' case, moral hazard represent situations in which access to additional funding provides an incentive to pursue policies inconsistent with IFIs' preferences or the letter of agreement. For instance, a country endowed with IMF or World Bank financing increases its military assets, which it could not afford before.

Both phenomena represent potential 'agency losses' occurring due to shirking or slippage. The former is a condition in which the agent uses delegated powers to pursue his own preferences at the expense of the principal's. Shirking takes place when the agent has an incentive and an ability to pursue his own interests (Moe 1995) while slippage may take place if the structure of delegation itself creates incentives for the agent to pursue his own aims distinct from the principal interests.

The occurrence of moral hazard and adverse selection provides theoretical justification for the use of conditionality. It allowed the donors to undertake strategies that secured the policy choices of aid receivers coinciding with borrowers' preferences. In situations where the agents have a predisposition to shirk, the IFI needs to reassure that it possesses tools to prevent or mitigate it. The IFIs thus refer to the use of conditionality, which links approval or continuation of the financing with

implementation of the specific elements of economic policy receiving the financing. Once all funds are released, there is very little leverage on the part of the IFIs. Their influence is additionally weakened in situations when agents represent the sovereign countries, since the available enforcement mechanisms are particularly deficient. There is no possibility of resort to a court of justice, which could force the shirking country to return to the right policy track.

The inconclusive effects and evolution of the IFIs' conditionality regime

Nonetheless, empirical studies on the implementation of the IFIs' programmes have shown a mixed effectiveness of Fund's and WB conditionality and negligible positive correlation between its application and income growth (see e.g. Bauer 2000; Dollar and Svensson 2000; Easterly 2001; Easterly 2006). Thus, "getting the incentives right" (Checkel 2000: 18) proved apparently insufficient in promoting the policy shifts in countries suffering from policy problems and economic crises. Participants in the international aid schemes have either shirked implementing the advised reforms or have proven unable to fulfill undertaken commitments. On the other hand, the IMF was broadly criticized for failure to respond to differences between the borrowers in terms of capacity to adjust and to variations in economic shocks (Fahy 1984: 241). By the mid 1970s it also became evident that in some cases "maladjustments in the balance of payments" could be quite protracted and rooted in structural rigidities and distortions (IMF 2001b: 3). Thus, the monetarist assumptions underlying the Fund's advice started to be considered as unsuitable for all developing economies.

The recognition of the unsatisfactory results of conditionality if applied solely to the economic sphere brought the attention of the Bretton Woods institutions to the 'soft state' (Myrdal 1969), namely the importance of reforming the political and administrative systems as accompanying the economic policy reforms. With the establishment of the Extended Fund Facility in 1974 the Executive Board agreed to provide financing "... in support for comprehensive programmes that include policies of the scope and character required to correct structural imbalances in production, trade

and prices"[34]. The shifting preferences of the Board and the increasing emphasis on economic growth reinforced the importance of the structural contexts, such as the presence of extensive market distortions or the lack of appropriate institutional underpinning for effective policies.

While between 1980 and 1984 conditions focused primarily on international trade and the fiscal sector, thereafter measures referring to the financial sector as well as privatisation and institutional reforms gained importance (Dreher 2002: 14). Between 1985 and 1986, less than 20% of the upper credit tranche of the Standby and Extended Arrangements included conditions related to structural measures (IMF 2001a). At the end of the decade such conditions were covered under almost two thirds of the arrangements, whereas until the mid-1990s they were present in almost all programmes (Dreher 2002: 16). While upholding the consensus on the general need for programme conditionality, the reforms undertaken since the early 1980s and in particular in the 1990s focused on changing the type of conditions attached to the adjustment operations. IMF and WB's involvement in the post-communist countries after the collapse of the bipolar international system have ultimately reasserted the shift in their approach to conditionality.

Technically, the IFIs' 'new generation' conditionality measures include a range of mechanisms attached to 'drawings' (the IMF term for loans' approval), specified in the Letter of Intent[35] or the Memorandum on Economic or Financial Policies. These are the preconditions, performance criteria, benchmarks and programme reviews[36] (IMF 2001b). The *preconditions* or prior actions are the measures undertaken before the presentation of a programme to the Executive Board[37] for authorization and aim to enhance the capacity of the programme to meet its objectives. *Performance criteria* are attached to structural measures that are critical to the success of the adjustment programme and have to be implemented according to the pre-agreed timetable. Failure in implementation should lead to the suspension of further loan disbursements by the

[34] Executive Board Decision No 4377- (74/114), September 1974.
[35] This document specifies the policy actions that the borrowing country pledges to undertake.
[36] These are the elements of the structural conditionality known as programme monitoring techniques, adapted to monitor the progress of structural reform.
[37] The Executive Board of the IMF consists of 24 Executive Directors, with the Managing Director as a chairman. It is responsible for the daily operation of the Fund.

Fund until a new agreement is reached[38]. They provide target indicators, such as fiscal deficits and the balance of payments. Finally, p*rogramme reviews* offer a framework for assessing structural reforms against established benchmarks, which are difficult to define *ex ante* (see IMF 2001b: 6).

Along with the IMF's introduction of the Structural Adjustment Facility (SAF) in 1986, a new tool of conditionality emerged, the *'structural benchmarks'*. They are to map out the series of steps towards an overall policy result. Structural benchmarks differ from the performance criteria since failure to meet them does not stop the programme. Rather, they serve as markers in the assessment of progress with the implementation of reforms in a given area (IMF 2000: 1). However, compliance or lack of it helps to inform the Board about the advancement in structural reforms during reviews of the programmes. The introduction of the structural benchmarks emphasized the increasing role of the structural conditionality, which is often difficult to characterize quantitatively or even qualitatively and is therefore less suitable as performance criteria (IMF 2001a: 5). It has also marked the shifting role of the IMF, evolving towards the development agency with a focus on growth in developing countries (Dreher 2002: 15).

Inherent dilemmas related to application of the international conditioned aid schemes

Notwithstanding the undertaken comprehensive reform of the IFIs' conditionality regime outlined above, the implementation of the new generation of assistance programmes did not bring a clear-cut improvement of the results (Burnside and Dollar 1997; Burnside and Dollar 1998; World Bank 1998; Dollar and Svensson 2000; IMF 2001a) [39]. In many instances, the impact of the IFIs' interventions was only

[38] Typical IMF Financing Preconditions and Performance Criteria: general commitment to cooperate with the IMF in setting policies; reducing government spending, budget deficits, and foreign (external) debt; reducing the rate of money growth to control inflation; ending government monopolies (i.e. privatisation); deregulating industries and reforming the banking sector; redirecting domestic credit from the public to the private sector; ending government wage, price, and interest-rate controls and government subsidies; raising real interest rates to market levels; removing barriers to export growth; lowering tariffs, ending quotas, and removing exchange controls and discriminatory exchange rates; maintaining adequate levels of international reserves; devaluing the currency for countries in "fundamental disequilibrium" (see http://www.imfsite.org).

[39] A summary of studies on IMF conditionality and their results may be found in Annex I of the IMF (2001a). Conditionality in Fund-Supported Programmes - Policy Issues.

limited and transitory. Those findings triggered public debate on the "merits and demerits of the extensive structural reform agenda of recent Fund-supported program[me]s" (IMF 2001b: 3).

The key problem with the reformed IFIs' conditions (as well as introduction of the structural benchmarks), and the source of their criticism, has been the deteriorating clarity with respect to the boundaries of conditionality (IMF 2001a: 5) The expansion of structural conditions appeared to unduly limit the scope for domestic policy choices (Khan and Sharma 2001: 20) since many structural reforms were more intrusive than macroeconomic policies. The very broad character of the structural benchmarks, such as the obligation to prepare action plans, increased allocation to the health service or to improving immunization in the population (Dreher 2002: 16), substantially enlarged the IFIs' interference in the areas falling thus far into purely domestic affairs. There appeared an inherent tension between the desire of the IFIs to cover aspects of the policy central to programme objectives and the intrusiveness of such interference into the domestic affairs of sovereign states.

Nonetheless, despite the generally weak correlation between income growth and aid programmes, the empirical studies also showed that aid applied in 'good policy environments' did make a change (Burnside and Dollar 1997). Reynolds' (1995) survey of long-run development experiences concludes that "political organization and the administrative competence of governments" has been the single most important explanation of variations in developing countries' growth records. Such conditions could be created in countries aware of the necessary reforms (as suggested by the IFIs) and committed to their implementation, that, is, those that fostered the 'national ownership' of the IFIs programmes (see Khan and Sharma 2001; Erbas 2003). Finally, the IFIs also observed that in successful programmes, such as in Bolivia, Cote d'Ivoire and Uganda, the authorities took a strong role in setting the policy agenda and in technical discussions, and were closely involved in the preparation of policy documents (IMF 2001a: 52). Open, inclusive public debate sanctioned by the top leadership clearly contributed to the success of the reforms' implementation.

Drawing on the clues of the 'national ownership' debate and in light of the insufficient effectiveness of the IFIs' conditionality regime, the IMF undertook a series of reforms aimed at increasing commitment to change in the recipient countries. The underlining assumption was that persuading government and relevant stakeholders to difficult policy measures increases the probability of their implementation (Johnson and Wasty 1999; Khan and Sharma 2001; Erbas 2003). Theoretically, the ownership was to remedy the inability to anticipate all contingencies that could affect the programme and to specify in advance actions governments should take (Khan and Sharma 2001).

The modification of the IFIs' conditionality regime relied on three key elements: narrowing the scope (focusing) of structural conditionality, reducing the level of detail of programme monitoring, and greater flexibility and inclusiveness of programme negotiations (IMF 2001a). The Interim Guidance Note on Streamlining Conditionality (IMF 2000) reaffirmed that "structural reforms that are critical to the achievement of a programme's macroeconomic objectives will generally have to be covered by Fund conditionality; however, a more focused and parsimonious application of conditionality is envisaged for structural reforms that are relevant but not critical to these objectives" (IMF 2001c). In general terms, greater 'thinness' of the conditions was to assure a better implementation record.

National ownership seemed a solution to most of the problems encountered by application of international conditionality. Yet, there is a conceptual difficulty with reconciling the need for conditionality with country ownership if it implies that even without the external pressure, the same or a similar course of policy reforms would have been undertaken by the policymaker (Khan and Sharma 2001: 13). Application of conditionality is motivated exactly by the lack or insufficient country ownership of the programme and the IFIs' approach reflects an implicit assumption of the principal–agent framework on the divergence of interests between the patron institution and the borrowing country. The appropriateness of the model, however, has recently been questioned also by the IFIs (IMF 2001b: 12) due to the political sensitivity of conjecture about interest divergence as well as problems with its reconciliation with national ownership.

In the context of application of programmes for CEE, the Fund admitted that in cases when ownership was weak, marked by misreporting, overstatement of reforms

implemented by the authorities, lack of adequate support by local authorities and conflicts between the government branches, conditionality was intensified. This intensification has not, however, seemed to help improve policy implementation in countries not committed to reforms. By contrast, states with strong national ownership, such as Baltic countries, were able to successfully implement programmes without extensive conditionality (IMF 2001a: 53). The study of World Bank conditionality (Collier et al. 2000) demonstrated that underlying political economy factors rather than the Bank's efforts or monitoring techniques were critical for a programme's success. Conditionality was effective only in environments in which governments were already committed to reforms and in countries where genuine movement for change had existed before the assistance arrived (IMF 2001a: 57). The key problem then is how to foster national ownership in states with poor policy environments, especially that structural reforms imply inevitable transition costs for some social groups. Strong vested interests have a chance to block the reforms even when these are supported by the incumbent governments.

The principal–agent model fails to account for the variation of tools of conditionality applied in response to the mixed effectiveness of the 'old' fiscal conditionality as well as inherent problems with undue intrusiveness of dense structural measures. Therefore, it cannot capture the EU's application of both thick and thin acquis. Moreover, it is a static approach assuming an invariable distribution of constraints and preferences and thus cannot conceptualize the politicization effect that the application of external conditionality may instigate. Adaptation process through infringing costs upon entrenched interests under certain conditions may provoke social mobilization and even political shifts. The policies of the IFIs have often spawned resentment across the developing world. They have also impacted the social and political realities of countries receiving international assistance. For instance, the populist political movements, such as the Peronist parties in Argentina (facing serious economic crisis since the 1990s) have frequently used the IFIs as scapegoats for the enduring social hardships in order to improve their electoral result. In 2002, the announcement by the Argentinean finance minister that the country would discontinue its IMF loans payments, and not surrender to its social assistance schemes, caused widespread riots, which led to the collapse of the government and continuing economic chaos (Peet 2003: 84). Albeit on a smaller scale, social mobilization in response (direct

or indirect) to the external pressures has also taken place in the CEE candidates for EU membership. For instance, the prospect of reduction of Poland's fishing fleet in the Baltic Sea as a measure of adaptation to the Common Fisheries Policy triggered fishermen protests, which eventually brought Poland's government to open conflict with the European Commission.

These examples demonstrate that social and political effects should also be accounted for in studies conceptualizing the effectiveness of conditionality, as social mobilization ensuing from its application may affect countries' abilities and/or willingness to reform. This also renders the principal–agent model less appropriate as a framework for understanding conditionality.

The European Union, as the section below demonstrates, has seemed to repeat a few already recognized mistakes committed by the IFIs while exerting pressure on the third countries. Possibly, utilization of the two-level game model (Putnam 1988) for conceptualization of this process and accounting for its inherent dynamics and power play between the actors, may reveal why some of these mistakes have been committed.

2. The evolution of EU conditionality

Unlike in the previous enlargements, with usually fragmented and/or pertinent to the particular countries adjustment problems, completion of the fifth accession process required an across-the-board[40] overhaul of the main aspects of candidates' economies. It involved far more extensive and therefore intrusive pre-conditions for membership and methods of control of the candidates' adaptation to Community rules (see e.g. Grabbe 1999). Arguably, novel conditions and monitoring techniques were utilized by the EU to safeguard the 50-year achievements of European integration as well as to assure the EU's role in guiding the CEE transition process. However, while some of the recent reforms of the IFIs' conditionality regime outlined above were aimed at streamlining the programmes, so to increase country ownership, the strictness of application and large number of conditions seem to position the EU conditionality regime in proximity to the early-stage 'hard' IFIs' measures. It is thus reasonable to expect that their

[40] Perhaps Slovenia was an exception among the candidates due to its relatively good economic situation.

implementation encounters similar problems to those that triggered the reforms of the IFIs' conditionality.

In its recent expansion, to include eight Central Eastern European countries, together with Malta and the Greek part of Cyprus, the European Union has to a large extent drawn on its past experience with widening the borders. Apart from the formal rules on enlargement, the Community strategy rests on the set of principles guiding the accession negotiations, as well as the less explicit "assumptions shaping the expectations of the participants and the progress of negotiations" (Preston 1997: 9). However, while there has been a rather consistent pattern of rules and regulations facilitating subsequent expansions, the EU has modified some strategic assumptions and principles of enlargement while opening its borders to CEECs. The changes concerned mainly the conditioned nature of enlargement to the East (Maresceau 2003: 37). The strict *ex ante* conditionality regime (Grabbe 2002a), based on the mechanisms monitoring adaptation to the acquis as well as tailoring European aid to the set of particular demands, presented novel elements, absent in the past (Mayhew 2002: 19). In addition to that, the completion of the Single Market Programme and related increase of the volume of Community laws significantly broadened the scope of conditions to be met by the candidates. Thus both the extent of conditions and introduction of the mechanisms for monitoring compliance make comparison of the recent forms of EU conditionality and the IFIs' structural conditionality even more relevant.

The principles guiding past enlargements of the Community

Membership conditionality is not a novelty in the Community enlargement strategy. Setting criteria for entry was present since the very first enlargement of the EC. It allowed to "protect and promote" (Smith 2003) the European integration process despite the necessary changes induced by subsequent enlargements. From the outset, the early forms of pre-accession conditionality were designed to safeguard the Community rather than the applicant's interests (EC 1992:12).

Nevertheless, the Treaty basis for conditionality, as for conducting enlargements in general, is vague. According to the provisions of the Treaty of Rome, potential Community members have to belong to the "European nations" and must share the "ideals" of the signatories of the Treaty. The latter points to the "determination to strive

for peace and freedom among nations". Only the Treaty of Maastricht in Article 6(1) further specified the meaning of 'ideals' common to the 'European nations' by demanding from the future members to observe the principles of liberty, democracy, respect for human rights[41] and the rule of law'[42]. None of these, however, is easily measurable and sufficient in itself to join the club.

Confronted with limited formal guidance, the Community member states developed a strategy of enlargements, which aimed to maintain the equilibrium between their fear to forfeit hard-won achievements of integration and simultaneous strains to put up with the external political and economic challenges. Preservation of a delicate balance between the continuous advancement of the European integration, termed 'deepening' and 'widening' of the EC's geographical range[43] has been the guiding principle of the Community since the first British application for membership. As Paul Taylor (1996: 99) noted, the combination of interests and values, which could sustain the governance system of the EC "had taken a good many years to evolve, and it represented an achievement which should not be abandoned easily". The set of explicit membership rules, but also "unspoken, implicit expectations of the suitability or not of prospective members" (Smith 2003: 106) was to preserve the values of the Community. While implementation of the rules, the acquis communautaire, has formed the backbone of EU conditionality, the history of enlargements exposed the equal importance of that second, 'cultural' element. Strict assessment of the formal application of the acquis might in fact serve as formalistic justification behind the absence of member states' agreement for accession based on the latter. It may also allow gaining time for achieving the intra-Community consent for enlargement. Thus, the apparent 'inconsistency' in application of EU conditionality (with stricter interpretations of the rules for some countries than others), pointed out by Smith (2003), has in fact had its own distinct rationale.

---

[41] As guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms.

[42] TEU Article 6(1): "The Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to the Member States. 2. The Union shall respect fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950 and as they result from the constitutional traditions common to the Member States, as general principles of Community law. 3. The Union shall respect the national identities of its Member States. 4. The Union shall provide itself with the means necessary to attain its objectives and carry through its policies."

[43] For discussion see e.g. Wallace (1989).

It was during the first attempt to expand the EU to include the UK, when the basic principle of enlargement was that the candidate adapts to the Community and not *vice versa*, was reaffirmed. Paradoxically, an outward demand of the UK in its application for membership from 1961 to consider its 'specific situation', in particular with regard to relations with Commonwealth and EFTA countries, provoked a statement from the Council of Ministers and the President of the European Commission that "the accession of new members must take place in such a way that they may subsequently share fully in the working out of common decisions in a Community spirit" (EEC 1963:15). In the same "Report on the state of the accession negotiations with the UK" (EEC 1963) the Council of Ministers laid down basic principles to be observed in the accession negotiations. Foremost, they clearly spelled out that "any application for accession to the Community would mean that the country concerned unreservedly accepted the rules and objectives of the Treaty of Rome; consequently negotiations for accession could only deal with the conditions of admission and the adaptations of the Treaty, which these would involve". Secondly, due to the political and economic considerations, a country's accession to the EEC would automatically involve its accession to the ECSC and EURATOM. Thirdly, these two rules must be made clear to the applicants at the very first meeting (EEC 1963:12). From this time onwards, although differently formulated, these principles have become a mantra of the European Commission repeated to the all forthcoming candidates for membership.

In particular the first principle, of unreserved approval of the "rules and objectives of the Treaty of Rome" would have important implications for the future enlargement negotiations. It implied the inviolability of the acquis communautaire and no room for permanent derogations, no matter the domestic implications (some exemptions to this rule were, however, accepted in the future). In the context of subsequent, Southern European countries' applications for membership, the Commission argued that abandonment of this assumption would hold the risk of "reducing the significance of Community" (EC 1978:48). The Commission specifically motivated this approach in so-called Fresco on the Mediterranean enlargement and argued that "Greece, Portugal and Spain want to be part of a strong Community. If it were diluted, weakened, or became nothing more than a free trade area, or even a

customs union, it would be of only limited interest to the three applicant States and to the present nine member states" (EEC 1/78: 6).

However, in light of the mounting challenges with application of the 'inviolability of the acquis' rule towards poorer South European candidate countries, the Community specified its 'transition periods' doctrine for the enlargement negotiations. While during the first application from the UK the Community recognized that despite the general request to adopt the acquis in full, some adjustments on the EC's side might be required, the Six in an official note to the UK's government stressed that the possible problems arising due to adaptation should be settled by means of additional protocols (to the Treaty establishing EEC). However, they could not "modify the tenor and the spirit of the Treaty" and had to concern transitional arrangements (cited in Nicholson and East 1987:21). A similar opinion was expressed by the Commission in its Opinion on the UK, Norwegian, Danish and Irish application in 1969 (CEC 1969). The comprehensive interpretation of the concept of the transition period was given by the Commission only in 1978[44].

It is clear that the applicant countries could not shoulder all the responsibilities involved in membership the moment they join. There must be a transitional period which, in view of the extent, diversity and nature of the problems it is supposed to deal with should, while remaining a purely exceptional arrangement with a strict time limit and strict rules of application, offer enough flexibility to enable the negotiations in each case to come up with solutions capable of dealing with the particular problems of each applicant. (EC 1978: par. 42).

The possible time-span for such temporary derogations would extend from five to ten years (EC 1978:14). In the context of EFTA enlargement and declarations from some CEE post-communist countries about their willingness to join the Community, the Commission reaffirmed this position in the 1992 paper prepared for the Lisbon European Council. It stressed that the Commission will "show comprehension for the problems of adjustment which may be posed for new members, and will seek adequate solutions" under the condition that as a principle acceptance of the acquis "to safeguard achievements of the Community" is maintained (EC 1992:12). However, in a number of

[44] "General considerations on the problems of enlargement" (EC 1978), which presented the guidelines for Mediterranean expansion.

instances in the context of the last CEE enlargement this range of flexibility has proven not quite sufficient and the Commission had to resign from some of its strict rules.

Additionally, in answer to the challenge of adjustments of the South European countries, the Commission tentatively proposed, firstly in the case of Greece, a pre-accession period. The Commission in its Opinion on the Greek application of 12 June 1975 suggested that the pre-accession stage should be established before any specific transitional periods came into effect.

In the case of Greece, where structural changes of a considerable magnitude are needed, it would seem desirable to envisage a period of time before the obligations of membership, even subject to transitional arrangements, are undertaken... In the Commission's view what is needed is on the one hand a substantial economic programme which would enable Greece to accelerate the necessary structural reforms, and on the other, measures to bring Greece into a closer working relationship with the Community s institutions. (CEC 1976:10)

The complementary instrument to the suggested pre-accession period was a proposal to allocate to Greece[45] special funds as a part of the Regional Social and Agriculture Guidance Funds. Even before accession, Greece would actively participate in decision-making over the funds' commitments, so to bring it closer to the working of the Community. However, the idea of the pre-accession period met with resentment from Greek politicians and coincided with the Council's rejection of the Opinion. Nevertheless, the proposed solution and especially the financial assignments to the candidate before accession was a noteworthy novelty in the Community method of enlargement. Although it did not eventually play a role in the Greek accession, the idea was utilized in the upcoming enlargement East, in the form of Phare and other pre-accession programmes[46]. In this case, however, far more extensive conditionality was attached to Community measures. The Accession Partnership Regulation 622/98 stipulated that the Council of Ministers "takes appropriate steps with regard to any pre-

[45] Beforehand, in 1961, after two years of negotiations, Greece signed the Association Agreement (entered into force on 1 November 1962) The agreement anticipated the creation of the customs union and recognized the Greek aspiration to full membership when Greece's economic progress allowed for it. The Agreement was later suspended during the military regime in 1967–74 and reactivated prior to Greek accession to the EC.

[46] Apart from the Phare program, Agenda 2000 introduced ISPA and SAPARD schemes designed to assist in the pre-accession reforms in the CEE applicants for membership in the European Union in the fields of agriculture, infrastructure and environment protection.

accession assistance" if commitments contained in the Europe Agreement are not respected or progress in implementation of the Copenhagen criteria is insufficient (Maresceau 2003: 37).

Another common rule worked out during subsequent enlargements has been the style of conduct of accession negotiations, which take place simultaneously with the range of applicants. This system has naturally leaned towards evening out the terms of accession (type and length of the transition periods) for all the candidates negotiating in parallel. Although the Commission has frequently stressed that "the candidates would be assessed by their own merits"[47], based on which their accession could progress, the "negotiations in networks" (Jönsson and Strömvik 2005) were a reality. Similarly, the candidates were able to negotiate transitional arrangements, which would, however, in the majority of cases represent the 'one-size-for-all' solution. It allowed the Commission to reduce the calls for opt-outs and thus simplify the negotiations but also to publicly 'single out' the 'problematic' candidates (Avery 1995). This in turn was an effective way to soften obstinate applicants.

The tools of conditionality applied in the fifth EU enlargement

The extensive in scope, and applied *ex ante* conditionality regime towards the applicants for membership, characterized the fifth round of the European Union's enlargement. Both the pace of proceeding with applicants as well as financial assistance granted to CEECs were for the first time contingent upon the progress in reforming candidates' economic and political systems. The pace of reforms to be completed prior to accession was regularly monitored by the Commission in its Reports.

The comprehensiveness of conditions presented to the candidates in the fifth enlargement places the EU regime in proximity with the structural conditionality exercised towards the countries benefiting from the international assistance programmes. While this section outlines the key features of the EU conditionality regime in its expansion to the East, the following shows the parallels with the conditionality applied by the IFIs.

[47] For instance, Conclusions from the Lisbon European Council, June 1992.

By 1996 twelve countries lodged their application for membership (see Annex 2.1.), which, together with the pending Turkish application, would nearly double the size of the Community in terms of population. Leaving the Turkish case and tiny Malta and Cyprus aside, applications arrived from the post-communist countries, with their distinct historic experience and traditions. Centrally managed economies and the communist single-party political systems had created economic and social patterns entirely incompatible with the realities of the EC member countries. Thus, for the first time, the diversity which the EC has been struggling to harness and press into the 'European' frames, was that explicit.

Nonetheless, similarly to the 'Community method' of enlargement consolidated through subsequent expansions, the EU conditionality has developed gradually over time and changed its character throughout the decade-long pre-accession period. The EU had no clear blueprint of the conditionality regime in 1991, at the stage of signing the Europe Agreements (EAs). The lack of political consensus among the Community members in the beginning of the 1990s about proceeding towards the newly independent countries at Europe's eastern flanks (Dinan 1994), precluded any concrete commitments on the EU's part with respect to date and strategy of enlargement. Thus, the first 'new generation' agreements with CEE, the Europe Agreements, included only vague recognition of their aspiration to future membership. Similarly, the Copenhagen summit of 1993 set only very broad criteria that potential members from the region had to meet in order to join the EU in a rather indefinite future. Both equipped the EU with a large scope of flexibility in the later responses to potential demands from, CEE as well as to the unfolding politico-economic situation.

Conditionality of the pre-accession aid

Prior to any talks about accession, early relations between the Community and the post-communist countries focused on the aid programmes and gradually deepening institutional ties. The first concrete reaction of the Western countries to the transformation of the East arrived from the G7[48] summit meeting in Paris in 14–15 July

[48] The seven most industrialized countries in the world.

1989. Its participants established the Phare[49] aid programme for the forerunner transition countries with the aim to "support the process of economic and social reform under way" (EEC 3906/89). The European Commission[50] was endowed with the responsibility to coordinate the financial aid of 500 million Ecu appropriated from the EC's 1990 budget, which increased to 785 million in 1991 and one billion in 1992[51] (Kramer 1993: 223). As another initiative of the EC, in 1991 the European Bank for Reconstruction and Development (EBRD) was created in order to assist establishment and growth of the private sector in the former socialist countries (see Saunier a Touscoz 1991). ISPA[52] and Sapard[53] assistance programmes, established a few years later, supported specifically investments in transport infrastructure, environmental protection and in rural areas.

EU assistance for the post-communist countries was disbursed primarily as grants earmarked for concrete projects aimed at economic restructuring. The Council Regulation specifically pointed to the areas that assistance should target (such as agriculture, industry, environmental protection etc.) but noted that in the choice of measures to be financed "account shall be taken, inter alia, of the preferences and wishes expressed by the recipient countries" (EEC 2906/89). The nature of the programme has evolved with early activities focused on the immediate needs of transition economies and a gradually widening scope to address longer term economic development and investment requirements. Phare was in principle 'demand-driven' with partner countries in the driving seat when it came to shaping the programmes. This approach was to "ensure that partner countries had a real stake in the programme, and that it remained flexible and responsive to the very different, and rapidly evolving, needs [...]" (PE 1998: 4). Essen European Council of 1994 incorporated Phare to the pre-accession strategy as its key financial tool. It thus explicitly linked the programme with the accession process, at the same time increasing the share of funding allotted to

[49] "Pologne-Hongrie: Actions pour la Reconversion Economique". In July 1990 the Community extended Phare aid to Bulgaria, Czechoslovakia, East Germany and Yugoslavia.
[50] On the basis of the Council Regulation (EEC) 3906/89 of 18 December 1989.
[51] For an account of the distribution of funds between beneficiary countries according to Phare 1992 'indicative programs', cf. Together in Europe, Brussels, No 14 1.9.1992
[52] Instrument for Structural Policies for Pre-Accession established in June 1999 and focused on financing large infrastructural projects in the field of environmental protection and transport infrastructure.
[53] Special Accession Programme for Agriculture and Rural Development established in 1999 with a goal of supporting the adaptation of agriculture in CEECs to the rules of CAP.

large infrastructural projects (up to 25%) and confirming the multi-annual programming approach.

Following the publication of Agenda 2000 (CEC 1997c) and stepping-up of the enlargement process that ensued, Phare objectives were reformed. The initial goal of the programme, to facilitate transition, was redefined to support the applicant countries above all in satisfying the EU conditions. The new guidelines defined the essential priorities of Phare as assistance in adoption of the acquis communautaire, namely "building up the administrative and institutional capacities of the applicant countries and financing investments designed to help them comply with Community law as soon as possible" (EC 1266/1999).

This reinforcement of linkage between Phare assistance and applicants' adaptation to the EU was accompanied by the move to make granting EU assistance conditional upon implementing the programmes aimed at preparing candidates to meet the obligations of membership (CEC 1997c). Poland's Accession Partnership specifically stated that "Community assistance for financing projects through the three pre-accession instruments Phare, ISPA and SAPARD is conditional on respect by Poland of its commitments under the Europe Agreement, further steps towards satisfying Copenhagen criteria and in particular progress in meeting the specific priorities of this Accession Partnership in 2000. Failure to observe these general conditions could lead to a decision by the Council on the suspension of financial assistance"[54] (CEC 1999a: 13).

Apart from the availability of funding, the satisfactory progress in adaptation was to allow the candidates to take more responsibilities in the contracting and payment of assistance. Decentralization of Phare management was, however, contingent upon demonstration of the "management and financial control capacities", specified in the Annex to the Council Regulation (EC 1266/1999, Article 12). Notwithstanding existent possibilities of programme decentralization to increase candidates' role in implementation of the EU assistance, project selection, tendering and contracting were still subjected to *ex ante* approval by the Commission[55]. The EU also retained the power

[54] On the basis of Article 4 of the Council Regulation (EC) 622/98.
[55] Article 12 of the Council Regulation (EC) 1266/1999 on coordinating aid to the applicant countries in the framework of the pre-accession strategy and amending Regulation (EEC) 3906/89.

to reduce or withdraw allocated funding, in case candidates demonstrated a breach of the Community rules or proved unable to prepare an effective project pipeline. In 1998 the Commission applied this rule in Poland's case by reducing its allocation of Phare by EUR 34 million in response to Poland's apparent incapability to present "sufficient mature projects meeting the priorities of the Accession Partnership" (CEC 1999). In such a way, the Commission sent a clear signal to the candidates that it is ready to use its aid conditionality in practice.

EU pre-accession conditions as a moving target goal

Following the Conclusions of the Strasbourg European Council in December 1989, the Commission committed itself to "examination of the appropriate forms of association with the countries which are pursuing the path of economic and political reform". Subsequently, at the request of the Council, the Commission started the preparation of the 'second generation' association agreements as a basis of contractual relations with the transition countries (CEC 1990)[56]. The Europe Agreements (EAs) with Czechoslovakia, Hungary and Poland were signed in December 1991. Their principal goal was establishment of the free trade area between the EC and associated countries by gradual removal of trade barriers (within ten years), with the asymmetry of liberalization to the benefit of the CEECs. To only the partial satisfaction of the CEE, the EAs in their preambles recognized EU membership as candidates' "final objective" and that the goal of the accords is to "help to achieve this objective".

The agreements, however, have neither set concrete deadlines nor a timeframe for possible accession. In turn, they did include a strong element of conditionality. The associated countries were expected to approximate their "existing and future legislation" to that of the Community as "the major precondition for [Poland's] economic integration"[57]. The preamble to the agreements plainly spelled out the link between full implementation of the association and the "actual accomplishment of [Poland's] political, economic, and legal reforms" (Europe Agreement with Poland)[58]. The very

[56] The EC concluded the 'first generation' agreements with some COMECON countries in the 1980s. These were standard 'trade and cooperation agreements' anticipating the gradual removal of trade barriers within ten years (for Poland, five years).
[57] cf. Europe Agreement EC-Poland: Art. 68.
[58] For discussion see also Smith et al. (1996); Preston (1997); Sedelmeier (2000).

broad scope of issues embodied by the agreements[59] implied that "implementation of association" meant that the candidates were expected to adopt the majority of EC policies. No mention of the chances for future membership accompanied these demands. Despite the fact that such a broad agenda involved considerable costs, the EU decided not to take any further commitments with regard to financial assistance (apart from the modest Phare budget already set up, facilitating transition in general[60]), as, for instance, during the Mediterranean enlargement[61]. The very weak linkage between the demands formulated in the agreements and the anticipated reward potentially impaired the ability of the EU to reinforce implementation of the policy measures they included.

The second outward expression of the pre-accession conditionality applied towards the CEE candidates for membership were the criteria for the applicants presented during the 1993 Copenhagen summit. Contrary to the EAs, however, the Conclusions of Copenhagen made an explicit link between meeting these criteria and accession (not merely an economic cooperation). They stipulated that prospective members are "stable democracies, respecting human rights, the rule of law, and the protection of minorities; have a functioning market economy; adopt the common rules, standards and policies that make up the body of EU law"[62]. The Madrid European Council of 1995 extended the list to include also the 'administrative capacity' requirement. These conditions, despite their vagueness, created a point of reference for all later Community documents, which gradually specified them and narrowed them down to more quantifiable measures. Eventually, the 1998 Accession Partnerships explicitly upgraded both the conditions from the EAs and the Copenhagen criteria to legally binding conditions, subject to possible sanctions (Maresceau 2003: 37).

---

[59] The provisions on approximation of laws concerned the areas of customs law, company law, banking law, company accounts and taxes, intellectual property, financial services, protection of workers in the workplace, protection of health and life of humans, animals and plants, consumer protection, indirect taxation, technical rules and standards, transport and the environment. Priority was given to the competition law (cf. Europe Agreement EC-Poland: Art. 69).

[60] Only in 1999, two additional programs, ISPA and SAPARD, albeit with relatively modest budgets (per year EUR 1.04 billion and EUR 520 million respectively), were enacted to alleviate part of the adaptation burden.

[61] In the latter, and concretely the Greek case, the Community offered additional financial appropriations in exchange for agreement for the pre-accession period.

[62] The prospective member states have to be "stable democracies, respecting human rights, the rule of law, and the protection of minorities; have a functioning market economy; adopt the common rules, standards and policies that make up the body of EU law".

By 1994 it was clear that full implementation of the acquis and adjustments anticipated by the Europe Agreements were necessary, if insufficient, conditions for further talks on enlargement. The comprehensive pre-accession strategy introduced in the Essen European Council incorporated earlier elements of the EU policy and added two new items: the Single Market White Paper and the Structured Dialogue. The White Paper selected the Single Market legislation, which needed to be adopted first, described the administrative and technical structures ensuring that the legislation is effectively implemented and enforced, and outlined the ways of focusing EU technical assistance. The Paper furthered the provisions of the EAs by covering a number of additional policy areas but the Commission negated allegations that it is a new source of pre-accession conditionality. In fact the White Paper did constitute some revision of EU conditionality since it prioritized and specified the road to adaptation mentioned in some earlier documents.

The Reinforced Pre-accession Strategy,[63] announced on 13 July 1997 in the Commission's Agenda 2000[64], the blueprint for enlargement, further strengthened the pre-accession conditionality. The Commission argued that the scope of certain problems (with enlargement) made it necessary from 1998 onwards, "to establish intermediate objectives with precise conditions attached" (CEC 1997c:83). The Accession Partnerships of 1998 broadened the applicants' reform agenda by placing all previous measures towards the candidates under one title and adding provisions on administrative capacity, environment and Justice and Home Affairs. Additionally, Agenda 2000 (CEC 1997c: 85) also emphasized the monitoring role of the Commission. It was to report to the Council on the "progress achieved by the candidates in the programme for adopting the acquis, particularly through Accession Partnerships, with a view to fulfilling the Copenhagen criteria". In that way, the Commission, with the full support of the member states, legitimized pre-accession conditionality as the key element of the 'method' of EU enlargement to the East. At the same time, the member countries allowed the

[63] The Strategy was created in order to facilitate the reforms in the candidate countries with the aim of focusing on the priorities of accession. It put the elements of pre-accession policy under one umbrella of the Accession Partnerships.

[64] Prepared on the request of Dublin European Council. The strategy added two elements of the pre-accession, which were to guarantee consistency between the preparations of accessions and negotiations, bringing together under a single framework all the resources and forms of assistance available for facilitating adoption of the acquis and extending participation of the applicant countries in the Community programs and mechanisms to apply the acquis (see Agenda 2000).

Commission to penetrate the policy-making of the applicants to a far greater extent that it would be possible for the case of EU member states.

During the accession negotiations, the Commission continued to verify the progress of adaptation on the basis of requirements mentioned in particular in the EAs as well as the Accession Partnership, weaknesses pointed in the Commission's annual Reports on the candidates' preparedness for membership, commitments from the National Programs of the Preparation for Membership and the accession negotiations. The level of complexity of these demands was unprecedented. There has been no recourse to such extensive measures in the past enlargements, in particular the expansion to include South European countries, which due to political and economic context is often compared to the fifth enlargement. When it comes to adoption of the acquis prior to accession, the Commission considered asking the applicants "to observe some common discipline in certain well-defined areas even before accession" (CEC 1978: 7). It also reasserted that "these measures could on no account be general ones; they will have to be specific, worked out with the applicant country in connection with specific sectoral objectives and, where appropriate, integrated in multiannual programmes taking account of the Community's general interest" (EC 1978: 7). Spain, Greece and Portugal were offered corresponding financial aids, also from the resources of the European Investment Bank (EIB).

Each subsequent element of the pre-accession strategy made a link to preceding documents, thus steadily increasing the burden of adjustments to be carried out by the candidates for membership. However, most of these developments took place in a unilateral fashion. Mayhew argues (2002: 20) that such unilateral conditionality does not oblige the partner to fulfill the conditions set in front of him. Indeed, although the candidates found themselves under mounting pressure from the annually published Regular Reports, a number of key reforms postulated by the EU remained unimplemented. For instance, Poland's competition policy and public aid rules, present among the earliest conditions, were not adapted to the acquis until the accession negotiations commenced. Even at that stage, in 2000, in the middle of negotiations, Poland's government adopted the law on public aid, incoherent with the acquis. The unilateral character and gradual expansion of the conditions appeared as potential problems for their future implementation.

The EU conditionality regime vis-à-vis the IFIs' practice

The 'moving target' character of EU conditions applied towards the candidates for membership in the fifth round of enlargement was subjected to concerted criticism from academics as well as policy-makers (e.g. Smith et al. 1996). Moreover, the gradually increasing scope of conditionality was accompanied by an increasing blurring of its borders. Similarly to the IMF's case, the poor demarcation of boundaries between what was and what was not structural conditionality, together with the relative discretion in enforcement, meant that it was not always clear which actions would be discordant with the letter of agreements. The IMF itself has questioned the scope of such extensive conditionality, asking whether it crossed "the limits of its effectiveness, and whether it has become so intrusive as to weaken national ownership for economic policies and thus defeat[ed] its intended purpose" (IMF 2001a: 52).

Although the first pre-accession documents included primarily economic demands, ever since Copenhagen the political and administrative capacity tier of the EU conditionality gained increased importance. The all-encompassing character of these conditions is reminiscent of the structural phase conditionality of the IFI. However, while the new approach to application of conditionality by the international institutions was marked by an increasing focus on the selectivity of conditions, simplification and decreasing their number, in the EU enlargement case each subsequent document worked out by the Commission has arguably expanded the scope of conditions to be met by applicants prior to enlargement. The level of intrusiveness of the EU conditions was thus increasing rather than diminishing with time.

Such a situation was possible due to a practical absence from the political debate (at least in the initial stages of the enlargement process) of questions about the intrusiveness and legitimacy of the EU measures, pertinent in the IFI's recent discourse. In Poland's case, the first post-communist government based its foreign policy goals on the quest of 'return to Europe', which had limited alternatives for the followers and diminished their leverage in talks with the EU. Throughout the 1990s none of the major political forces would have taken the risk of questioning or moreover, resigning from this clearly delineated target. However, the candidates' declaratory commitment to adaptation, rather than an effect of rational decision-making based on the cost–benefit

analysis of the impact of accession, has resulted largely from the path-dependancy of the historic decisions undertaken in the beginning of the 1990s. The absence of credible external policy alternatives to membership in the EU and NATO (Grabbe 2001) largely conditioned the future positive responses towards the new challenges posed by the EU during the pre-accession period. This, however, did not suffice as a guarantee for successful implementation of the EU conditions.

Moreover, the European Commission, by refusing to recognize the possible incongruity between the goals of transition and accession (Goetz 2001), precluded questions about the legitimacy of conditions leading to their achievement and discussion on possibly ensuing domestic divisions. It seemed to overlook the IFIs' experience with conditionality, which pointed to the strong country ownership as a foundation for successful programme implementation. This was to be fostered by better relations with recipient countries' governments but also other important stakeholders. The history of IFIs' conditioned programmes illustrated that opposition to the measures from various entrenched interests, such as civil servants, staff in the state-owned enterprises etc. and failure to identify and protect vulnerable groups, weakened national ownership and further, hampered programme implementation (IMF 2001a: 53).

In the EU enlargement case, if at all, such recognition came in the conclusive phase of the process in light of the risk that discontented interest groups may use their power to block ratification of the accord. At this stage, rather than redesigning the measures or persuading antagonistic domestic actors about their necessity, winning social support could take place only by yielding to interest groups' demands. The transition periods and side payments (for instance to farmers) were occasionally used by applicants' governments to solicit their agreement for accession.

Paradoxically, the lack of consideration of possible domestic opposition in the initial stages of enlargement process, based on the false assumptions about across-the-board support for the reforms, resulted in more 'costly' adaptation. On the one hand, the EU, contrary to its official enlargement doctrine and in particular the principle of immutability of the acquis, had to agree on numerous transition periods and exemptions in areas where opposition to the reforms was particularly fierce. Thus, the pattern of transition periods (see Annex 2.2.) does not show correlation solely with the costs of adaptation but also numerous derogations in the areas where such fiscal costs did not

ensue. Long transition periods with respect to implementation of the EU tax laws or banking directives present cases, where adaptation involved neither the fiscal costs nor serious technical difficulties.

The necessity to 'buy' social support for enlargement allowing for delivering on the pre-accession commitments in the late stages of the accession negotiations paradoxically have also empowered candidates' governments vis-à-vis the EU. Putnam's two-level game account (1988) of international negotiations, presented below, explains the logic behind such dynamics, which led at times to surprising loopholes (accepted by the EU) in the process of adaptation. It helps to understand why, contrary to expectations based on the asymmetry of the enlargement premise, the accession conditionality of the EU has been surprisingly non-effective in some policy fields.

3. A two-level game account of the accession process

Theories of international negotiations increasingly recognize the complexities of entanglement between domestic and international affairs resulting in reciprocal influence on domestic and international political outcomes. Putnam's 'two-level game' model of international negotiations conceptualizes this entanglement between domestic and international contexts (Putnam 1988) by disaggregating international talks into two parallel negotiations. At the national level (Level II) domestic groups pursue their interests by pressuring the government to adopt favorable policies, and the national governments seek power by "constructing coalitions among those groups". At the international level (Level I), national governments strive to "satisfy domestic pressures, while minimizing the adverse consequences of foreign developments" (Putnam 1988: 434). Neither of these two games may be overlooked by accounts conceptualizing outcomes of international negotiations.

There are a number of implications for the international negotiations, which Putnam identifies throughout the model. All Level I international agreements that may be ratified domestically at the Level II board constitute the 'win-set'. If there is no overlap between domestic and international win-sets, the agreement is impossible and conflict will prevail. On the other hand, the larger the win-set at Level II, the more likely or easy it is to find an agreement at Level I. Conversely, a smaller win-set carries a greater risk that negotiations would break down. In other words, more flexibility at

the domestic level makes international agreement more likely. The relative size of the win-sets will also affect distribution of the joint gains from the international bargain. Larger win-sets at Level II provoke stronger pressure on the negotiators from the international partners. Thus, paradoxically, smaller domestic win-sets give the negotiators a bargaining advantage (Putnam 1988: 440). A country that can agree a broader set of solutions will not be able to drive the best bargain in the Level I negotiations. However, partners to negotiations would strive to strike a deal acceptable to everybody in order to avoid an 'involuntary defection'[65], that is, a situation when one of the negotiators is unable to deliver on the promise, due to the failed ratification at home (Level II). This logic strengthens the 'paradox' of weakness at home contributing to international empowerment of negotiators.

According to Putnam (1988), there are three main principles governing the size of the 'win-set'. Firstly, domestic preferences and coalitions and the relative strength of 'isolationist' to 'internationalist' forces within the constituency of the negotiator. Constituencies for which the cost of no-agreement is low will also be more skeptical about a Level I deal and thus, naturally, more 'isolationist', and *vice versa* (1988: 442). Thus, in general, smaller and more dependent countries with more open economies would be more inclined towards international cooperation than larger and more self-sufficient countries. Secondly, there will be different dynamics governing various types of conflicts. Putnam makes a distinction between the 'homogenous' (boundary) and 'heterogeneous' (fractional) conflicts (1988: 444). In the case of the former, the constituencies favor one particular solution but differ with respect to the minimum value of the offer they find acceptable. The 'heterogeneous' conflicts represent those issues on which various constituencies have different or opposing preferences. In case of the former the negotiator's challenge is to "manage the discrepancy between his constituents' expectations and negotiable outcomes while the hard-liners opposed to agreement raise the risk of involuntary defection and impede the deal" (Putnam 1988: 444). In 'heterogeneous' conflicts the line of cleavage within domestic constituencies may cut across the Level I division. Thus, it may encourage the emergence of transnational alignments expanding the win-set. Against the conventional view claiming

[65] By contrast with 'voluntary defection' referring to situations where a rational agent reneges in the absence of enforceable contracts, which is a sort of prisoner dilemma problem. In reality it may be countered by the iterative character of international relations; however, in the analysis of EU accession negotiations it is less relevant as the accession is a one-off experience.

that domestic unity is generally a precondition for international agreement[66], Putnam argues (1988: 445) that a government divided internally may be more likely to strike an international deal than the one firmly committed to one policy.

Last but not least, the size of the win-set depends also on the political institutions and formal arrangements for ratification as well as the strategies of Level I negotiators. The higher the threshold required for ratification, the smaller the win-set. Also, a smaller autonomy of a decision-maker, who is more accountable to the public, diminishes the win-set and has less possibilities to offer side-payments (Putnam 1988: 448).

In general, since the win-sets are affected by Level II preferences and coalitions and Level II institutions (as well as Level I negotiators' strategies), a full analysis of international developments must be rooted in the theory of domestic politics.

Poland's accession negotiations as a two-level game

Similarly to any other international negotiations, accession talks may be conceived as a two-level game. As Poland's Chief Negotiator stated, the accession negotiations present a two-dimension process. On the one hand, they demanded working out Poland's position domestically and on the other, externally, to carry out the 'real' negotiations with the EU[67]. Thus, the negotiator of the Accession Treaty has to move between two-level prerogatives. On the one hand, to ascertain continued social support for enlargement and the agreed deal, and on the other, to undertake commitments related to adaptation while controlling for the risk of domestic defection. The complexity of such a two-level negotiation process lies in the fact that "moves that are rational for a player at one board [...] may be impolitic for that same player at the other board". Nevertheless, there are powerful incentives for consistency between the two games as well as the need for some consistency between the external and domestic rhetoric of the negotiator.

[66] See Artis, and Ostry (1986).
[67] The address of Poland's Chief Negotiator during the 8th Senate Session (1998).

The international dimension

The institutional framework for the accession negotiations endowed the Commission with the particularly important role of being the member states' delegate in proceeding with the applicants. The Commission services prepared the documents and position papers for the Council of Ministers, as well as proposals for replies (Draft Common Positions) to the candidates' positions, subsequently approved by the member states in the Council of Ministers as Common Positions of the EU. The Common Positions, which frequently included questions to the candidates and requests for clarifications, formed the basis for the amendment of candidates' position papers. The Commission was also in charge of preparing the technical studies on the impact of particular position papers in concrete negotiation areas. Moreover, being involved on a daily basis in talks with each of the candidates, the Commission advised them on the acceptable ranges of solutions for the member countries (their win-sets) (Mayhew 2002: 124). This position gave the Commission the possibility to impact the negotiation strategies of the candidates, while imperfect information about the room for negotiations held by all other actors placed it at the center of the negotiations as the most reliable source of information.

The EU, in the Eastern enlargement, as outlined in the previous section, had insisted on implementation of the acquis in full from the day of accession. Although some derogations were anticipated, they were supposed to be 'limited in scope and temporary'. The Commission strained to reduce the complexity of the negotiations by insisting on one-size-fits-all solutions (Friis 2005: 208). It also tried to play the candidates off each other in order to secure the most preferable terms of agreement (for the EU), that is, maximally limited in number and length transition periods. These strategies, supplemented by mutual suspicions about candidates' individual political goals, have proven successful to an extent that they indeed precluded any significant cooperation between the applicants. Avery (Avery 2003: 4) argues that candidates' insistence to be treated by their own merits presented another obstacle to such cooperation. In fact, the Commission persistently denied allegations about treating the CEECs as an interdependent group (Friis and Jarosz 2000; Avery 2003; Friis 2005) and instead insisted that negotiations with each applicant are conducted individually, so their chances for accession were not contingent on others' performance (Presidency

Report 2000). Thus, the acquis communautaire as an expression of EU conditionality during the negotiations, rather than some common negotiation strategies, delineated the scope of possible derogations for the candidates.

The largest room for manoeuvre (international win-set) and chances for obtaining assent for the transition periods seemed to be in the areas in which the acquis was thin and where old Community members had already enjoyed individual solutions. In such fields the win-sets of the EU were larger than in policy domains with thick acquis. In policy domains with sparse acquis the Commission could undertake a more flexible approach towards applications for transition periods. For instance, the Community had far more problems with justification of its rejection of the application for a transition period in Taxation, where a thin acquis was riddled with exemptions and derogations than in the Competition policy, a densely regulated area central to the common market. Therefore, the negotiations in the chapters characterized by a thick acquis and where a candidate applied for derogations tended to be more difficult and, theoretically at least, chances for transition periods smaller. Yet, there have been surprisingly many transition periods granted to CEECs even in the fields where the acquis was thick and in policies central to working of the EU (see Annex 2.2.). Consideration of Putnam's (1988) domestic level negotiations in the accession talks' dynamics may allow an explanation for why there have been derogations granted in areas at first sight without chances for such exemptions. Secondly, it remains less certain whether the lack of a transition period in fields declared as difficult to adapt hampered or conversely, facilitated adaptation.

Domestic context

As argued above, the size of domestic win-sets determines the degree of flexibility of partners to negotiations. When the range of possible solutions is small, negotiations are more likely to break down without a deal. However, Putnam's paradox holds that a smaller domestic win-set may also present an advantage in the international forum.

The size of domestic win-sets is based on internal support for the negotiated outcomes and the domestic institutional context of negotiations. Domestic opposition to

the proposed solution decreases the range of possible win-sets and *vice versa.* In the case of accession negotiations, divided into the 31 policy areas, it is to a large extent contingent upon the attitudes of the interest groups losing or benefiting from anticipated policy changes in each field. Thus, the negotiations themselves structure the possible conflict sectorally with most involved interest groups organized along business lines. The second important component of the domestic context is the institutional framework, in which the negotiator carries out his tasks, namely his position within the executive structures, ability to act independently and his degree of dependence on other members of the government. The win-set of an institutionally weak negotiator is generally smaller (Putnam 1988) since he has less possibilities to offer benefits such as side payments to solicit support behind the deal.

There has been a consistently high public support level for Poland's accession to the EU since the beginning of the 1990s, underpinned by the calls for 'return to Europe' and perspective of economic benefits from enlargement. However, the increasing costs of adaptation prior to enlargement and the protests of particular groups complaining about unfair treatment, such as the farmers, have contributed to increasing opposition against enlargement with only 55% of society for accession in March 2001 (see also Zagorski 2004). The opinion polls from that period also note a more or less equal division within the society on those trusting that Poland's negotiators appropriately represent the national interests (42%), and people doubting their abilities and/or intentions (43%) (OBOP Communique 2000).

Table 2.1.: The level of social support for integration with the European Union

How would you vote in a referendum on Poland's accession to the EU?	**The timing of the poll**									
	VI '94	V '95	V '96	IV '97	V '98	V '99	V '00	III '01	III '02	XI '02
For accession to the European Union	77	72	80	72	66	55	59	55	67	73
Against accession to the European Union	6	9	7	11	19	26	25	30	25	18
Difficult to say	17	19	13	18	15	19	16	15	8	9

Source: Prepared on the basis of the CBOS communiqués of January 1999, March 2001, and November 2002

Poland's Constitution (1997) suggests that "a nationwide referendum may be held in respect of matters of particular importance to the State" (Art. 90.3 and Art. 125). Furthermore, there has been an agreement that a referendum is held in order to obtain social concord with negotiated terms of accession. Thus, decreasing rates of support for enlargement raised concerns that accession may eventually be blocked by discontent interest groups or radical political forces.

Falling support for accession to the EU suggested that the perception of Poland from without and within as 'internationalist' in attitude (according to Putnam) was premature. The absence of viable foreign policy alternatives to accession has not necessarily meant that failure to reach an agreement with the EU (on enlargement) was perceived as extremely costly by most of the society. The apparent risk of 'involuntary defection' brought the government's attention to the topic of social consultations of the terms of accession. Therefore, in February 2000 the authorities decided on disclosure of so far guarded position papers. The Chief Negotiator[68] claimed, two years after the start of accession negotiations, that disclosure of the documents presented proof of the government's willingness to conduct an "open information policy about the integration process". During the same debate Paweł Samecki (Undersecretary of State in UKIE[69]) pointed to the increasing focus of the government on "identification of the key social groups from the point of social support for integration".

One of the leading Polish sociologists, Lena Kolarska-Bobińska commented in 1999 that the majority of Poles perceived the European Integration as an elite project, a discourse between Brussels bureaucrats and the government, which did not affect common people. "This could lead to perceptions that EU integration is something enforced upon the society" (Kolarska-Bobińska 1999: 355). Diminishing social support for accession due to the mere perception of the costs of adaptation limited the government's negotiation win-set, that is, the scope of socially acceptable solutions to the negotiation problems. This result became even more evident after the start of the

[68] (2000) Kronika Sejmowa No 108 (412).
[69] Office of the Committee for European Integration, an administrative structure created in 1996 to facilitate preparation for accession to the EU.

accession negotiations and exposure by various interest groups of a number of difficulties with adaptation. Falling general support for accession but also, arguably, social mobilization in response to particular problems with harmonization, demonstrate how Level I dynamics may also lead to shifts of the domestic, Level II win-sets. The empirical chapters of this thesis will demonstrate in detail the exact factors that have triggered such an effect.

Institutional context for the Chief Negotiator

The counterproductive division of powers between key decision-makers in Poland's membership negotiations was a source of the institutionalized weakness of the Chief Negotiator. As mentioned earlier, a lower autonomy of the negotiator diminishes the domestic win-set since it reduces possibilities to offer side-payments (Putnam 1988: 448).

The Polish institutional framework for conduct of accession negotiations was particularly complex and, subsequently, the decision-making powers and competencies dispersed among various branches of the executive. Poland's Council of Ministers created a new function of the Government Plenipotentiary for Accession Negotiations as the Chief Negotiator of the accession negotiations with the EU[70] in the Chancellery of the Prime Minister. Jan Kułakowski, and then Jan Truszczyński, held the position in AWS-UW and SLD governments[71] respectively. The Chief Negotiator in the first negotiation team held the rank of Secretary of State and reported directly to the Prime Minister. However, the Minister of Foreign Affairs, Bronisław Geremek[72], and the Secretary of the Committee for European Integration (KIE), Jacek Saryusz-Wolski, in charge of the adaptation process in general, were equal in ranks. The Minister of Foreign Affairs supported the Prime Minister in conduct of his coordination and control functions over the process of adaptation. He also held the position of the head of the Polish delegation to the accession negotiations in Brussels, while the Chief Negotiator was only the deputy head.

[70] By the ordinance of the Council of Ministers on appointment of the Government Plenipotentiary for Accession Negotiations on Membership of the Republic of Poland in the European Union from 24 March 1998.
[71] The governments created by the centre-right forces of AWS Coalition of NSZZ Solidarity and Liberty Union (UW), which ruled in 1997–2001 and leftist government, which came to power in the result of the September 2001 elections and comprised the Democratic Left Alliance (SLD) and Labour Union (UP).
[72] Władysław Bartoszewski from July 2000 until October 2001.

This institutional set-up was a source of continuous tension between the three figures and weakened the position of the Chief Negotiator. Answering to the inefficiencies of this structure, the SLD government appointed its Chief Negotiator as the Under-Secretary of State in the Ministry of the Foreign Affairs (see Annex 2.3. on actors in the accession negotiations), as other candidate countries did[73] (UKIE 2000a: 107). Although this move may have introduced more logical structure of competencies between the key political figures in charge of enlargement, it also further weakened the position of the Chief Negotiator, who now reported directly to the Minister of Foreign Affairs.

Such a complex institutional structure had two major implications. Firstly, the number of actors involved in the accession negotiations diminished the political power of the Chief Negotiator, and secondly, it created multiple access points for the interest groups to intervene in the areas of their concern. When it comes to the first implication mentioned above, in particular during the first phase of accession negotiations (led by the AWS-UW coalition government) there was an acute internal conflict between the Chief Negotiator Jan Kułakowski and the Chief of the Office of the Committee for European Integration, Jacek Saryusz-Wolski. The latter held the politically important function of the Secretary of the Committee for European Integration (KIE), an administrative body chaired by the Prime Minister and in charge of programming and coordinating Poland's integration policy, a wider task than the accession negotiations. The Chief Negotiator was formally just an ordinary member of KIE. In fact, both negotiators were insignificant figures politically and their choice represented rather a compromise between the political forces forming the coalition governments. As is shown in the following chapter, the politically weak position of the negotiators also seemed to contribute to their weakness *vis-à-vis* the interest groups able to mobilize against the proposals of the position papers, and threaten with vetoing accession, have not their demands been considered.

[73] The Chief Negotiators of the Czech Republic, Estonia, Bulgaria, Lithuania, Latvia, Romania, Slovakia were Deputy Ministers of Foreign Affairs or Secretaries of State in the Ministry of Foreign Affairs in their respective countries. The Chief Negotiator of Cyprus held the function of Coordinator of the Legal Harmonization Process (and the tasks related to negotiations were highly centralized within the Negotiation Team); in Hungary the negotiations were led by the Representative of the Hungarian Republic to the European Communities (with the Ministry of Foreign Affairs playing a major role) and the Maltese negotiator was an Advisor to the Prime Minister (strengthening the role of the Chancellery in the negotiation process).

Conclusions

The stress on structural measures as underpinning for the economic policy bring the EU conditions set out in the Copenhagen criteria and the Europe Agreements close to the IFIs' 'hard' conditionality regime. Arguably, the largest problem encountered by the latter in implementation of their conditioned aid schemes was the excessive number and scope of the measures, the ambiguity of demands and patronizing attitude of donor institutions preventing domestic consent on the policy implementation. The empirical studies on the results of the programmes demonstrated that the complex system setting appropriate incentives for change and monitoring mechanisms has not prevented countries from shirking. In general, IFIs' conditionality applied in countries, in which governments and/or important social stakeholders were reluctant towards the reforms, was ineffective in instigating policy change. Thus, recent reforms of the IFIs' conditionality regime focused on streamlining the conditions, decreasing the intrusiveness of the measures and paying greater attention to specific domestic circumstances, in which aid is applied. The thinness of the conditions seemed to facilitate adaptation more than dense net of requirements and sophisticated monitoring techniques.

This conclusion goes counter to conventional view on the EU conditionality, which maintains that thick acquis provides better guideline for adaptation and alleviates problems with lack of clarity of the conditions. The EU, in the beginning of the accession negotiations, set up detailed, supposedly non-negotiable conditions based on the principle of uniform application of the acquis, similarly to the IFIs in the initial phases of their activities. However, similarly to the international agendas, the European Union, with the progress of the negotiation process accompanied by falling support for accession in the CEECs, realized that conditionality could not simply be imposed. The mounting social discontent forced the governments of the applicant states to open the negotiation process to the public and some kind of social consultations. As the following empirical chapters demonstrate, properties of the acquis in some policy areas facilitated the search for a compromise while in others room for manoeuvre was effectively limited by dense legal networks. The EU had to agree to numerous

compromises and grant temporary derogations even in the areas key to the functioning of the common market.

The two-level game approach to international negotiations (Putnam 1988) provides conceptualization of such mechanisms. Moreover, it allows an explanation of the surprising success of the candidate countries, which, despite the asymmetry of the enlargement process, managed to convince the European Commission to grant them transition periods for implementation of the acquis, even in cases falling into Single Market regulations. The so-called Putnam paradox shows how consideration of the domestic interest groups, which exert pressures on negotiators, may subvert the expectations on the relative weight of the partners involved in the international negotiations. The weak or divided government facing opposition to the reforms from the relevant constituencies may be able to actually negotiate a more favorable international deal. A small win-set, defined by a thick acquis, paradoxically may contribute to its empowerment *vis-à-vis* international partners, the EU Commission and 'old' member states in the enlargement case.

CHAPTER III

THE DOMESTIC CONTEXT IN ACCESSION NEGOTIATIONS

Introduction

The literature on EU accession conditionality justifies its use as a commitment device (Bronk 2002), external governance tool (Schimmelfennig and Sedelmeier 2004), or safeguard for achievements of EU integration (Smith 2003). Departing from these debates and drawing on the empirical findings from application of IFIs' programme conditionality, this thesis claims that both the results of the accession negotiations and the effectiveness of adaptation cannot be consistently explained without considering the domestic context in which conditionality is applied. The key claim is that the state of candidates' adjustment to the EU is contingent upon a particular combination between the external pressures from the Commission and their domestic reception. This work conceptualizes these two key dimensions as 'thickness of the acquis' and 'prior opposition'. The previous chapter argued that the extent and detail of the acquis in particular policy areas can be interpreted as a determinant of the government's international win-set. In this chapter, the domestic 'black box' will be opened so as to see how interest groups and civil society determine the government's domestic win-set.'

As presented in the previous chapter, Putnam's two-level game (Putnam 1988) conceptualization of the results of international negotiations proves useful for explaining the outcome of accession negotiations and working of EU conditionality. Moreover, as this chapter will show, it allows to capture the 'side-effects' of accession-led adaptation, such as social mobilization. The two-level game approach, by taking account of the domestic dynamics, gauges the apparent politicization effects that implementation of, in principle, technocratic EU laws may trigger. As shown in the previous chapter, the principal–agent model cannot explain this kind of dynamics since

its static approach assumes an invariability of domestic preferences and institutional constraints. This project, focusing on the domestic context of application of the EU conditionality, analyzes the social and institutional context of accession negotiations, which define the domestic win-set of the negotiators of the Treaty of Accession.

The recurrent assumption that EU conditionality has been applied in the socio-political void is misleading. Although civil society in CEE is weaker than in West European countries, entrenched interests (such as foreign investors or post-Solidarity trade unions) do exist and do not act within the institutional vacuum. As a number of studies demonstrated (Kolarska-Bobińska 1990; Górniak and Jerschina 1995; Hausner et al. 1995), institutional frameworks and patterns of social behavior in the post-communist countries are changing, yet remain in many cases contingent on the very recent past. In line with the neo-institutional view, I will argue that historical idiosyncrasies and path-dependency of past decisions have intervened in the trajectory of CEECs' adaptation to the EU.

Existent social groups respond to the reforms undertaken by incumbent governments, in particular when these incur upon them considerable losses. This 'prior opposition' to the implementation of the EU rules and regulations acts within the institutional constraints characterizing new systemic reality. One should expect that adaptation to the EU results not solely in expansion of the legal underpinning of the new system but also contributes to the evolution of the socio-political scene.

There are two empirical puzzles coming into view in the context of EU enlargement that justify the undertaken approach. Firstly, the CEE members of the Community have managed to negotiate different terms of accession, expressed by the number and length of transition periods (see Annex 2.2.). Since the acquis was to be applied uniformly across the EU member countries (at least theoretically), this result suggests that some domestic intervening variable played a role in structuring the outcomes of the accession negotiations. If this would not be the case, the pattern of temporary derogations for all candidates should converge and remain in correlation only with difficulties in adjustment of a technical and/or fiscal nature.

Secondly, the connection between the record of adaptation and fiscal costs of adjustments also seems weak, contrary to the expectations of the 'goodness of fit' approach (Heritier 1995; Knill and Lenschow 1998; Green Cowles and Risse 2001;

Boerzel 2003; Boerzel and Risse 2003). The new member states encountered problems with the legal approximation and implementation of the EU rules even in those areas where compliance did not involve significant costs, for instance in the regional policy field.

The following sections will present how a historical institutionalist approach may be utilized for explaining the social context in which EU conditionality is applied and which structured the position and win-sets of Poland's negotiator of the Accession Treaty. The second part outlines the key features of the social background in which EU conditions were to be applied, demonstrating that comprehensive accounts of adaptation are bound to consider it as a vital point of the analysis. The following part focuses on the interest groups operating in post-communist Poland and channels of communication with the government, which they could use during the accession negotiations. Thus, it explains what 'prior opposition' to negotiations or lack of thereof actually means. The conclusions summarize the findings and elaborate on how the thin/thick acquis plays itself out depending on the domestic context, and in which way prior/non-prior distinction influences the effectiveness of the EU pre-accession conditionality.

1. An institutionalist account of the process of Poland's adaptation to the European Union

The studies on the IFIs' conditionality and its effectiveness revealed that the success of the programs "has depended more on underlying political economy than on the efforts of the [World] Bank or other outside actors" (Collier et al. 2000: 23). There is general consent that consideration of particular domestic conditions in countries benefiting from assistance plays a key role in assuring program efficiency. This view corroborates with Putnam's finding (Putnam 1988) that the domestic context of a negotiator's activities structures his achievements in the international scene, and indirectly, the terms of an international accord. There is no rational reason to expect that these premises would not hold for the EU enlargement negotiations. To the contrary, as analyzed in the previous chapter, there are many similarities between the conditionality regime applied by the international financial institutions and the European Union. However, while there are numerous accounts of the international level game in the EU

accession talks (Friis and Jarosz 2000; Mayhew 2002; Mayhew 2002a; Avery 2003), the research on the domestic context of the candidates has been less plentiful.

The argument of this chapter is that the particular trajectory of social and political events in Poland contributed both to the set-up of the accession negotiations game, and to the effectiveness of the EU in projecting its policies in the candidate countries, captured by the term 'conditionality'. Since social phenomena do take place in particular institutional and historical contexts, the tenets of the historical institutionalists provide useful guidelines for analyzing them.

The broad claim of institutional theories is that "institutions matter" or the "organisation of political life makes a difference", which boils down to the statement that configuration of formal and informal organizations, rules or norms causes a particular course of action (March and Olsen 1984; March and Olsen 1989; Hall and Taylor 1996; Pierson 1996). The institutional organization of the policy or political economy is the "principal factor structuring collective behaviour and generating distinctive outcomes" (Hall and Taylor 1996: 6). In his seminal work Douglas North defined institutions as "the humanly devised constraints that shape human interaction" or as "regularities in repetitive interactions [...] customs and rules that provide a set of incentives and disincentives for individuals" (North 1990: 3-4). The institutions thus have two vital qualifications; they are designed by man and have impact on human behaviour.

The 'historical' stream of institutionalism is based on the tenet that individual and collective actions are indispensably guided by interest maximization but they are to a certain degree constrained by behavioral patterns and commonly defined rules of collective life (Pierson 1996). These rules may be followed even when the result goes counter to the achievement of one's interest. The stream is 'institutional' as it assigns the explanatory power of actors' behavior to institutions, in which political cleavages take place and through which actors' preferences are being channelled. It is 'historical', as it utilizes historic traditions and validates previous experience for explaining present policy-making processes and policy choices. Political developments are thus understood as processes that unfold over time. In such a context institutions are not only the formal constraints of human action but also the rules and norms influencing their beliefs and goals.

The state–society relations in CEE may not be comprehensively explained without consideration of historical legacies from the communist past, neither omitting the historical legacies of systemic shift. Patterns of collective behavior, despite immense systemic changes, at times surprisingly recreate themselves in the new reality. Thus, the theoretical approach validating these contingencies seems the most appropriate to study post-transition developments in CEE.

The key claim of the historical institutionalist approach (Pierson 1996: 126) is that actors, although in their strong initial position and acting to maximize their interests, nevertheless carry out institutional and policy reforms in ways that are either unanticipated or undesired, known as 'path-dependance'[74]. This implies difficulties in changing a policy quickly and profoundly from outside. The temporal aspects of politics have considerable implications in terms of lags between decisions and their long-term consequences, and constraints that emerge from societal adaptations and shifts in policy preferences occurring during the interim. Early contingent choices create patterns of relationships that feed back unintentionally to alter constraints and incentives for later decisions (North 1990). In other words, historical decisions interact with the environment to form the context for future choices. The imperfect information about the future environment (due to the restricted time horizons of decision-makers), shifting preferences of decision-makers over time and autonomous actions of agents feed into the gaps between institutional preferences of designers and the institutions and policies (Pierson 1996).

This research takes on historical institutionalism's approach for two reasons. Firstly, as was already mentioned, the EU accession process and the principles guiding it, such as conditionality, were not designed in a neat and planned way. Rather, they resulted from events unfolding over time, unpredictable in the beginning. Thus, each subsequent policy choice was path-dependent on previous decisions and the consequences of future decisions impossible to predict. For instance, the options for enlargement elaborated by the Commission in 2000 anticipated a few very different scenarios of expansion: to include just the small states; to invite forerunners including

[74] It is important to note that for 'path-dependance' to operate, the impact of institutions on subsequent action must be unintended. If people set up certain institutions to 'tie hands' than it is impossible to claim that the institutions themselves worked as a commitment device. In such a case the decision to act within particular institutional patterns preceded the institution (see Parsons 2007: 73).

Poland or all candidates together at a later date as a 'big bang' enlargement. The dynamics of the process were contingent upon the political situation unfolding over time rather than a result of the carefully drafted plan, since neither side had a clear concept of how to structure their relationship at the beginning of the accession process in the early 1990s. Thus, these relations cannot be gauged by the framework based solely on the rational motivations for action based on a costs-benefits calculation.

Secondly, contrary to the conventional view, this paper argues that EU conditionality was not applied in a void. The systemic vacuum created by the collapse of the communist system is often mistaken for an institutional vacuum (Hausner et al. 1995: 4). While the former denotes "absence of the overall systemic logic, no dominant axis of societalization secured through the conduct of key societal agents in a regularized, elaborate, and interconnected set of institutions", the latter indicates a lack of institutions. In this project I will argue, in line with Hausner et al. (1995), that post-socialist trajectories have been dependent on complex institutional legacies, which pose major limits on the prospects of reforms and shape expectations and patterns of conduct[75] (Hausner et al. 1995: 7). As sociological accounts of the transition process in CEE agree (see e.g. Kolarska-Bobińska 1994; Górniak and Jerschina 1995; Hausner et al. 1995; Hausner et al. 1995a), particular patterns of social behaviour such as political apathy, social atomization or specific institutional outcomes, for instance, strong bureaucracies, represent the inheritance of the previous economic and political orders, often persistent for decades after their dismantling.

2. The evolution of state–society relations in post-communist countries

The studies on CEE transition depict the state–society relations as opaque and point to the underdevelopment of civil society in the region (see e.g. Wnuk-Lipinski 1995; Korkut 2005). Górniak and Jerschina (1995) assign the underdevelopment of decentralized mechanisms of social mediation to the communist legacies of branch corporations and the survival of the old economic, political and social patterns forming

[75] Hausner et al. (1995) see their work as placed in the middle ground between polar ends, where one represents a situation of systemic vacuum in which new institutions can be deliberately introduced, with a historical determinist view on the other end, according to which historical legacies determine the future. In their work path-dependancy suggests that the institutional legacies of the past limit the range of current institutional innovations (Hausner et al. 1995).

the network of the system (Górniak and Jerschina 1995: 169). Similarly, Hausner et al. (1995a: 366) argue that the development of the interest representation system in post-communist CEECs was hampered by monist traditions of socialism with its deliberate monitoring and centralized system of interest representation. Ekiert and Kubik (1999), in turn, stress that "the legitimacy and stability of the political regime" of the early 1990s and the "absence of disruptive shifts in state economic policies" coexisted with a "relatively high level of protest activities" (Ekiert and Kubik 1999: 196).

The Polish socio-political scene at the beginning of the 1990s was characterized by social atomization, accompanied by a relatively large number of protest actions. The communist system left a legacy of antagonized state–society relations underpinned by a high level of distrust. Thus, while the social divide between 'us' (society) and 'others' (the communists) facilitated widespread Solidarity protests, there was little tradition of a 'positive' contribution to governance that the post-communist society could draw on. The formation of a civil society able to take part in the policy-making requires a high degree of social trust and working out effective communication channels with the government. Poland, scoring very low in terms of social trust level (CBOS 2004) and drawing on its protest politics tradition, faced a considerable challenge in the development of such a mode of governance. Underdevelopment of interest mediation mechanisms proved consequential for the ways of solving the problems related to adaptation processes to the EU, starting from the accession negotiations.

Ramification of the communist rule for the state–society relations in contemporary Poland

The communist party-state tried to obtain control over all aspects of economic, political, and social life. In 1952 the authorities dissolved all pre-war social organizations and nationalized their property. Practically all organizations active under the communist rule were placed under party control, with the Roman Catholic Church enjoying semi-autonomy and official trade unions depicted as pseudo-autonomous (see Ekiert and Kubik 1999: 84). The party control did not embrace solely the illegal groups, such as dissidents or black market networks. Gaining influence over all other organizations, performing various ideological, political and social functions, served as a tool of 'colonizing' the public sphere through extending party-state penetration of the society (Ekiert and Kubik 1999: 100).

The communist regime was characterized by the longstanding conflict between society and state. The antimony ensued from the communist party's conviction of its superior knowledge about the society's needs, which required no affirmation in the course of elections or *via* independently organized institutions (Rose 1996: 251). This approach, however, resulted in the endemic distrust of party politics and permanent cleavage between the social and political spheres.

In addition to that, in a state-owned economy labour relations were not constructed based on the traditional employee-employer division (Hausner et al. 1995a: 382). Factories managers alike rank and file workers were employees of the state. The social dialogue, understood as a platform for deliberation and search for compromises in industrial relations, could not develop in the condition of denial of existence of interests' diversity between the two groups. Social protests have thus substituted other forms of communication. The distrust between 'us, the people' and 'them – authority' was to remain a feature of the post-communist countries, making it difficult to re-establish trustworthy independent institutions capable of mediation between society and state.

Apart from the fundamental political and ideological indivisibility and lack of autonomy of major institutions (Hausner et al. 1995a: 365) the socialist system was also characterized by the absence of autonomous forms of interest representation, which could facilitate open mediation. The notable exception was (quasi-autonomous) economic interests organized in 'branch corporations' or 'large enterprises' (trusts), which acted as both economic and political organizations. They were state-owned and controlled by the Central Planning Committee but also acted as agents representing workers, managers, and sometimes local authorities (Górniak and Jerschina 1995; Hausner et al. 1995).

The legitimate role of these interest groups was that of the 'transmission belts' for official policies of the party-state organs, Politburo and the Central Planning Committee (Górniak and Jerschina 1995: 27). However, particularly in late communism, the role of the branch corporations had gradually evolved into more dynamic, 'bargaining agents' in the actual functioning of the central planning (Górniak and Jerschina 1995: 28; Hausner et al. 1995: 28). Externally, they bargained for

resources with the central state bureaucracy and internally distributed gains and privileges to all interests affiliated to the branch.

The development of bargaining mechanisms and following empowerment of the corporations *vis-à-vis* the central authorities could take place due to the deepening economic crisis and persistent scarcity (Górniak and Jerschina 1995). The maintenance of power by central authorities in this context became increasingly reliant on the redistribution of resources in line with the demands of the politically strongest agents. In addition to that, the increasing complexity of the economy also increased the dependence of the central planners on the corporations' knowledge Thus, late communism view increasing proliferation of bargains between the state authorities and various sectorally-organized groups (Górniak and Jerschina 1995; Hausner et al. 1995). It created specific institutional order, characterized by the key role of the sectoral interest groups organized according to industry branches, the centralistic mode of bargaining through the conflict, maintenance of power based on distribution of resources and distribution of privileges in return for social peace (Górniak and Jerschina 1995: 170).

Apart from the corporations and bargains at industry level, there were, however, hardly any socially acceptable institutional links between the private sphere (micro-) and the communist system (macro-). The mezzo-level institutions were perceived as conceived from outside and alien. This approach encouraged the development of informal and personal links, replacing the formal network of the system (Korkut 2005). The absence of an institutionalized relationship with politics positioned citizens in the role of the 'consumers' rather than subjects of politics, over which they had little influence (Bruszt 1988:59). This, in turn, encouraged political apathy or, conversely, increasing social frustration about both the economic and political deficiencies of the system triggered participation in the mass protests. Since the 1980s the protest actions were led by the Solidarity trade union, established with a goal of defending workers' rights. Paradoxically, however, the activities of the Solidarity movement contributed to a weakening of development of the social mediation mechanisms in post-communist Poland.

Solidarity's past and development of interest mediation mechanisms in post-communist Poland

The arrival of Solidarity as the causative force for systemic transformation dominated the discourse on Poland's civil society and interest representation in the early 1990s. The movement was seen as an expression of the broad denial of legitimacy of the communist rule and extraordinary pact between workers and intelligentsia. In principle a trade union, the movement underwent a dramatic revolutionary time in 1980–81 and a remarkable resurgence in 1988–89[76], which eventually led to a celebrated end when its representatives sat down with the government to negotiate Poland's future at the Round Table[77]. Since the 1980s it formed a fusion of workers and intellectual dissidents to the communist system, thus creating a broad 'civic movement' platform. The opposition to the party-state was the key unifying factor, which held possible differences between these two environments in check.

Since participation in the movement transgressed to broader social spheres than labor and because the other active trade unions united in the All-Polish Trade Union Alliance "OPZZ", were discredited due to their links with the communist system, the Solidarity 'alliance' shortly began to epitomize Polish civil society in general and soon the political representation of this society. This role was institutionalized after the first democratic elections in June 1989, in which Solidarity participated as the key representative of civil society *vis-à-vis* the party-state. Its internal rhetoric further reinforced the vision of the 'national', rather than 'class' movement. Both in 1980–81 and later, the union propagated the perception that society may differ in degrees of its radicalism, views about the movement's tactics, knowledge of political and economic theory and personalities, but not with regard to interests or values, since the most important of the latter were to be, naturally, pan-national in scope (Szacki and Warman 1991: 714). Solidarity's seize of formal power to rule, however, soon verified these ideals.

[76] For a comprehensive history of the Solidarity movement see Ost (1991).
[77] Actually, Solidarity was the only opposition represented at the Round Table negotiations (while on the opposite side sat representatives of the government, the Communist party and the pro-government labor unions, politically discredited in the years to come).

The first serious test to the unity of the movement came with the engagement of Solidarity's 'elite', the intellectual wing, in forming the first post-communist government. The new authorities, led by the deputy-PM and finance minister Leszek Balcerowicz, embarked on the liberal economic reform plan known as the Polish "shock-therapy". The package of reforms consisted of trade liberalization, imposition of convertible currency and institutional changes, such as privatization, de-monopolization, reforms of the budgetary sphere, social insurance and tax system and introduction of self-governance, but foremost measures to tackle hyperinflation, which included cutting the budgetary deficit, higher interest rates and practically freezing salaries (Balcerowicz 1992: 48). Paradoxically, the Solidarity rank and file members were the first to feel the negative effects of the implementation of this program.

The social costs of the reforms became apparent very soon after their implementation on 1 January 1990. Although most of the economic sectors experienced recession, resulting in a 12% fall in GDP in 1990, particular difficulties were felt in the heavy industry and transport sectors, dominated by public ownership, where output decreased by 19.5% in 1990. Due to both privatization and the real growth, there was no recession in the private sector, where production increased by 48% in the same year (Balcerowicz 1992: 177). Thus, though not all changes led to a deterioration of the situation, heavy industry, a home base for Solidarity, was hit the hardest. It was the Solidarity government, which won the power in the name of the workers, who inflicted on them such a burden (see Ost 2005). By the beginning of the 1990s differences between the Solidarity elite and rank and file members became practically irreconcilable[78]. Both factions, however, kept appealing to Solidarity symbolism and ethos.

Despite well-documented accounts of the frequent workers' demonstrations in response to the rising difficulties (see Ekiert and Kubik 1999), some scholars argue that part of Solidarity's leadership, which did not participate in the governing structures, decided not to support workers' protests directed against 'their governments' (Ost 2005). In fact, Solidarity leaders, who decided to remain affiliated with the trade unions rather than take a position in the new administration, confronted the dilemma of

[78] Ost argues that workers were marginalized in Solidarity by in the 1980s, when their tasks were constrained to simple actions, such as distributing samizdat press and paying dues (2005:43).

whether to support the government or to assist in manifesting workers' discontent with liberal reforms by leading protest actions against them. As Ost argues (2005), in an attempt to combine water with fire they had chosen to channel the social conflict with the government along the ideological, rather than class, line. The reason behind workers' suffering was presented as 'false' capitalism rather than radical reforms in themselves. Thus, the division between ex-communist and pro-Solidarity forces remained the most important line of social cleavage.

The subsequent political events of the early transition period seem to corroborate this argument. NSZZ Solidarity[79], which refrained from outward criticism of the post-Solidarity governments, fiercely opposed even pro-workers reforms, if introduced by the following incumbent government[80], formed by the ex-communist Democratic Left Alliance (SLD). A notable illustration of such an approach was Solidarity's rejection of the invitation to participate in the Tripartite Commission established by the SLD government and comprising representatives of the government, large trade unions and employers' organizations[81]. The creation of the Commission actually represented the first serious attempt to set institutional structures for social mediation with a view to provide an opinion-making and consultative body for trade unions (and employers' organizations). The rejection of this forum of dialogue by NSZZ Solidarity demonstrated its shift towards political contention as its *raison d'être* (Ost 2005: 79). Nonetheless, these uncompromising attitudes proved detrimental to the position of the union among society at large and workers themselves, reflected in the declining membership rate and support level. While at the Round Table time the movement enjoyed the support of 60% of opinion polls' respondents, by 2001 the majority negatively assessed its activities (CBOS 2005: 275)

The Solidarity position towards the reform process outlined above had vital consequences for Poland's socio-political scene. Most importantly, it further held up the development of the rudimentary interest mediation mechanisms inherited from the previous regime. By refusing to recognize the existing divergence of interests between

[79] Stands for „Niezależny Samorządny Związek Zawodowy 'Solidarność'" – The Independent Self-governing Trade Union „Solidarity".
[80] For instance, NSZZ Solidarity did not support removal of the wage tax, which was long promised to be eliminated by the Solidarity leaders, like Wałęsa (who did not keep this promise).
[81] At the very start of its operation the Tripartite Commission was to tackle the health reform problem.

'Solidarity's government' and NSZZ Solidarity, the movement precluded a natural outburst of the conflict, or rather for the hidden social frustrations to rise to the surface. Thus, the standard mechanisms of solving such disagreements between society and the government could not be worked out and practiced. Social protests remained the key method of expressing dissatisfaction with the governments' actions[82].

The inconclusive approach of Solidarity towards the defence of workers' interests also contributed to the empowerment of more radical political forces (such as Solidarity 80, Radio Maryja proponents and Samoobrona) with clearer political agendas in that respect. As Ost (2005) argues, by structuring social conflict into ideological, rather than pragmatic lines, Solidarity opened a Pandora's box of Polish nationalism, radical Catholicism and backwardness.

Independently of the events outlined above, the ongoing structural transformation utterly changed the context of activity of the trade unions and Solidarity in particular. The privatization process led to a depreciation of the heavy industry's weight in the economic output and decreasing employment in the production sector. These developments naturally diminished the political role of the industry workers, gradually substituted by another group 'discriminated' by the transition process, the unemployed. While in 1990 blue collar workers constituted 25% of the workforce, which amounted to more than 4.5 million people, in 1995 there were 3.7 million industry workers, and in 2004 less than 3 million[83]. The unemployment rate during this period steadily increased to reach 20% at the beginning of the 21st century. By 2002 there were around 3 million private enterprises in Poland. Both the unemployed and/or self-employed in small companies exceeded the number of heavy industry workers.

Thus, the transition brought about significant changes to the social structure, which diminished the role of the trade unions as a social player. Diversification of the social interests turned the focus towards civil society and interests groups other than workers competing for political resources and access to decision-makers. However, the confusing political positions of post-Solidarity and other parties, and permanently shifting political coalitions, affiliations and strategies resulted in the general political

[82] The stigma of ex-communists left the OPZZ (which continued to function as a competitive trade union) unable to take this role over from Solidarity and promote institutionalization of the conflict mediation mechanisms.
[83] Data of OBOP (Reports from 1990 until 2005).

apathy of Polish society. Remarkably, during 1989–93 Poland had six governments and eight prime ministers and experienced a substantial personnel turnover at the top executive positions (see Annex 3.1.). Only 1.1% of Poles in 1991 belonged to political parties[84], whose activities came to be monopolized by a narrow political class, organized in numerous small groups and focused heavily on national level politics with a vacuum underneath (Kubik and Ekiert 1999:97). The interest mediation mechanisms were underdeveloped and the social protest remained the key way of expressing discontent with government's actions.

Civil society and collective action in the transition context

The fall down of the communist systems and party-state in CEE attributed a new relevance and currency to the idea of civil society (Kumar 1993: 375). There is a general consent among scholars about the positive correlation between the developed civil society and working democratic system. Civil society, defined as "the realm of organized social life that is voluntary, self-generating, (largely) self-supporting, autonomous from the state, and bound by a legal order or a set of shared rules" (Diamond 1996: 228), occupies the area between the private sphere and the state (Kumar 1993: 383)[85]. The various interest groups competing for representation and mediation with the authorities were the struggling to shape the development on modern democracy and thus act as a power limiting and checking the state (Diamond 1996; Howard 2003).

Conceptualized in such a way, civil society could not develop in communist Poland, where the distinctions between the three spheres were blurred or non-existent. The state permeated the social, while the political realm was often not discernable from the state. The legacies of the communist atomization of society and the opaque relations between the industry workers and the state settled in the first years of transition did not set appropriate grounds for civil society to develop.

[84] OBOP Report 1992

[85] The notion originates from Alexis de Tocqueville's distinction between the three realms of society, state, the system of formal political representation, and in particular in dividing the civil from the political.

It is frequently assumed that under real socialism the civil society was shaped in outright opposition to, and in shadow of, the omnipotent state. The abolition of that system should then precipitate a reversal of this situation, strengthen the society and weaken the state apparatus. The grass-root growth of public life, self-organization of citizens and mushrooming interest groups should fill in the gap left by the state and modify the 'protesting' nature of the civil society.

Contrary to these expectations, the beginning of the 1990s marked a lack of enthusiasm and low level of participation, apathy and hostility (Kolarska-Bobińska 1994: 42). As mentioned above, during the first years of transition, the dominance of Solidarity as a representation of civil society and amalgam of the 'political' and 'social' spheres actually inhibited the development of control mechanisms of the state powers. Almost twenty years after the systemic change the empirical accounts (see e.g. Padgett 2000) pointed to the relative weakness of the post-communist civil society compared to Western European countries. Despite an increase in the number of civil organizations right after the fall of the communist system, their figures remained far below the EU's average, the organizations without links to each other[86] and consequently their leverage on the policy-makers was insufficient. At the same time, scholars point out the predominance of individual over collective values leading to the domination of self-interest over collective or common interests. Padgett notes (2000: 16) that "[t]he profile of normative values [suggests that the] post-communist society are unconducive to the type of intra-group interaction that generates the normative values informing collective forms of behaviour". Similarly, Gibson (1998: 3) argues that "[civil society in the mid to late 1990s is being undermined by the radical individualism, social anomie and distrust, and just simple greed that are pervasive in these societies".

Such a weak condition of civil society is assigned either to the cultural after-effects of restrictions placed by the communist state on participation in public life (Marody 1992; Sztompka 1993), or a collective action problem embedded in the structural context of post-communist society and "dislocating effects of market transition working against formation and mobilisation of collective interests and

[86] In 2002 only 30% of the registered organizations, most of which had been active at the local level, belonged to any regional, sectoral or country-wide federations or associations (Herbst, Gumkowska 2004).

identities" (Bernhard 1996;m Padgett 2000:1; Ost 1993; Ost 1995). Hausner et al. (1995a) pointed out that in Western Europe, relatively long periods of freedom of associations allowed interest groups to be set up, adapt themselves to their political surrounding and gain recognition from the state. Historically, CEE brought to the new system of interest representation elements from their immediate economic past, which was not feudalism, as was the case in Western Europe, but socialism, with its deliberate monitoring and centralized system of interest representation as well as a specific industrial model.

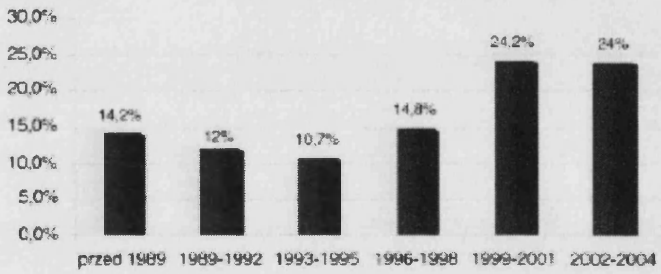
The economic liberalization, privatization, take-overs and proliferation of new companies laid the foundations for development of diversified social interests. The new groups, however, remained ingrained in the post-communist legacies. As a result of the Round Table compromise a large part of the new elites comprised the old communist elites. As Górniak and Jerschina argue (1995), in 1993 around 60% of company owners were the communist nomenklatura and despite the dissolution of the Central Committee of Planning, negotiations with corporations still occurred at the central level. Although the formal expression of corporations ceased to exist, the groups of interests, linked by their functional and political ties as well as personal relationships, survived the regime change. Thus, the old networks actually revitalized themselves and in the absence of other efficient organizational media old behavior patterns were reproduced (Górniak and Jerschina 1995: 170).

Nevertheless, there was rapid numeric growth and diversification of the social groups (see e.g. Ekiert and Kubik 1999; Forbrig 2002; CBOS 2005) in Poland after the systemic change. The increasing membership and voluntary financial contributions to organizations, as well as the gradually increasing level of trust in NGOs (CBOS 2004) gave new substance to the notion of civil society. According to the data of Klon/Jawor Association (2005: 6)[87], the dynamics of growth of foundations and associations was highest in 1989–1990, when it exceeded 450%. In 1993–1994 this increase stabilized at the level of 115%. However, the aggregate number of organizations includes a high share of relatively 'young' organizations, which suggests that in parallel to the

[87] Klon/Jawor Association is a non-profit NGO set up in 1990 by a group of sociologists from the University of Warsaw. It gathers information about the NGO sector in Poland and is one of the largest banks of information about NGOs in Europe (www.klon.org.pl).

impressive increase of their numbers, many organizations were relatively short-lived. The official data from the National Bureau of Statistics (GUS) does not necessarily show such tendencies, as there is no legal obligation to de-register non-active organizations. Notwithstanding the reasons behind such fluctuations, these dynamics show that this sphere has not reached full stability yet.

Graph 3.1.: Organizations' declarations about the year of establishment



Source: Klon/Jawor Report [88](2005:9)

The data on the types of social organizations registered with the General Court Registrar (KRS) shows the dominance of associations and foundations[89], that is, the most flexible forms of organizations, next to the voluntary firemen units (oddly qualified as NGOs). However, the qualitative assessment of the NGOs sector is difficult due to the fact that a number of entities, in particular foundations, were established by companies with a view to process semi-legal financial transfers for private rather than 'social' goals.

Table 3.1.: Number of NGOs in Poland in 2004

Type of organization	**Number of entities**
Associations	45,891
Foundations	7,210
Voluntary Firemen Units	14,000
Social organizations	3,524
Trade Unions	17,113[90]
Religious organizations (mainly Catholic Church units)	15,244

[88] Gumkowska, M. and J. Herbst (2005).
[89] The Act on the public utility organizations of 24 April 2003 introduced a definition of the NGOs. Foundations are defined as institutions based on the possessions devoted by the founder for supporting the realization of a particular goal (charity, cultural, etc.). The associations are defined as voluntary, self-governing and lasting non-profit organisations. They can carry economic activity.
[90] There are minimum ten employees needed to establish a trade union in a company.

Economic self-government organizations	5,515
Employers' Associations	60[91]
TOTAL	**108 557**

Source: Klon/Jawor Report[92] 2005

The beginning of the 1990s also faced the pre-eminent growth of business and employers' organizations. For several years these entities were unable to outbalance the trade unions in their relations with the government, due to the organizational weakness and lack of appropriate legal regulations. However, recent years have shown the reinforcement of their position, also due to the progressing privatization of the economy and reduction of the role of the state as an employer. As the table below presents, there is also a relative concentration of industrial activities in a relatively limited number of organizations. By the end of the decade business organizations amounted to a few thousand and were organized in a few major associations. In 2004 the Entrepreneurship Council was enacted as an umbrella organization in an attempt to unify business representation and reinforce its position, so to be reckoned as important social partner of the government.

Table 3.2.: Economic organizations associated in the Entrepreneurship Council

Business Centre Club
Confederation of the Polish Employers
The Polish Chamber of Commerce
Polish Confederation of Private Employers "Lewiatan"
Polish Business Roundtable
Managers Association in Poland
The National Economic Council
The National Association of Trade and Services
American Chamber of Commerce
Foreign Investors Chamber of Industry and Commerce
Polish–German Chamber of Industry and Commerce
Polish Craftsmen Association

Source: www.radaprzedsiebiorczosci.pl

Nonetheless, the effectiveness of business organizations in carrying out their basic statutory task, that of representing the vital interests of commercial entities, is questioned by both the government and the organizations themselves[93]. While the

[91] Organizations listed in the www.pkpplewiatan.pl. The Ministry of Labour mentions four key employers' organizations as its partners.

[92] Gumkowska, M. and J. Herbst (2005).

[93] Interview with the adviser on EU affairs of the Polish Confederation of Private Employers "Lewiatan" in December 2005, and with the Director of the Regulations Department (in 2006–2008) in the Ministry of Economy in August 2008.

largest business organizations established in the early 1990s (such as the Polish Confederation of Private Employers "Lewiatan" or BCC) were perceived as working to the benefit of their leaders rather than their rank and file members, 98% of Polish companies did not belong to any formal business group (Solska 2008). The attempts to unite the environment under the formal institutional umbrella, the Polish Entrepreneurship Council proved only partially successful. The member organizations (see Table 3.4.) managed to present a common position with respect to one issue only, the support for a lower tax rate for enterprises, a project endorsed by the Jerzy Miller (SLD) government. There were practically no other important initiatives taken by the forum. The increasing competition between particular organizations and specifically their leaders are commonly seen as the reason behind these difficulties. In fact, the organizations are ruled in a non-democratic way, their leaders are non-elected and practically non-removable, and the regular members seem to serve as a support for their ambitions and interests rather than *vice versa* (Solska 2008).

Nonetheless, the largest business organizations, as 'employers' organizations enjoy more formal ways of communication with the government, through participation in the Tripartite Commission of the state, trade unions and employers (2001). As mentioned earlier, it was enacted by the SLD government in 1994 as a realization of the 'Pact on enterprise in the course of transformation' agreed between the government and social partners. Its key competencies include the conduct of consultations in the matter of remuneration for work and social services as well as participation in the preparation of the budgetary laws. The Act on Tripartite Commission (2001) set up detailed criteria for the employers' organizations and trade unions eligible for membership. The trade unions have to represent at least 300,000 members and employers' organizations represent companies employing at least 300,000 employees. The trade unions thus are represented in the Commission by NSZZ Solidarity, OPZZ and the Forum of Trade Unions. The Confederation of Polish Employers, "Lewiatan", Polish Craftsmen Association and Business Center Club in turn represent employers' interests.

The organizations that do not meet the criteria allowing for participation in the Tripartite Commission (or are regional or sectoral in character) have fewer possibilities

to formally communicate with the authorities. However, in line with Article 7.5 of the Act on the Tripartite Commission (2001), they may be invited to participate in works of the Commission as guest members of a member organization. Apart from that they may take a position on the texts of legal acts, if invited to participate in the social consultations by the organs in charge of their preparations. The rules of conduct for the Council of Ministers from 1997 anticipated that the projects of a legal act should be accompanied by their justification, which, among others includes the results of social consultations (1997, par. 9.2.). The author of the bill "could decide" to send the act for social consultation (1997, par. 10.3.), but prior to the accession negotiations there was no legal obligation to consult the projects of bills.

In general, the effectiveness of the Tripartite Commission has been at best mixed. Although the Act on the Tripartite Commission (2001) anticipated that its members had the right to include on the agenda all matters of concern with large social or economic repercussions, the level of activity varied depending on the approach of the incumbent government. The representative of "Lewiatan"[94] argued that Jerzy Hausner from the SLD government (Minister of Employment and Social Policy from October 2001 until March 2005) was the most pro-dialogue minister and perhaps the only one to fully appreciate the role of formal social dialogue institutions, such as the Tripartite Commission. In turn, the governments with an unenthusiastic approach towards social consultations in general tended not to bother to convene the Commission. The latest and perhaps the most radical example was the PiS (Law and Justice) government, in power since September 2005[95], which did not convene the Commission even once, instead choosing *á la carte* social partners to be consulted on important matters[96] outside any formal frameworks.

Thus, despite the legal credentials, the effectiveness of the Commission remains a hostage of political affiliations and atmosphere. In turn, consultations on more specific matters of interest to business or other social partners have an *ad hoc* character and their

[94] Interview with the adviser on EU affairs of the Polish Confederation of Private Employers "Lewiatan" in December 2005.
[95] In power until September 2007 and, since 2006, in coalition with the extremist Self-defence party and the League of Polish Families.
[96] The PiS government discussed the project of raising the minimal salary solely with the Solidarity trade union, not informing employers' organizations at all.

conduct and list of participants depends on the unit within the government in charge of the preparation of the legal act, and the minister in charge.

According to common practice, the government's unit sends the draft legal act for consultation or will even meet organizations interested in an issue, however, without commitment to take their opinions into consideration (there is no referee in such meetings). However, in most cases the organizations are 'consulted' after inter-ministerial consultations over the draft legal proposal, which is difficult to change at this stage. There is neither habit no a legal requirement to conduct social consultations at earlier stage of the law-making process[97]. The NGOs representatives' claim that social partners are regularly not allowed to propose corrections since the draft document arrives with notification that the act is 'in the course of intra-governmental consultations'. Often the organizations do not receive the final version of the legal act but the government nevertheless argues that the consultations have already been conducted[98]. Such social consultations serve as a façade rather than representing an effort to learn about the opinions of social groups interested in the matter. Eventually the informal modes of communication prevailed in all cases, where the real social consultations have been conducted. In some branches, however, for instance in the case of tobacco producers discussing the level of the excise duties, the consultations were facilitated by a lack of formal underpinning. The industry representatives claimed[99] that the stricter rules and lobbying regulations implemented after accession to the EU have worsened the atmosphere of dialog taking place *ex ante* in a more informal fashion.

Nonetheless, the absence of mature formal interest mediation mechanisms due to the excessive focus on the trade unions as social representation in the early 1990s, and ineffective business representation, have provided the social context in which the pre-accession process was to take place. Such a setting led to several pathologies in terms of communication between the ruled and the ruling. First of all, the unclear links between the entrenched interests and executive branch of the government based on informal contacts were conducive to the corruptive behaviors. The crowning experience in that sense was the 'Rywin-gate' affair from 2005, which led to the collapse of the left

[97] Interview with the Director of the Regulations Department (in 2006–2008) in the Ministry of Economy in August 2008.
[98] Interview with the Board Member of Polish Humanitarian Action (NGO) in March 2006.
[99] Interview with the President of the National Association of Tobacco Producers in September 2008.

government in power and arrival to the political scene of more radical forces basing their legitimacy on the declared fight with corruption. The corruption scandals have further undermined the position of business groups, already weakened by the competition between them. The 1.5 million small and medium companies operating in Poland at the beginning of the 21st century were thus left without formal and legal channels of representation. This led to the strengthening of the small sectoral organizations and informal contacts as a basic mode of communication. Eventually, both business and the government have complained about the absence of partners to 'talk to' on the important matters and reforms. The next section presents how these features played themselves out in the accession negotiations context.

3. Accession negotiations and interest mediation mechanisms

The process of adaptation to the EU presented a considerable economic, but also a political, complexity. The politico-economic adjustments as spelled out in the Copenhagen criteria and later the pre-accession documents involved a complete revamping of some existent policies, as in the case of Regional Policy, or at least reforms in others, like Taxation. In both cases such changes were bound to infringe costs upon a number of vested interests. On the other hand, broad social support for enlargement was indispensable for obtaining a positive vote in the domestic referendum on the Accession Treaty. Therefore, implementation of EU measures was bound to involve at least fragmentary social consultations on particularly contentious issues. Although Agriculture, Free Movement of Persons, Environment, Free Movement of Capital (land purchase), Justice and Home Affairs and Transport were considered the most difficult negotiation chapters (KPRM 1998b), controversial bits and pieces were present in most other policy areas as well. As presented above, the fifteen years that passed since the overthrow of the communist system to accession witnessed vital events at the Polish social scene.

Although, as pointed out above, formal social mediation mechanisms have not fully developed and civil society has been in the course of reconstruction, the Polish socio-institutional scene may by no means be considered a vacuum to be filled in with the new EU content. Apart from dynamic growth of the social organizations and NGOs, there have also been less formal and less organized patterns of communication with the

authorities developing throughout the 1990s. A number of reforms, for instance the administrative reform of 1998, have been conducted with the involvement of the interested actors (local self-governments in this case) although the social consultations have perhaps not been carried out in such a systemic and transparent way as the Western standards would require. Thus, it could be expected that entrenched interests, some of which have been consolidating since the very beginning of the 1990s, would take a position on the challenges posed by the process of adaptation to the EU. While in some fields these interests were rudimentary and informal, in others, such as for instance in the tobacco industry case, they have formed since the mid-1990s stable institutional structures.

The government, but also Poland's Parliament, seemed to recognize the need for broader social consultations and frequently called for greater involvement of social organizations in the process of negotiations. Jarosław Pietras (cited in Rzeczpospolita 2001), the Secretary of the Negotiation Team, declared that "consultations with the entrepreneurs, NGOs and political opposition are indispensable as there is no sense in proposing changes of the negotiation positions if in the result protesters and demonstrations appear in the streets. We [the negotiators] need to be aware of how much we can afford"[100]. Similarly, the Chief Negotiator, Jan Kułakowski, and PM Jerzy Buzek, during the parliamentary debate on European Integration (Sejm 2000), stressed the importance of the "complex policy of informing society about the European integration" and "particular attention paid by negotiators to the consultations with parliament and social partners". Such efforts were also noticed by the representatives of the largest business groups, who recall the appeals of Minister Hübner, (chief of UKIE from November 2001) on the need for engagement of business in the ongoing negotiations process[101].

As this section, however, shows, there have been numerous initiatives by the authorities to create some framework for mediation with society and the vested interests. However, few formal channels of communication eventually were established, while they were also largely omitted in the real social consultation that took place in

[100] My own translation.
[101] Interview with the Member of the Establishers' Board of BCC, member of the Economic and Social Committee of the European Union in March 2006.

some policy areas. These were conducted mostly in an informal fashion and as a result of the mounting pressure from the interested social groups, rather than as an initiative from the authorities.

Both the screening and the negotiation processes took place practically in a legal vacuum[102]. The negotiation mandate and other instructions had the form of internal documents, most often endorsed at the level of the Committee for European Integration (KIE 1998). While the code of works of the Council of Ministers required that some sort of social consultations are conducted when enacting the regular legal acts, there was no legal requirement to carry out such action in the course of preparing the negotiation position. Nonetheless, the governmental actors involved in the accession negotiations admit that they believed that interest groups should have a chance to take a position on particularly controversial negotiation topics[103]. Thus, there were a number of initiatives the Chief Negotiator's services and other governmental departments aimed at structuring the social consultation process accompanying the negotiations (see below). This section analyzes the properties of the channels of communication between the negotiators and society (formal and informal) and which social partners had been able to make use of them. The following empirical chapters demonstrate how in various policy fields this institutional setting has been used in practice.

Rationale for consideration of social interests' views during the accession negotiations

There are two basic reasons behind the declarative commitment of Buzek's government, commencing the negotiations on Poland's membership in the European Union, to social negotiations in the context of Poland's adaptation to the EU. Firstly, such contacts were likely to benefit the government in political terms and legitimize its actions. As the collective action theory argues (Olson 1965), the relationship between the executive and interest groups is based on the principle of mutual benefit. While interest groups need the executive/legislative to create a favorable regulatory framework or to obtain beneficial distributory decisions, political actors also desire the support of

[102] Interview with the Director of the Department of Support for the Committee of European Integration (in 2001–2004) at the Office of the Committee of European Integration, in September 2008.
[103] Interview with the Director of the Department of Support for the Committee of European Integration (in 2001–2004) at the Office of the Committee of European Integration, in September 2008; Interview with the Director of the Analytical Unit in the Department of Support for Accession Negotiations in March 2006.

the interest groups as constituencies, campaign sponsors and social mobilizers, as well as information providers (Milner 1997). Secondly, as Putnam (1988) stresses, each international agreement needs to be ratified. In the case of Poland's Accession Treaty such ratification was formalized[104] with a consequence of decreasing the negotiator's win-set, in Putnam's parlance. Thus, knowledge of the social attitudes towards the proposed concessions and terms of accession allowed the negotiator to design an optimal negotiation strategy. In areas of strong social opposition to implementation of the acquis the negotiators had higher chances to bargain for more favorable terms of accession (transition periods or derogations). It may be argued that disclosure of the Negotiation Positions in 2000 served exactly this purpose, to increase the pressure on the Commission and provide the government with better leverage at the international negotiating table.

Different theoretical accounts argue that the relationship between the executive and various interest groups is based on different types of dynamics (Dahl 1957: 202-3; Milner 1997). The 'collective action' theory (Olson 1965) explains why some groups gain better access to the policy-making and what determines their relative importance. The assumption of the theory (see also Woodbridge 1993; Bell and Wanna 1992; Lindblom 1977) is that the party in power is concerned about achieving good economic results, so to increase its chances of re-election. Although this increases the dependence of the executive on business groups, paradoxically, it does not prevent the government from taking decisions clearly counterproductive to the achievement of economic objectives. As Olson (1965) argues, small groups are privileged in their relations with the executive as they are able to overcome problems with cooperation such as free riding or conflicting interests. Their members face real social pressure and thus are more susceptible to persuasion. There is a higher chance that an individual is pivotal and they often engage in the repeated games. Therefore, large interest groups, such as taxpayers, remain latent and are not represented. They are unable to maintain control over their individual members' behavior and when benefits are negotiated, they will accrue to all individuals, also to those who did not cooperate.

[104] The referendum was to be conducted based on the constitutional provisions (Constitution of the Republic of Poland), which, in Art. 90.3 and Art. 125, state that "a nationwide referendum may be held in respect of matters of particular importance to the State".

Olson's arguments (1965) were furthered by Stigler (1971) and Peltzman (1976), who applied them to the theory of regulation. While Stigler argued that regulations are supplied by legislators and agencies in response to demands from the interest groups, Peltzman focused on the political support offered by the groups competing for favorable regulations. Therefore, regulations will benefit interest groups, which are better organized and, as Olson's analysis presented, those will primarily be small interest groups with strong preferences. Applying these arguments to the accession negotiations case, one might expect that in the areas where 'prior opposition' represented small, uniform business groups, the negotiator's position was relatively weaker and that these groups should be more powerful in terms of influencing the scope of the win-sets in the negotiations' bargains. This approach might explain the tougher position of the Polish government with respect to the applications for transition periods in sectoral matters, such as pharmaceuticals, investments in the Special Economic Zones or taxation of tobacco products, than the issues concerning large social groups (see Annex 2.2.). Moreover, in these areas the government was also able to gain more concessions from the European Commission, which would conform to Putnam's account (1988) of international negotiations.

The government's dependence on the social interests during the accession negotiations was strengthened by the formal requirement that the Treaty is ratified after a positive vote in the accession referendum. The ratification procedure, as Putnam argues (1988: 448), affects the size of the win-sets, which tend to narrow down in parallel to the increasing strictness of the rules of ratification. Poland's second chief negotiator, Jan Truszczyński, admitted that negotiators were under constant pressure from the lobby groups, which often threatened to oppose accession to the EU if their demands were not considered (cited in Businessman Magazine 2003).

In Poland's negotiation case, a simple majority for accession was sufficient to validate membership. Eventually, 59% of eligible voters participated in the referendum conducted on 7–8 June 2003, 77% of which expressed their support for accession to the EU. Nevertheless, such a result was far from certain at the start of the talks. As mentioned earlier, the rate of support for accession has varied and in the midst of the accession negotiations in March 2001, it achieved its lowest point, with only 55% of society declaring support for accession and 30% against it. As a result, the SLD

government, which came to power in September 2001, instantly embarked on a new round of information campaigns for the European Integration and appointed a high level official in charge of it[105].

Accession negotiations: channels of communication for the social interests

The process of social consultations during the accession negotiations suffered from several predicaments, which, however did not mean that such consultations had not taken place. The major problem was a lack of appropriate legal underpinning for lobby activities in general and with respect to the accession negotiations in particular. Instead, there were a few programming documents (see below) stressing the need for regulations in this matter but providing only very general guidelines, and focusing mostly on the dissemination of information on integration rather than specifically on social consultations. The proposals for formalization of the lobby activities prepared by the services of the Chief Negotiator (KPRM 1998; UKIE 1998b; KPRM 1999) did not materialize. Moreover, discussions on the Polish negotiation position were inhibited by the fact that they remained confidential until halfway through the year 2000 (KPRM 1998a). Thus, even where formal institutions for consultations were set up, their usefulness was limited since the social partners could not have access to the texts of the position papers. On top of that, as the Negotiator's services admitted, the administration did not posses information on the actors in the third sector, nor the database of all the postulates of the social groups (KPRM 1998). In this situation, the government's actions with respect to social consultations were necessarily selective and often restricted to the most controversial issues.

The formal framework for the government's actions in the matter of dissemination of information on the process of integration and accession negotiations provided the National Integration Strategy (NIS) from 1997 (KIE 1997), and the Public Information Program (PIP) (KIE 1999). The legal basis was the Article 7.3 of the Act on the Committee of European Integration (KIE) (1996), which stated that the "President of the Committee cooperates with state organs and nongovernmental organizations in the matters falling within the competencies of the Committee". In line

[105] Sławomir Wiatr and, later on, Lech Nikolski were appointed for the position.

with this demand, the NIS declared in 1997 that the government would "consult with the representatives of the producers on issues important for them in the context of preparations for membership, negotiations and the membership itself, and in special, well-motivated cases allowed by international commitments of Poland, will search for temporary protection measures supporting the restructuring activities". The document also encouraged enterprises to "influence the negotiated [with the EU] terms of accession through forming representative groups able to carry out current and long-term assessment of developmental problems and to articulate their group interests in consultations with the government". When needed, these groups should "prepare the restructuring programs, which would form the basis of application for the temporary protection supporting such restructuring actions" (KIE 1997: 17). Concrete solutions, however, were left to be designed in the Public Information Program (KIE 1999) adopted by the Council of Ministers in May 1999.

Formally, the Office of the Committee for European Integration (UKIE), in charge of realization of the Public Information Program[106] (KIE 1999) centralized "soliciting support of the most influential and respectful representatives of the society, including churches and religious organizations" (KIE 1999: 3). The Department of Information and Social Consultations and the Department of the European Documentation were to support the activities of the Chief Negotiator in this matter. The major external institutions set up to assist in the realization of this goal were the National Council for European Integration and the Partnership Groups. However, both had serious limitations as channels of communication for the social groups.

The National Council for European Integration was enacted in autumn 1999 (the first meeting took place on 3 November) by Jerzy Buzek as an opinion-making and advisory body to the PM chairing the Committee for European Integration. It comprised, however, as many as up to 70 members and in fact the most it could do was to "sensitize various social groups in Poland with respect to matters pertaining to the European integration and support social dialogue in this context"[107]. Additionally, at the later stages of its functioning the Council was charged with over-politicization and

[106] For actors participating in the accession negotiations and their roles see Annex 2.3.
[107] http://euro.pap.com.pl/

becoming a "stronghold of the concrete ruling option"[108], thus unsuitable for the members not identifying with it. For this reason, the opposition leader, Marian Krzaklewski, in May 2002 demonstratively resigned from his membership in the Council.

Less spectacular but perhaps more effective mechanisms for social dialogue were created in the course of the screening process and the accession negotiations[109]. The Guidelines for the Accession Negotiations (KIE 1998) declared that "inclusion of broad social circles into the integration process is a condition *sin qua non* of the success of the grand challenge of parallel systemic transformation and integration with the European structures. This is one of the fundamental priorities of the Polish government." These were supplemented by the documents issued by the Chief Negotiator's services in the PM Chancellery (KPRM 1998) specifying that a special forum linking the central administration with the social organizations should be established, and that such cooperation should rely on "exchange of information and reaching a common position of the 'ruling' with the 'ruled'".

The most important such institution were the so-called Partnership Groups, set up with the goal of involving the social partners and NGOs interested in the European integration in the process of accession (Biegaj 2000). The Groups operated during the screening of laws process, the first phase of the accession negotiations. They functioned alongside the Task Groups[110] within the Inter-Ministerial Team for the Preparation of Accession Negotiations to the European Union. Each Team (see Annex 3.2. for the screening procedure), which was in charge of formulation of the negotiation position in its particular area, was assigned a Partnership Group as a base for social consultations (UKIE 2000a: 60). The goal of their involvement was to help to create a channel of transfer of information, consolidate the opinions of the NGOs and enable them to comment on the proposals for changes (KPRM 1998).

[108] Ibid.
[109] For detailed accounts of the course of the accession negotiations see e.g. Friis and Jarosz (2000), UKIE (2000a), Mayhew (2002, 2002a).
[110] There were 37 Task Groups divided along the sectoral lines, with two groups, no 32 and 34, in charge of assessment of the negotiation positions in the context of their socio-economic and budgetary effects.

Nonetheless, the formula of the Partnership Groups had serious predicaments. Although the partners could participate in the preparatory meetings before the screening sessions[111], they had not received access to the proposals of the Polish position papers. Moreover, the documents, based on which the social partners were to prepare their position, included only the acquis (list of the EU legal acts) without Polish equivalents. The latter were prepared by the Negotiation Team in order to identify potential negotiation problems. The empty screening tables (with the acquis in a given policy field only) required thorough analysis in view of their consistency with Polish law. Only then could the interest groups give an opinion on the prospect of adaptation in a particular policy domain. This was very difficult considering that some portions of the acquis were very extensive, such as in the Free Movement of Goods, where the acquis amounted to more than 1000 pages. Additionally, the social partners received them just a few days before the preparatory meeting, during which the potential discrepancies with Polish law were to be discussed. Clearly, such an approach required considerable administrative effort, exceeding the capacities of most of the Polish interest groups.

The working rules of the Partnership Groups, motivated by the necessity to keep Poland's position confidential, practically disabled the formal consultation process in the initial stage of the negotiations. Hardly any social organization in Poland was able to analyze the pre-accession documents, especially given that they arrived without a Polish translation. For instance, one of the largest business organizations, the Business Centre Club, employing around 30 personnel, had just one employee dealing with issues related to accession[112]. As the UKIE itself argued, the Partnership Groups had not become a platform for dialogue between the government and the social actors (UKIE 1998b).

[111] The Commission sent to the candidates two lists of acquis, A and B, for each negotiation area. List 'A' included major legal acts in force, such as Treaty provisions, directives and regulations. Screening list 'B' listed the Commission's recommendations, Community programs, examples of the international agreements between the EU and the third countries and other documents, often of an informative character and not binding for the member states. During the multilateral meeting the applicants' delegations were briefed on the key legal acts in the chapter. At the following bilateral meeting the candidates presented to the Commission their declarations with respect to the extent of implementation of the acquis in the policy area and qualification of each legal act as either *'fully implemented'*, *'no transposition necessary'*, *'partially implemented'* or *'not transposed yet'* (see e.g. UKIE 2000a).

[112] Interview with the Member of the Organizers' Council of BCC in March 2006.

The Department of Support for the Accession Negotiations thus proposed the establishment of new forms of dialogue. All of these assumed the revealing to the partners of the content of the negotiation papers. The 'Post-screening' meetings would allow for the inclusion of those partners in the negotiations, which could assist with their expertise, leading to the preparation of the appropriate expert opinion on problematic topics. The 'Triangle Tables' would allow the NGOs and sectoral ministries to meet the representatives of the Chief Negotiator, thus expanding the Partnership Groups formula. The 'Cost Analysis Group' would involve representatives of business environments and assess the costs of adaptation in particular areas (UKIE 1998b). However, apart from the few meetings of the Triangle Tables, without any tangible output, other initiatives remained just on the paper. The UKIE official argued[113] that the only institutionalized form of social consultations was taking place during the screening phase of negotiations in the framework of the Groups, at the stage of formulation of Poland's negotiation positions. Although contacts with the social and in particular business environments had not ceased in the later phases of the process, but rather to the opposite (UKIE 2000a: 59), later consultations took place on an *ad hoc* basis and in a more informal fashion.

As mentioned above, the social organizations in the majority of branches, apart from the industrial or large business organizations, at the end of the 1990s were still rather weak if compared with the Western European standards. They rarely disposed sufficient administrative and financial capacities to gather indispensable knowledge for active participation in such a consultation process. Demanding procedural rules discouraged the organizations from participation in the created channels of communications with the authorities, which both sides, the interest groups and the government, have actually complained about. A business organization representative admitted[114] that, due to insufficient flows of information, the lack of a branch-oriented organization formula of the business interest organizations (apart from the Confederation of Polish Employers), and the insufficient interests and organizational capacities of particular branches, the organizations representing them were underused in the accession negotiations.

[113] Interview with the Director of the Analytical Unit in the Department of Support for Accession Negotiations in March 2006.
[114] Interview with a Member of the Organizers' Council of BCC, member of the Economic and Social Committee of the European Union in March 2006.

Officials participating in the accession negotiations, in turn, have complained that on a number of occasions there were no social partners to communicate with during the accession negotiations[115]. In an interview with Businessman Magazine the Chief Negotiator, Jan Truszczyński, admitted (Businessman Magazine 2003) that with regard to some issues, despite contacting the relevant interest groups enquiring whether the transition period in a particular area would be desirable from their perspective, there was no or a negative reaction. In this context, Truszczyński presented the example of hen breeders. Although at the beginning of the negotiations they were not interested in any transition periods, once other groups "started to receive transition periods", they demanded one too. On this occasion they threatened the negotiators that they and their families would vote against accession if no transition period was negotiated with respect to the size of hens' cages. It is worth noting that in the Negotiator's words the transition periods were negotiated "for a particular interest group" rather than out of objective need.

The objective obstacle to systemic solutions with respect to contacts between the government and interest groups was the particular dynamics of the negotiations themselves. The schedule of talks was tight and not entirely controllable by the Polish Negotiating Team. On a number of occasions the position had to be worked out in a timeframe dictated by international rather than domestic dynamics. In such cases only the best organized groups were able to provide constructive contribution to the negotiations within the required time limits. Most of the groups simply lacked the potential to assess and correct such complex issues as the negotiation positions. Another problem noticed by the business interest representatives was the passivity of the Polish companies and their inability to organize, as well as underestimation of the EU as a forum for dialogue[116].

Nevertheless, as Jan Truszczyński admitted (cited by Businessman Magazine 2003), "[d]uring the negotiations the Team of Chief Negotiator came under pressure

[115] Interview with the Director of the Department of Support for the Committee of European Integration (in 2001–2004) in the Office of the Committee of European Integration in September 2008; Interview with the Director of the Analytical Unit in the Department of Support for Accession Negotiations in March 2006.

[116] Interview with a Member of the Establishers' Board of BCC in January 2006; Interview with the Member of the Organizers' Council of BCC in March 2006.

from various social groups, including entrepreneurs, demanding transition periods in various areas"[117]. Moreover, it was not only the groups, but also the negotiators, who benefited from such contacts. Applications for each transition period sent to the Commission had to be thoroughly documented. As the Chief Negotiator admitted, the insufficient analytical capacities within the government condemned authorities to using the impact analyses on implementation of particular sections of the acquis prepared by the independent sources and interest groups' organizations. Clearly, there was no way to prevent such analyses being biased in favor of particular industries' interests. Often, they predicted a catastrophic picture of Poland's economy in case there was no transition period appropriate in length acquired. The negotiators realized this but had no choice but to use the available sources of information. Additionally, "these anticipations have often fallen on fertile political ground" (Truszczyński cited in Warzecha 2003). For instance, producers of generic drugs argued that in case of failure to negotiate a transition period, the prices of pharmaceuticals will plummet. Such an argument was difficult to disregard for any politician[118].

Another factor was the position of the government employees themselves. The Ministry of Economy, dealing with a number of important negotiation areas, was to a large extent organized according to the sectoral areas. As a remnant of the old communist times, personnel employed in these departments often came from particular sectors and naturally identified with the sectoral problems. Such a situation concerned mainly the 'sensitive' industries, such as mining, steel production or energy. Thus, in the absence of clear and transparent procedures for interest representation, the ministry officials themselves could play a vital role in promoting industry interests. In general, the insufficient administrative and analytical capacities of the Negotiation Team opened a rather effective channel for the interest groups to pressure for their demands to be considered during the negotiations[119].

There were abundant examples of such informal cooperation during the later stages of the accession negotiations. For instance, there were just two employees of the Ministry of Finance, who did not speak any English, in charge of the analytical works

[117] My own translation from Polish.
[118] In the end, Poland (like Lithuania and Cyprus), negotiated a transition period with respect to the registration of pharmaceuticals.
[119] Interview with a Member of the Organizers' Council of BCC in March 2006.

on the area of Taxation. The analysis of the effects of implementation of the EU regulations on Polish companies was thus prepared by the National Association of the Tobacco Industry (whose members were the eight largest tobacco corporations in the Polish market). The study showed that in Poland's border regions nearly 90% of cigarettes would be sold without excise tax, had the rise of excise come into force together with accession. Such a result justified Poland's application for the transition period with respect to excise tax on tobacco[120].

Similarly, the impact assessment with regard to implementation of the EU environmental regulations on Poland's large combustion plants was prepared by the company Energoproject[121], whose costs were covered by the combustion plants rather than Poland's government.[122] Another example presented the adoption of the negotiation position on safety at work regulations (Social Policy and Employment chapter). Initial expert opinions of the Ministry of Labour did not anticipate any costs of adaptation and Irena Boruta (see Annex 2.3.), in charge of the chapter, even expressed her support for implementation of better working conditions in workplaces. However, the Business Centre Club prepared another analysis, which showed high costs of adaptation, particularly for SMEs[123]. Eventually, after protests by enterprises, the adopted final version of the negotiation position included an application for transition periods with regard to implementation of the Council Directives 89/655/EEC and 89/656/EEC (UKIE 2000: 265)[124]. All these cases show effective lobbying exercised by the business groups. Without their active position, transition periods at least in a few areas, such as the excise tax on tobacco, pharmaceuticals and safety and work conditions, would be highly unlikely.

---

[120] Interview with the Director of the Department of Support for the Committee of European Integration (in 2001–2004) in the Office of the Committee of European Integration in September 2008.
[121] Ibid.
[122] Poland received a transition period with respect to the implementation of Council Directive 2001/80/EC on the reduction of emission of air polluting substances from large combustion plants until 1 January 2015 for sulphur dioxide, and until 31 December 2017 for emission of dust and nitrogen oxide.
[123] Interview with the Director of the Analytical Unit in the Department of Support for Accession Negotiations in March 2006.
[124] Poland actually received a transition period until 31 December 2005 for adaptation with respect to hygiene and safety conditions at work (motivated by the high costs of adaptation for SME).

Apart from the informal initiatives of the business groups, the Negotiation Team and the Chief Negotiator, supported by the staff at the UKIE[125], launched the programme "Understanding negotiations". It was based on the formula of regional conferences devoted to the particular negotiation issues especially important in a specific territory (see UKIE 2000a 59-68). However, similarly to the previous activities undertaken by governmental bodies, the programme was restricted to 'informing' society rather than 'consulting' (UKIE 1999c) and did not bring any concrete results in terms of formulation of the negotiation positions. Their value, however, laid in the dissemination of general knowledge about the ongoing political processes as well as increasing awareness of the changes that Poland was to encounter after accession. Thus, although these actions may be seen as insignificant from a particular interest group's perspective, it may be argued that they did contribute positively to the results of the accession referendum, a primary concern of the Chief Negotiator.

In the context of adaptation to the EU, the cosmetics industry and pharmaceuticals were perceived as the most active groups. The interviewed entrepreneurs, however, argued that should the branches be represented by strong business organizations such as Lewiatan or BCC, the chances for more favorable negotiation results would be higher. Poland could have won more also in such areas as milk quotas[126]. However, long transition periods in fields such as Competition policy and investments in the Special Economic Zones, suggest that the existence and perseverance of interest groups did matter for the results of the negotiations. The members of the Negotiation Team would, however, meet only the most determined and best-organized representatives of the social groups, to which employers and some sectoral organizations belonged. The latter would therefore have most influence in the accession negotiations (Marody 2001:29). The following case study chapters will examine these cases in greater detail.

---

[125] The formal position in the governmental structure of the Plenipotentiary of the Government for the accession negotiations was under the Prime Minister, within the Chancellery of the Prime Minister. The Chief Negotiator had at his disposal a department in the Chancellery. Apart from that, the Department of Support for Accession Negotiations (DONA) within the structures of the Office of the Committee of the European Integration also reported to the Chief Negotiator and completed a significant part of the analytical work related to preparation of the negotiation positions and so-called dossier of the negotiation problems.

[126] Interview with the Deputy President of BCC in January 2006, and with a member of the Establishers' and Organizers' Board of BCC, member of the Economic and Social Committee of the European Union in March 2006.

Conclusions

Policy actions in the post-communist countries are shaped to a large extent by institutions inherited from the communist times as well as their past experiences, norms and 'ways of doing things'. Due to the institutional legacies of the "socialist corporatist system"[127] it has proven very difficult to establish a coherent system of interest representation and mediation in post-communist Poland. Dominance of the communist-type networks of central state bureaucracy and industry corporations has for several years overshadowed the need for broader Western-type interest associations and negotiations, which have remained underdeveloped.

The post-communist governments, locked into the compromise between NSZZ Solidarity (a trade union) and the communist elite, have not managed to establish a fully democratic Western-style system of interest representation and mediation. Although the basic institutional framework developed eventually, the new civil society remained for a long time dominated by the trade unions with a large number of weak and dispersed associations and foundations.

Similarly, collective action during the first years of transition predominantly took the form of strikes and massive street demonstrations organized by union federations[128]. The old "socialist corporatist" bargaining forms re-emerged and dominated the state–society relations (Górniak and Jerschina 1995), and the integration of labor into standard 'antagonistic' politics based on clashes and mediation of self-interested groups according to mutually accepted procedural rules had not developed (Ost 2005). The possibilities of effective social mediation for other interests were rather constrained and restricted to participation in the Tripartite Commission and consultations of the legal acts. The Commission, however, remained a hostage to the political situation and the incumbent government's view on its role. In turn, the consultations of legal proposals left within discretion of the medium-level administrative officials[129] were to a large extent a façade.

[127] A detailed explanation of its mechanism is provided in a further section of the paper.
[128] For a detail account of social protests in the early 1990s, see Ekiert and Kubik (1999) and for discussion Kramer (2002).
[129] Interview with a Board Member of Polish Humanitarian Action in March 2006.

As a consequence, Poland entered negotiations with the EU unprepared in terms of application of a consistent approach towards social interests' demands in contentious policy fields. Despite these institutional predicaments, the economic interest groups played a vital role in the accession negotiations on Poland's membership in the European Union. Their activities, however, took place to a large extent beyond the formal channels of communication with the government. Those established at the beginning of the negotiation process have proven a 'window–dressing' rather than a real platform for interest mediation. The specific dynamics of the accession negotiations, their quasi-secret character and knowledge-intensity, contributed to the failure in designing a fair and transparent system of interest mediation. It promoted informal modes of interest mediation, which in turn seemed to endow some groups with undue privileges in terms of promoting their fractional interests.

CHAPTER IV

SOCIAL ACTORS AND THE ACCESSION NEGOTIATIONS ON TAXATION

Introduction

Taxation, in terms of legal and non-legal policy initiatives, belongs to one of the most dynamic areas of the European Union. At the same time, despite deepening integration elsewhere, most attempts to regulate tax competition collectively have been unsuccessful (Dehejia and Genschel 1998: 6). The apparent failure to achieve progress in tax coordination[130] (Kemmerling and Seils forthcoming) has been perceived as an impediment to the removal of remaining distortions in the Single Market, but also as a factor contributing to unemployment and even creating opportunities for tax base erosion (CEC 1996: 10). A more comprehensive approach to tax coordination within the EU has been called for since the early 1990s. Nevertheless, by 2001 there were still fifteen separate sets of national tax rules in the EU. In the view of Commissioner Bolkestein, they created "costly inefficiencies and a major problem to [the] functioning of the internal market" (Bolkestein 2001). These difficulties are likely to become aggravated in the enlarged EU through the mere fact that unanimity voting remains the legal basis for decisions taken in the Council. Yet, the political sensitivity of the tax issue and conflicts of preferences between winners and losers in the tax competition game (Radaelli and Kraemer forthcoming: 1) prevented major qualitative change in the EU tax policy-making to take place prior to the 2004 enlargement.

---

[130] While some authors argue that the EU has achieved a degree of success in curtailing 'harmful' targeted competition in the form of preferential tax regimes. See Kemmerling and Seils forthcoming.

This chapter examines to what extent these roughly sketched features of the Community tax regime have determined the effectiveness of the EU in casting its demands for adaptation on the CEE applicants. The majority of policy prerogatives with respect to taxes remain within the competencies of national governments and there are relatively few hard Community laws in the field although the degree of tax harmonization in the EU varies across tax sub-areas. The harmonization in indirect taxation is more advanced than with respect to direct taxes.

Hence, in line with the framework outlined in the Introduction to this research project, the Taxation negotiation chapter represents a 'thin' acquis area. Nonetheless, the conjuncture that this should make for easy accession negotiations seems premature. Legal approximation in the tax field raised considerable domestic resistance, in particular from business environments expecting to incur its costs. Numerous economic interest groups opposed adaptation in taxation on the grounds that the related raise of tax rates (in particular in excise taxes and value added tax) would impair companies' sales or even put whole sectors in jeopardy.

The case of approximation of the excise tax on tobacco analyzed here demonstrates how persistent lobby activities of well-organized and economically powerful interest groups reduced the size of win-sets of the Polish negotiators in the tax area. The parallel international and domestic negotiations with the interest groups presented Putnam's two-level game logics at work (Putnam 1988). And yet, in spite of the need for domestic-level talks and political compromises, provisional closure of the Taxation chapter has proven easier than in several other areas, notably the Competition policy. While Poland's government was able to demonstrate strong opposition at home impairing its adaptation abilities, the thin acquis allowed the Commission mitigation of its demands for special treatment. In line with Putnam's prediction (Putnam 1988), the combination of the thin acquis communautaire and strong prior interests opposing approximation efforts created dynamics reinforcing Poland's claims for temporary derogation. However, although the presence of the transition period initially weakened the effectiveness of EU conditionality, understood as an ability to instigate change in the applicant countries, it seemed also to facilitate Poland's future adaptation. Remarkably, the generous negotiation deal seemed to lead to better compliance than in cases where the Commission managed to impose the strict version of its pre-accession conditionality and secure candidate's assent for adaptation prior to accession.

The following section discusses context of development and characteristics of the acquis in the tax field with particular focus on approximation of the excise tax on cigarettes. Further, adaptation requirements in the pre-accession period are outlined. The next section examines the course of accession negotiations on the adjustment of excise duty rates for manufactured tobacco and the role of social groups in shaping Poland's negotiation position. The last section outlines the implementation record and fulfillment of Poland's pre-accession commitments with respect to indirect taxation. The conclusions will sum up the empirical findings in the context of the theoretical framework utilized in this research project.

1. Tax approximation in the European Union

The long-standing objective of coordination in indirect taxation was prevention of excessive differences in tax systems from distorting the Single Market[131]. Undue variation in the tax rates could bring about migration of the national tax bases in search of the most favorable tax regime, and prompt the member countries to embark on 'harmful tax competition' for capital.

The Commission has argued that the removal of regulatory and technical barriers to trade has left tax coordination within the EU as "an increasingly important residual factor" preventing full realization of the common market programme (CEC 1996: 6). Moreover, the introduction of the common currency has exposed differences between the national tax systems, increasing the role of tax rates in enterprises' decision-making over capital allocation (CEC1997: 2). Thus, since the second half of the 1990s the Commission has started to stress the urgency of removing hurdles to indirect tax coordination (Radaelli 2003: 518). On the other hand, harmonization of direct taxes between the EU member countries was to close the loopholes permitting tax evasion and to prevent double taxation.

The degree of tax harmonization in the EU varies across tax sub-areas. The original EEC Treaty gives the Community competence over indirect taxes only[132],

[131] This aspect regulates Art. 93 on VAT and excise duties.
[132] Indirect taxes are levied on trade and production activities.

leaving the decisions over direct taxation to the discretion of the member countries. Article 93 (ex art. 99) of the Treaty states that "the Council shall, acting unanimously on a proposal from the Commission and after consulting the European Parliament and the Economic and Social Committee, adopt provisions for the harmonization of legislation concerning turnover taxes, excise duties and other forms of indirect taxation to the extent that such harmonization is necessary to ensure the establishment and the functioning of the internal market within the time limit laid down in Article 14" (until 31 December 1992).

In turn, the national governments retain sole responsibility in the field of direct taxation, i.e. tax on personal incomes and company profits. Few Community regulations on direct taxes have been based on Article 94 (ex. 100) of the Treaty. It anticipates common action and approximation of merely such laws, regulations or administrative provisions, which directly affect the common market.

The secondary laws in the field of taxation are rather sparse. Considering the above Treaty provisions, the bulk of legally binding common instruments concern indirect taxes, VAT and excise duties, which lie at the core of EU Taxation policy. Even in these sub-areas, however, the Community body of law is riddled with derogations and exemptions applicable to particular member states as well as the taxable products or services[133]. Apart from these, the acquis contains few provisions on mutual assistance and administrative cooperation and international travels (see Annex 4.1). The coordination of direct taxation has far thinner legal underpinning and bilateral agreements between the member countries prevail. In addition to those, the non-legislative instruments, such as the code of conduct for business taxation, have been gradually gaining importance (see Radaelli 2003). They allow for achievement of some progress in harmonization by getting around the unanimity rule in highly sensitive tax areas.

In general, tax initiatives undertaken by the EU have remained to a large extent isolated actions, guided by political rather than better policy logic (Radaelli 2003). In particular the comparison with cases examined in the further chapters, Competition

[133] Apart from the framework regulations, a large number of laws is applicable to the specific member countries.

Policy and Fisheries, exposes the thinness of the acquis and the absence of a common EU policy target in this policy area. In the field of indirect taxation, where the legislative actions are embedded in the Treaty provisions, harmonization is relatively more advanced. Yet, as the Commission pointed out, some degree of success in building a body of legislation in indirect taxes, in particular with reference to VAT and excise duties, merely highlighted the absence of coherent tax policy on direct taxation (CEC 2001a: 3).

Common regulations on excise duties on cigarettes

Common regulations with respect to excise duties were enacted in 1993 with a view to remove fiscal borders in the intra-EU trade and prevent possible trade distortions occurring due to different structures and rates of excise taxes. Excise duty belongs to indirect taxes applied on consumption or use of certain products but in contrast to VAT, these are mainly specific taxes, expressed as a monetary amount per quantity of the product[134]. The tax applies to all goods produced in the EU territory or imported from the third countries, which fall under the scope of the excise directives.

The key legal act in the area is Council Directive (92/12/EEC) from 25 February 1992 regulating the holding, movement and monitoring of products subject to excise duty[135] and is referred to as the 'horizontal directive'. Additionally, the acquis contains also 'structural' and 'specific' directives regulating the approximation of excise duties levied on three groups of products: manufactured tobacco[136], alcohol and alcoholic drinks[137] and mineral oils[138]. Every four years (since 2002) the Council examines excise tax rates, looking at their impact on the proper functioning of the single market and their real value. The EU member countries have retained the right to introduce or maintain indirect taxes on products outside the scope of the excise directives provided that those

---

[134] The excise tax for cigarettes contains also an ad valorem component, see later.
[135] With a view to simplify and liberalize the rules on the intra-Community movement of goods the Commission submitted on 2 April 2004 a proposal for amendment of the Directive 92/12/EEC on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products (submitted in application of Art. 27 of Directive 92/12/CEE) [COM(2004) 227-2].
[136] Council Directive 2002/10/EC of 12 February 2002 amending Directives 92/79/EEC, 92/80/EEC and 95/59/EC as regards the structure and rates of excise duty applied on manufactured tobacco.
[137] Council Directive 92/83/EEC from 19 October 1992 and Council Directive 92/84/EEC from 19 October 1992.
[138] Council Directive 92/81/EEC from 19 October 1992 and Council Directive 92/82/EEC from 19 October 1992.

taxes do not give rise to border-crossing formalities and do not have discriminatory character.

The Community regime on cigarette taxation currently in operation was established in 1972 and revised in 2002, right before enlargement to the East. The three key directives introduced since the 1970s[139] assumed approximation of excise tax rates and structures across the member countries with a view to prevent distortion of competition and to safeguard free determination of the maximum retail selling price (Van Driessche 2006)[140]. The EU members were obliged to introduce the tax combining both specific and ad valorem elements. The specific part of excise duty represented a fixed amount per 1000 cigarettes of a value between 5% and 55% of the total tax (excise and VAT)[141]. The ad valorem component has been calculated as a percentage of the tax inclusive retail selling price (TIRSP). These two tiers apply to cigarettes of all price categories.

Apart from harmonizing the tax structure, the EU directives introduced a minimum level of excise tax incidence at the level of 57% of the TIRSP. The Most Popular Price Category (MPPC)[142] serves as a reference for establishment of these tax levels. The minimum tax burden was increased during 2002 revision, which added a new element to the system, namely a requirement that the total excise burden also exceeds 64 euros per 1000 units. The states with the minimum excise incidence over 95 euros per 1000 units (101 euros per 1000 units from 1 July 2006) were exempt from this additional requirement.

---

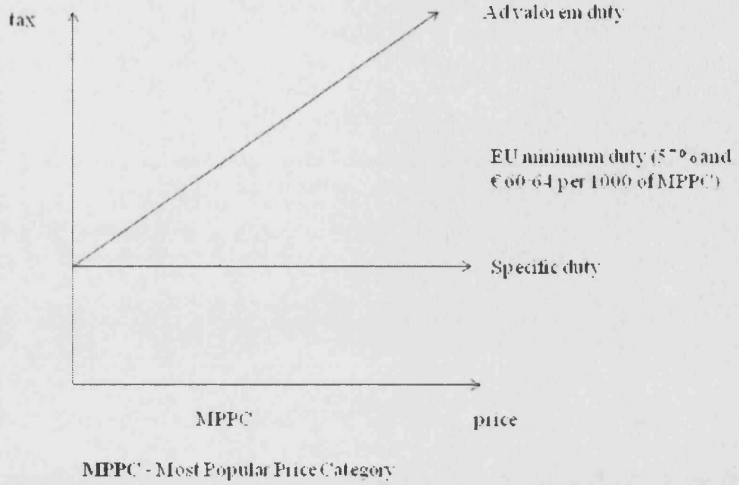
[139] Council Directive 92/79/EEC on approximation of taxes on cigarettes, Council Directive 92/80/EEC on approximation of taxes on manufactured tobacco other than cigarettes and Council Directive 95/59/EEC regulating taxes other than turnover taxes which affect the consumption of manufactured tobacco. They were later codified by the Council Directive 2002/10/EC of 12 February 2002.

[140] These goals do not cover public health considerations.

[141] Pursuant to Art. 16 (2) of Council Directive 95/59/EC of 27 November 1995.

[142] The brands of cigarettes representing the MPPC vary across the Community.

Graph 4.1.: The structure of harmonized excise tax on cigarettes in the EU



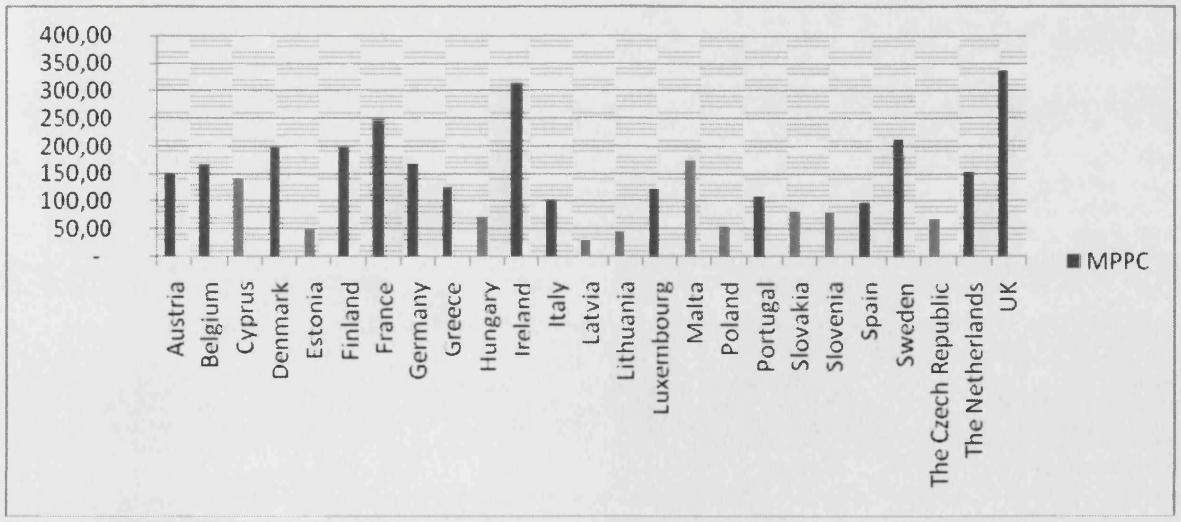
The 2002 reform presented a considerable revision of the system, in particular for those countries well below the 57% margin, such as the candidates for membership. The CEE applicants commenced their accession negotiations with the prospect of the necessary adjustments leading to achievement of 57% of excise tax incidence. This was already significantly higher than existent tax rates in a number of prospective members. The imposition of the new rules in the midst of accession talks, clearly triggered by the prospect of opening the single market to the CEECs, created a novel challenge. The Commission has conditioned the provisional closure of the negotiation chapter on reaching a compromise with respect to the implementation of the 2002/10/EC Directive (2002). Such revision of the acquis has presented an exemplary case of the 'moving target' character of the membership criteria.

Nonetheless, it is not for the first time that the EU tax regime has evolved under the 'threat' of imminent enlargement. In fact, the subsequent Community expansions created an institutional context against which the reforms of the tax system were conducted. The six founding EEC members introduced the initial framework for cigarette taxation on 19 December 1972, merely twelve days before accession of the UK, the Republic of Ireland and Denmark (Cnossen 2003: 2). After the 1973 enlargement the reforms of the excise tax system stalled due to the political deadlock between the new and old member countries with divergent systemic preferences. While

the former strongly favoured the specific taxation regime, the founding members inclined towards an ad valorem system. These disagreements were compounded by the accession of the southern countries, Greece (1981), Spain and Portugal (1986), all in favour of the ad valorem excise duty system. While the southern EU members produce their national brands from their own, cheaper national tobacco, the ad valorem system favors these products over cigarettes of international brands, produced with more expensive tobacco.

Eventually, the establishment of the single market created sufficient pressure for tax harmonization. It was broadly recognized that the continuation of large tax differentials would encourage cross-border shopping and bootlegging (Cnossen 2003: 2). The common excise tax on cigarettes system was established as a result of a series of compromises struck between the southern and northern member countries. However, despite undertaken measures, by 2004 significant differences between the cigarette retail prices persisted. In 2001 the Commission stated that "[a]n analysis of the evolution of prices and excise rates for tobacco products in the European Union shows that there are still considerable differences between Member States" (CEC 2001f: 3).

Graph 4.2: Retail prices of cigarettes (in EUR/MPPC) in the EU-25 on 1 January 2004



Source: (KPMG 2005)

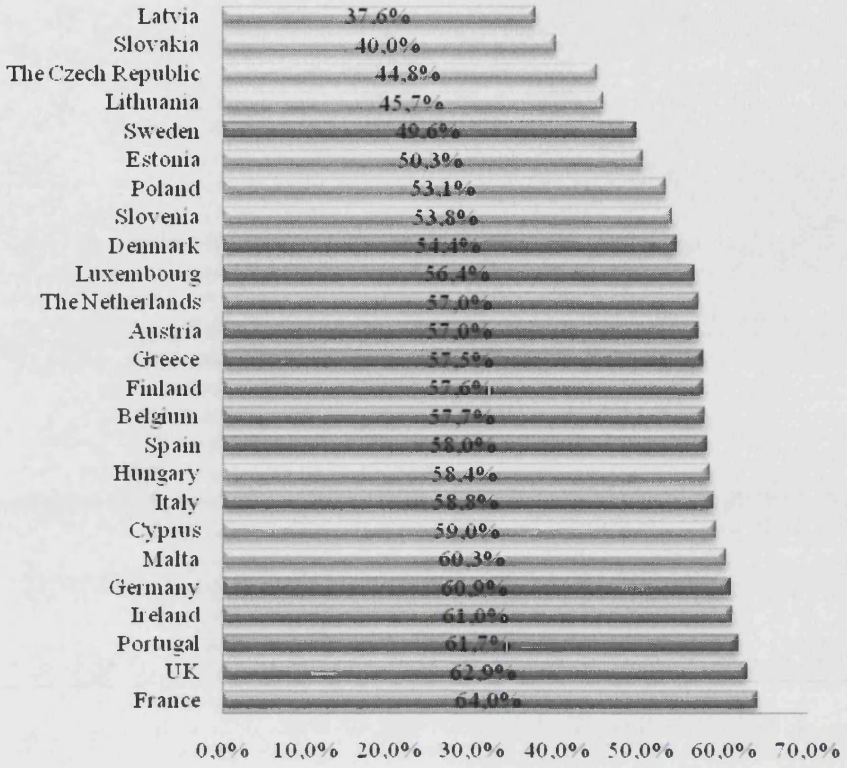
As shown in the above graph, retail prices variation between the EU member countries in 2004 was still considerable. For instance, cigarettes in the UK and Ireland were almost twice more expensive than in Spain and Italy. Although the new members have consistently lower prices than the EU-15, notably Cyprus and Malta have maintained prices higher than some 'old' EU members[143].

Derogations from the acquis enjoyed by the old member countries remain a particularly relevant feature of the Community tax regime in the context of effectiveness of the EU conditionality applied towards the CEE candidates for membership. The first transition periods for adaptation have already been incorporated in the initial Council Directives, which anticipated a two-year transition period (from 1993) for Spain and derogation for Portugal in the regions of Azores and Madeira[144] (92/79/EEC, Article 3,4). The directives (92/79/EEC; 92/80/EEC) also authorized France to prolong application of the reduced excise rates in Corsica until December 1997, and after its application for extension full compliance was deferred until December 2002. After yet another plea for extension of the transition period, Corsica was obligated to assure full compliance only by the end of 2009. Spain and Greece were also allowed to delay compliance with the minimum excise burden set by the new tax directive (2002) until 31 December 2007 (Cnossen 2003: 2).

[143] This lack of uniformity may be assigned to various factors, such as derogations from the acquis, varying VAT rates and levels of trade margins in different member countries.

[144] Portugal was allowed to apply a reduced rate of up to 50% less than the 57% minimum rate set by the Directive to cigarettes consumed in Azores and Madeira, made by small-scale manufacturers, each of whose annual production did not exceed 500 tonnes.

Graph 4.3.: Incidence of excise tax on cigarettes within the EU-25 on 1 January 2004



Source: (KPMG 2005)

Apart from lawful derogations, a number of EU countries have consistently failed to achieve compliance with the acquis. France, for instance, for many years flouted the requirement to impose a single tier excise regime for cigarettes and discriminated between two types (dark tobacco and Virginia tobacco) cigarettes even after the ECJ ruling that it was in breach of its responsibilities under the Treaty of Rome[145] (Cnossen 2003: 7).

In some cases, non-compliance occurred due to the policy-making dilemmas related to implementation of the minimum excise tax incidence, as demonstrated by the Swedish and UK adaptation history. Sweden, upon its accession to the EU in 1995, obtained a three-year transition on achievement of the 57% share of the excise tax until the end of 1998[146]. In a move towards alignment in 1997 the excise duty was raised to

[145] France complied with the acquis only in 2003.
[146] From the initial level of 49.1%. While Sweden had among the most expensive cigarettes in the EU, it was caused by the high trade margins and VAT rather than the excise tax.

twice its initial level, resulting in an overall retail price increase by 43% (NOMISMA 2000: 20). However, this resulted in a drop in official sales and an increase of smuggling as well as escalation of organized crime. The government, unable to counter these effects through increasing surveillance and controls, decided in April 1998 to reduce the excise tax rate by 27% and take a more gradual approach to adaptation to the EU minimum tax incidence. Until 2004 it remained below the EU minimal threshold.

The UK encountered similar problems but its government decided to maintain the excise tax at one of the highest levels in the EU (KPMG 2005: 91). As the result of a series of excise tax hikes between 1996 and 1998 the UK experienced one of the highest black market shares in cigarette sales. Estimates point to the UK mainland cigarette smuggling and cross-border purchases of cigarettes, which increased from just 6% of total UK cigarette consumption in 1995 to 30% by 2001 (Cnossen 2003: 7). These cases demonstrate that fast adaptation to the EU through the alignment of cigarette excise prices may also carry the viable risk of decreasing governments' revenues due to the development of trade in cigarettes from unregulated sources. For this reason the candidates for membership faced a challenge to achieve an optimal balance between the adaptation objective and the speed at which alignment occurs in order to minimize collateral effects and maximize income.

To sum up, the EU competencies in taxation are not extensive. The common solutions in this field have been hampered by a lack of consensus on the optimal level of tax coordination between the EU members, collective action problems of defection and distributive conflicts. The unanimity principle forcing "all stakeholders to compromise" (CEC 2007) and the political sensitivity of the tax issue have compounded difficulties with coordination. The disagreement about the policy content originates not only in widely differing tax systems, developed by the member countries as a result of their differences in economic and social structures. The EU member states also have various perceptions about the role of taxation in general or one of the taxes in particular. For this reason, it is difficult to define the end result of tax policy coordination (Radaelli 2003: 516). These problems have prevented approximation even in those areas where the common legal framework was eventually established. However, failure to secure a

degree of tax uniformity before enlargement[147], the scope of national interpretations of the common rules, and numerous derogations granted to the 'old' members left the open question of viability and legitimacy of demands for policy coordination directed towards the CEECs prior to accession.

2. Cigarette taxation in Poland and key vested interests

As discussed in the previous section, the raising of excise tax on cigarettes may have negative consequences for the budgetary revenues. This is particularly important for Poland and more generally in the CEE case, where the role of excise taxes in the total budgetary revenues has been increasing (see Table 4.1.). Cnossen (2003) demonstrated that both in Poland and Hungary revenues from cigarette taxation (as a percentage of the total budgetary revenues) are higher than the EU average and countries such as Germany, France or even Spain (with Greece considerably above the average). Therefore, their loss would also be relatively more harmful for the state's financial condition. This growth is even more meaningful in the context of progressing integration with the EU and thus decreasing the role of the customs duties, which in 1994 provided 4.9% of budgetary revenues and in 2001 only 2.9%. These figures for excise tax were 14.6% and 20.5% respectively[148]. At the same time, as graph 4.3 in the previous section demonstrated, the rate of Polish excise tax on cigarettes in the wake of accession was the lowest in the EU with the retail prices also well below the EU average. The high elasticity of cigarette consumption and the practical unfeasibility of complete prevention of the contraband (as the cases of Sweden and UK demonstrated) made the sharp rises of excise tax on cigarettes related to accession a controversial topic.

---

[147] The debate on the simplification of the tax structure was reassumed with renewed impetus only in the beginning of 2007 and coincided with the publication of the report on the reduced VAT rates in the member states, published by DG TAXUD (Copenhagen Economics 2007). The main conclusion of the study was that a single uniform VAT rate (per Member State) is the best policy choice from the economic perspective. See Copenhagen Economics (2007).

[148] Data from the Ministry of Finance: www.mf.gov.pl

Table 4.1.: Sources of budgetary revenues in Poland

Sources of budgetary revenues (in %)	1994	2000	2001
VAT	24.4	38.1	37.6
Excise tax	14.6	20.1	20.5
Income tax from legal persons	11.1	12.4	9.4
Income tax from physical persons	28.2	17.0	16.7
Customs	7.9	3.7	2.9
Profits of the National Bank of Poland	3.8	1.6	3.5
Revenues of the budgetary units	2.5	4.8	4.6
TOTAL	100	100	100

Source: www.mf.gov.pl

Excise tax is the main component of the cigarettes price and thus a key factor in the realization of sales by the tobacco industry. The transnational tobacco corporations have a clear interest in the prevention of cigarette price rises and have tried to influence governmental policies using various strategies, including the creation of new partnerships, use of supportive MPs, communication around tobacco tax issues and also the successful management of the differences in approaches used by individual companies regarding the taxation of tobacco products (Szilágyi and Chapman 2003). Szilágyi and Chapman (2003: 223) in their study of the Hungarian case of adaptation in the taxation area argue that these actions have been successful in delaying adaptation to the EU directive on the minimum tax levels of retail prices of cigarettes. The current and following sections discuss the strategies undertaken by the sector in Poland and their impact on the accession negotiations with the European Union.

Consolidation of Poland's cigarette production sector in the 1990s

Tobacco production in Poland is highly concentrated, with the six largest players having 96% of the market in terms of cigarette sales (which by 2008 increased to 99.8%). The tobacco industry represents a classic example of the small group, in which collective action problems, such as free riding, are less relevant due to the limited number of players (Olson 1965). What is more important in the context of this research project, enterprises in the sector managed to create an interest representation organization, which exerted strong pressures on the negotiators of the Accession Treaty, in particular with a view to prevent the steep excise tax rise after accession to the EU, which approximation with the acquis would entail. Tobacco industry's success in imposing favored policy solution on the government and deferral of approximation with

the tax acquis confirms the hypothesis about the impact of the prior domestic opposition on the terms of accession and also the quality of compliance.

The production of tobacco was nationalized in the early 1920s, when the Polish Tobacco Monopoly took control of the companies operating in Poland. After the war, the industry remained in the hands of the state with production and sales activities centralized under the umbrella of the Union of Tobacco Industry. The post-communist governments have started to transform existent tobacco factories into the limited liability enterprises under full control of the State Treasury since the early 1990s. In parallel, subsequent enterprises were signing strategic partnership agreements on producing cigarettes with international tobacco corporations. The multinational corporations, on whose license the tobacco producers operated in the 1990s, started successively purchasing their shares though joint-stock operations.

The privatization processes of the Polish tobacco industry carried out in the 1990s has brought about considerable changes to the industry. By the end of the decade all existent factories were sold to foreign, multinational companies. Philip Morris, the first foreign investor, has remained the strongest player on the cigarettes market with nearly 36% of the market share in 2002 (see table below). Very soon after the systemic change (in 1992) Scandinavian Tobacco invested in Poland by taking control of the factory in Łódź[149]. Further, in 1995 British American Tobacco, with 47 factories in 40 countries[150], signed a privatization agreement for a company in Augustów in North Poland, followed by Reemtsma, which in 1996 bought a plant in Poznań. Meanwhile, in 1995 the factory in Radom signed an agreement with the French tobacco concern Seita and was re-named Altadis[151] after the merger with Spanish Tabacalera in 1999. Gallagher, the UK-based company (until 2007) is the most recent investor, present in Poland since 2002 but with the fast growing market share.

Although most of these companies have their head offices in the European countries, their shareholders' structure is particularly complex. They represent

---

[149] Scandinavian tobacco until 2003 operated under the name, House of Prince Poland.
[150] http://www.bat.com.pl
[151] Altadis is the acronym of Alliance du Tabac et de la Distribution.

multinational, highly profitable businesses, employing thousands of employees worldwide. Also in Poland tobacco producers represent large companies with reasonably high employment levels and economic power accruing due to the contribution of tobacco sales (through excise duties) to the state budget.

Table 4.2.: Market share of tobacco producers in the Polish market in 2002 (retail sales)

Lp.	Producer	Market share (%)	Employment (in Poland)	Head Office
1.	Philip Morris International, Inc[152]	35,9	1800	US
2.	Imperial Tobacco SA	17,3	630	UK
3.	British American Tobacco (BAT) Polska SA	15,2	950	UK
4.	Altadis Polska SA	13,2	850	Spain (taken over in 2008 by Imperial Tobacco Group PLC – UK)
5.	Scandinavian Tobacco SA	12,8	850	Denmark (owned by BAT – UK)
6.	Gallaher Polska Sp. z o.o.	1,8	550	UK (taken over in 2007 by JT International – Switzerland)
7.	Others	3.8[153]		

Source: AC Nielsen

The changes of ownership have also instigated change in the industry representation. In 1994 the presidents of the tobacco firms organized a meeting in Augustów, during which they concluded an agreement on enactment of the National Association of Tobacco Producers (KSPT)[154]. The organization, active since 1995, associates all tobacco firms operating in Poland. According to the letter of its statute, it represents the interests of the Polish tobacco industry, develops contacts and provides a forum for exchange of information between its members and authorities (central and regional). It also conveys the opinions of its members to the appropriate decision-makers[155].

Apart from participation in the KSPT, which is a sectoral organization, the tobacco producers are active members of the largest organizations representing business

---

[152] Operates in Poland through four companies: Philip Morris Polska S.A. (production of tobacco products); Philip Morris Polska Distribution Sp. z o.o. (sales, distribution, marketing); Philip Morris Polska Tobacco Sp. z o.o. (contracting, purchase, processing); and PMI Service Center Europe Sp. z o.o. (service of the European branches of Philip Morris).

[153] The share of 'others' in 2006 went down to 0.2%.

[154] Krajowe Stowarzyszenie Przemysłu Tytoniowego (KSPT).

[155] http://www.kspt.org.pl/info.php

interests (see Chapter III), such as the Business Center Club (BCC), the British Polish Chamber of Commerce (BPCC), and the Polish Confederation of Private Employers "Lewiatan". The BPCC and BCC are particularly strong in terms of tobacco representation, since in both, all but one organization (Altadis in the former and Philip Morris in the latter) are their members. Other business organizations represent one or a few producers. Thus, tobacco corporations have clearly undertaken the strategy of multiplying their impact on the policy-makers through membership in major business representatives. The lack of problems with financial resources necessary for costly membership fees allowed them to pursue associative activities on a large scale.

3. EU pressures on adaptation in the tax area

Due to the virtual absence of common regulations in the field of direct taxation, the key issue in the context of Poland's adaptation to the EU was harmonization of indirect taxes. Although the Commission has envisaged some degree of flexibility in consideration of "candidates' ability to take on the obligations of the acquis communautaire", it also planned to consider those solely in the areas where it would not jeopardize the proper functioning of the single market or lead to significant distortions. Thus, although certain issues could be open for negotiations (CEC 2001a: 20), in cases assessed by the Commission as detrimental to the common market, it reserved its right to recommend to the Council ("in line with existing negotiation principles") refusal of granting the transition periods.

Similarly, the Commission secured implementation by the prospective members' soft Community measures applied in the field of direct taxation. The member countries agreed in the Santa Maria Da Feira European Council, convening in June 2000[156], that no transition periods would be granted in the course of accession negotiations with respect to the proposal for a directive on savings taxation and that no derogation would be possible from the exchange of information requirements. The Commission also articulated its expectation that the candidates would respect the principles of the Code

[156] European Council in Santa Maria Da Feira (2000). Report from the ECOFIN Council to the European Council on the Tax Package, Presidency Conclusions, Annex IV.

of Conduct for business taxation, which "all of the candidates have in principles undertaken to do..." (CEC 2001a: 20). Thus, the negotiation mandate framed by these recommendations anticipated that candidates would adopt practically all key measures on direct taxation while some degree of flexibility could be anticipated in indirect taxes, if well-motivated by the candidates.

The pre-negotiation conditionality in the tax field

Poland's first post-communist governments conducted the reforms of the taxation regime independently from the political project of deepening cooperation with the Community and in the further future, joining it. The reforms aimed at the removal of the obsolete and complicated communist tax schemes and were guided predominantly by concerns about the provision of appropriate budgetary revenues for the reforming economy (Balcerowicz 1992: 159). On the other hand, early efforts to introduce a Western-modeled tax system represented an attempt to copy the know-how and the best European standards rather than an instance of adaptation to a concrete policy blueprint.

The tax issue in the context of Poland–EU relations appeared for the first time in the text of the Association (Europe) Agreement signed in 1991[157]. The key focus of the accord was the removal of barriers to trade, including customs duties, with an aim to "promote expansion of trade and harmonious economic relations". The Agreement anticipated a successive tariff reduction, leading in the future to the establishment of the free trade area, after the transitional period of a maximum ten years (Article 7). Apart from provisions on the abolition of customs duties on imports, the Europe Agreement (EA) set the framework for economic, political and cultural cooperation between the EU and the associate country. It has also mentioned indirect taxation, among other key areas, where the approximation of the Polish legal system was vital[158] (Article 69). Yet, since no other specific provisions on legal adaptation in this field (as a number of others) followed the request, its leverage remained rather insignificant[159].

---

[157] The Europe Agreement (1991) entered into force on 1 February 1994.
[158] Next to banking law, company accounts and taxes, intellectual property, protection of workers at the workplace, financial services, rules on competition, protection of health and life of humans, animals and plants, consumer protection, technical rules and standards, transport and the environment.
[159] Similarly as in other policy areas, such as the Competition policy area, discussed in the Chapter VI.

In its 1995 Common Market White Paper the Commission admitted that in the area of taxation "the pace of harmonization will have to be related to the development of the different tax bases and may have to take into account the need for temporary tax incentives to correct inherited allocative distortions" (CEC 1995: 4.11). Vague conditions in the Europe Agreement and a rather permissive attitude towards adaptation presented by the White Paper conveyed a message of little political pressure on adjustment in the field of indirect taxation until the start of the accession negotiations. The Commission praised the candidates on their progress in introducing the value added tax which "in several cases appears to be broadly in conformity with Community requirements" (CEC 1995: 4.15). Further, the Commission assessed that:

This is an example of a sector in which more has been achieved precisely because the system had the advantage of starting from scratch. On excise taxes, most CEECs cover the principal product ranges covered by Community legislation. Some rates will need to be lowered, but this will be tackled cautiously in view of the revenue considerations. (CEC 1995: 4.15)

The Commission's Opinions (Avis) on candidates' progress in preparation for membership (CEC 1997b) formulated the tasks related to adaptation in the tax field in greater detail. The focus has also gradually shifted towards indirect taxation, since large differences in rates of these taxes could potentially distort competition in the expanded common market. Thus, the diagnosis of discrepancies between Poland's and the EU tax systems[160] presented in the Avis held that key problematic issues lay in the field of indirect taxation[161]. The Commission stressed that adjustment was critical, in particular with regard to the value added tax and excise duties on harmonized products. Since then, these two types of indirect taxes received most of the Commission's attention in the subsequent pre-accession documents, as well as during the accession negotiations.

---

[160] The Tax issue is present in the Commission's Avis under the title "ability to assume the obligations of membership", section "Economic and Fiscal Affairs".

[161] Direct taxation was considered as less of a problem since, according to the Commission, adjustment concerns implementation of the two company taxation Directives and the Arbitration Convention providing for a mechanism applied on the basis of reciprocity. Respective provisions can therefore by definition not be expected to exist before accession.

With regard to VAT, the Commission described the system applicable in Poland since 1993[162] (CEC 1997b: 62) as "a solid starting point" for future alignments with the Community acquis. In turn, the approximation of excise duties required upward adjustment to the Community minimum level, in particular in the case of tobacco products. The Commission also requested Poland to "adapt the structure and level of its excise rates, so they comply with the Community principle of non-discrimination between national products and those originating from other member states" (CEC 1997b: 63). Apart from that the Commission recommended Poland's government to set out a plan for implementation of the provisions of the White Paper, providing a "clear and detailed timetable for future adjustments of Polish excise legislation...." (CEC 1997b: 63). The Commission urged Poland to ensure the correct application of the acquis in this respect and create an excise suspension (warehousing) system based on the Community model as soon as possible.

As a response to these requests, Poland's National Programme of Preparation for Membership (NPPM)[163] anticipated reinforcement of tax authorities, reform of tax inventory, real estate taxation and harmonization of indirect taxes (UKIE 1998: 10-1). Nonetheless, the 1998 NPPM focused to a larger extent on the effective forms of real estate taxation and improvement of the tax administration (priority 1 and 2) than on removal of legal discrepancies between Poland's and EU legal order, in particular in relation to VAT and excise duties. Despite the acknowledged discrepancy between the Polish law and the acquis in scope of excise duty for cigarettes, the National Programme of Preparation for Membership did not foresee an adjustment in that respect in any pre-defined time period. The topic was just briefly mentioned among "other issues" with the annotation that "implementation of the EU law may produce serious social and economic repercussions; therefore the process of adjustment needs to be preceded by the analysis of socio-economic effects [...]. It is in particular important since the adjustment process will concern taxation of, among others, products and services sensitive in social terms or sectors in need for restructuring" (UKIE 1998: 10-13). The analysis of the mentioned socio-economic repercussion was to be prepared by the end of

[162] In 1993 the VAT regulation replaced the previous Turnover Tax.
[163] Abbreviation from the Polish „Narodowy Progam Przygotowania do Członkowstwa".

1999 and only after that could the preparation of a proposal for legislative changes take place.

Despite these deficiencies of the NPPM, the Commission 1998 Regular Report (CEC 1998: 28) praised Poland, in particular for its progress in aligning VAT legislation and adjustment of VAT rates. At the same time, however, it noted that "substantial efforts are still required in the field of VAT and excise duties [...] " and that "the adjustment of Poland's excise duty law and the implementation of the Community provisions on Excise Duty suspension require further efforts" (CEC 1998: 28). The improvement of administrative capacity was also pointed out as a necessary action. Nonetheless, the Commission seemed to be concerned mainly about approximation of the VAT regime, and specific issues concerning the alignment of excise duties, such as that on cigarettes and tobacco products, had not yet been on the accession agenda. The Commission called for more efforts to meet the EU minimum levels for excise duty rates on cigarettes and motor fuels only in the 1999 Report (CEC 1999: 37), published shortly prior to the start of the accession negotiations in the tax field.

Approximation of the excise duties on tobacco as a 'negotiation problem'

Poland delivered to Brussels its first negotiation position in Chapter 10, 'Taxation', on 7 December 1999 and provisionally closed accession negotiations after 28 months of talks on 21 March 2002. Polish negotiators from the outset expected difficult talks due to the existing discrepancies between the EU and Poland's indirect tax rates, in particular VAT and excise duties[164]. Therefore, in the first version of the position paper (UKIE 2000: 231) Poland had already applied for four transition periods and two derogations from the acquis. The requests for delayed adaptation concerned the application of the reduced VAT rate on gastronomic services, lower than the EU minimum share of excise tax on tobacco products (Council Directive 92/79/EEC), the zero rate VAT on books and specialist magazines as well as maintenance of the specific discounts in excise duties on ecological fuels. Additionally, Poland asked for derogation with respect to the exclusion of the right to deduct tax for passenger cars and

[164] Interview with the Director of the Analytical Unit in the Department of Support for Accession, Office of the Committee for European Integration (UKIE) in June 2006.

maintaining the specific tax regime applied to kerosene. Polish negotiators also reserved the right to maintain an increased threshold for taxable legal persons exempted from VAT at the level of 10,000 euros, as did other EU member countries.

Table 4.3: Calendar of negotiations on Chapter 10: Taxation

PROMOTER	THE MILESTONES IN NEGOTIATIONS	DATE
PL	Poland's Negotiation Position	19 October 1999
EU	Draft Common Position of the European Union	19 November 1999
EU	European Union Common Position	30 November 1999
PL	Response to the European Commission's queries concerning the Negotiation Position on Taxation	27 April 2000
EU	European Union Common Position	27 September 2000
PL/EU	Technical consultations in Brussels	29 January 2001
PL	Supplement to Poland's Negotiation Position	6 February 2001
PL	Amendment to Poland's Negotiation Position	29 March 2001
EU	Draft Common Position of the European Union	20 November 2001
PL	Amendment of the Negotiation Position	23 December 2001
EU	European Union Common Position	7 March 2002

The harmonization of Poland's excise duty on manufactured tobacco presented one of the key negotiation problems. Approximation of the Polish law with the acquis in this respect required implementation of the provisions of two key EU directives, Council Directive 92/79/EEC and 95/59/EC. Whereas the former obliged the member countries to "apply an overall minimum excise duty (specific duty plus ad valorem duty excluding VAT)" (92/79/EEC), the latter set the principles for harmonization of the structure of excise duty levied at different stages on manufactured tobacco (95/59/EC). As mentioned above, according to the provisions of the acquis, Poland needed to assure overall excise tax incidence of 57% of the retail selling price (including all taxes) for cigarettes of the price category most in demand (92/79/EEC, Article 2).

The Polish pre-accession excise tax regime was inconsistent with the provisions of the EU directives in two respects. Firstly, the excise tax was calculated as a specific component per unit only, and secondly, the overall level of tax was lower than the EU minimum. During the accession talks Polish negotiators declared that whereas implementation of the mixed system of tax calculation was due to take place in the year 2000, reaching 57% of the minimum tax share in the retail selling price prior to accession would be impossible. The major challenge in adaptation presented a high degree of tax rate disparity in Poland and the EU. In 1999 the rate of excise tax levied on the most popular price category (MPPC) brand ("Klubowe") in Poland reached 41%.

Bridging the sixteen point difference in such a short time would trigger, according to the negotiators, a series of "interrelated negative market incidents" (UKIE 2000: 245).

The estimations of Poland's government demonstrated that approximation with the acquis required an increase in excise duty on cigarettes by 188.7%, which would in turn raise the retail price of the most popular brands by 106.9% (UKIE 2000: 245). In cheaper brands the upward price shift would be even bigger. The Polish position paper argued that such an increase could effect a serious drop in lawful sales of cigarettes and subsequently a large-scale expansion of illegal trade and smuggling. The apparent cigarettes price elasticity could result in a 33% fall in their legal sales in 2002. In turn, this would decrease the profitability of the tobacco industry and accompanying sectors, which would likely lead to a reduction in economic activity and fall in employment. Eventually, around 60 thousand families dependent on the cultivation of tobacco would pay a high price for these negative developments. Fast alignment would also lead to greater pressure on inflation due to the high propensity for smoking and contribute to a drop in budgetary revenues. These arguments underpinned the Polish application for a five-year transition period (until 31 December 2007) for achievement of the 57% share of excise in the retail price of cigarettes. According to the Polish negotiators, such a period would be desirable from the perspective of market stability, budgetary revenues, industry and trade (UKIE 2000: 245).

Notwithstanding these arguments and numerous cases of derogations and transition periods with respect to the alignment of excise tax regime granted in the past[165], the Commission's answer to Poland's request was negative. The Commission argued that granting a transitional period to Poland in this field could cause serious disturbances to the internal market, especially that the prices for cigarettes in Poland were already low in comparison to EU prices. These created a risk of fraud in relation to imports, given that upon accession such imports become intra-Community movements not subject to border controls (CEC 1999c). The Council repeated the Commission's arguments in the EU Common Position from November 1999, which stated that "significant divergences in prices between Member States would jeopardize the

[165] Discussed in more detail in section 2.

functioning of the internal market and represent a serious risk of fraud and tax evasions" (Conference on Accession 1999a). In addition to that, unofficially the Commission admitted that Poland's request for a transition period had been weakened by the fact that not all applicant countries (excluding Hungary) had asked for delayed adaptation with respect to the excise tax approximation (KSPT 2000). Similarly, the following negotiation position of the EU from September 2000 argued that the member states attached high importance to respecting the principle of the minimum tax incidence in excise taxes in the cigarettes area, which allowed to avoid fraud and assure the working of free competition in the European single market (Conference on Accession 2000c).

4. The role of tobacco producers in shaping the negotiation process and outcome

The role of vested interests in the accession negotiations on the Taxation chapter has been steadily ascertained in line with the progress of talks. The key organization representing the interests of the tobacco industry in Poland, the National Association of Tobacco Producers (KSPT), has managed to establish direct contacts and gradually construct a coalition of interests with the members of the Chief Negotiator Team. This mutually beneficial arrangement assumed the transfer of expert knowledge and provision of empirical input to the government's documents from industry representatives in return for insistence on the transition period allowing for delayed adjustment of the tax rates to the minimum level required by the Community.

In the initial stages of the accession negotiations the interests of the tobacco industry seemed to be secured. The screening of laws concluded with classification of the adaptation to Council Directive 92/79/EEC on the approximation of taxes on cigarettes (1992) as a problem "for further negotiations" (category III) (UKIE 1999b). This meant that Polish negotiators would apply for a transition period with respect to adoption of the minimal incidence of the excise duty on cigarettes. Meanwhile, in 1999 the structure of excise tax was adjusted to the directive by the Act on tax on goods and services and excise duty (1999), which introduced a single combined (specific/ad valorem) duty on cigarettes. Although the rate of the tax was also increased, it remained considerably lower than the EU minimum threshold. The Commission in its 2000 Report (CEC 2000: 52) appraised the amendment as a positive development but also

pointed to the need for additional efforts to meet the Community's minimum duty levels (CEC 2000: 53).

The initial application for a transition period has not necessarily meant that the negotiators were firmly committed to defending their position in the later stages of the negotiation process[166]. In a number of areas such applications were merely tactical and provided a 'currency' for future trade-offs and concessions from the EU in the politically most sensitive negotiation chapters. It was unclear to external observers whether obtaining a transition period in taxes on cigarettes was a strategic goal or the application filed as just a tactical move. The lack of any expert evaluation supporting the arguments presented in the Polish position paper pointed rather to the latter option. Also the industry representatives claim that at the end of 1999, the industry received unofficial information on the government's intention to resign from the transition period. This prompted the National Association of Tobacco Producers (KSPT) to seek direct contact with the decision-makers in the accession negotiations[167]. Such connections were established initially with rank and file UKIE employees from the Department of Support for Accession Negotiations[168] and later on through them with the members of the Negotiation Team.

In March 2000 the KSPT issued a letter to the Chief Negotiator, Jan Kułakowski, requesting to uphold the initial negotiation position on the transition period until the end of 2007. The common position of the industry was that Poland should optimally receive one-year longer temporary derogation, until the end of 2008[169]. In response to these claims a series of meetings was organized between industry representatives and UKIE officials of subsequently higher rank, starting from the Unit Director, Department Deputy-Director and eventually the Secretary of State Minister Banasiński.

In fact, the interest in cooperation between the administration officials and tobacco industry was mutual. During the meeting of 27 October 2000 the

---

[166] Interview with the adviser to the Secretary of the Committee for European Integration in September 2008.
[167] Interview with the President of the National Association of Tobacco Producers in September 2008.
[168] Interview with the Director of the Analytical Unit in the Department of Support of Accession Negotiations (UKIE) in March 2006.
[169] Interview with the President of the National Association of Tobacco Producers in September 2008.

representatives of the Chief Negotiator asked the KSPT to assist in the preparation of justification for Poland's application for the transition period. It was agreed that the KSPT would prepare the presentation, which may be used as a supportive document for the negotiators (KSPT 2000).

The industry findings were presented during the following encounter on 11 November 2000. The presentation stressed that the amendment of the Act on tax on goods and services (1999) almost entirely fulfilled the EU demands for adaptation. The tobacco producers argued that the increase of excise taxes in recent years had been very sharp and reflected by the growth of the budgetary revenues from this source until 2000. The fall in these dynamics (see table 4.1.) suggested that the policy of high excise growth was impossible to sustain if budgetary income was to be secured. The worldwide empirical data on tax policies demonstrated that policy creating access barriers leads to 'negative substitutes', such as contraband, generating substantial advantages for consumers and illicit traders. The KSPT argued that a transition period until the end of 2007 would stabilize the tobacco market (both industry and growers), assure sustainable increases of budget revenues and lead to a decline in contraband activity. The sector representatives also brought to mind that the EU had never been dogmatic pertaining to the adoption of its own rules when counterproductive effects of the implementation were apparent. The public administration interlocutors suggested that these arguments be supplemented with more detailed information on the negative social costs of the lack of derogation on the excise tax on cigarettes (KSPT 2000a).

The findings of the paper presented by the Polish branches of cigarette corporations coalesced with the studies published in other member countries, for instance, the paper of the Italian Institute of Economic Research from Bologna (NOMISMA 2000) on the consequences of rapid alignment to the EU's minimum tax on cigarettes of five accession countries. The countries reviewed included Hungary, the Czech Republic, Estonia, Poland and Slovenia. For the Polish case the report argued that approximation of the excise tax rate would bring a very sharp drop in demand for cigarettes. The authors claimed that collaterals would include increased government costs for controlling borders and counteracting illegal economic activities and organized crime as well as the associated social costs of the black market. Therefore, "in the long run, more government revenue could be collected under a policy of moderate excise tax

increases" (NOMISMA 2000: 34). The only problem with such studies was that they were usually commissioned by the cigarette corporations, in the case of NOMISMA report by Philipp Morris Europe. As Szilágyi and Chapman argue, while some of the conclusions of these reports were leaked to the media, they usually remained known only to the relevant ministry officials (Szilágyi and Chapman 2003: 226). Indeed, NOMISMA's report was sent by Jan Truszczyński, Poland's Ambassador to the European Union[170] to the Chief Negotiator Jan Kułakowski with a view to support Poland's request of the transition period (Truszczyński 2000) and may be may be found in the Polish governmental archives.

At the same time, the Polish negotiators (or rather their UKIE back office) did not restrict themselves to industry expertise only. The Department of Support for the Accession Negotiations also commissioned an independent expert report from the Gdańsk Institute of Market Economics (IBnGR). The policy paper aimed to assess Poland's capability to approximate its excise tax regime to the EU, namely with respect to Art. 2 of Council Directive 92/79/EEC (IBnGR 2001). It reached quite different conclusions from those presented by the sector.

The study argued that by the end of January 2001 the price of the most popular cigarettes (MPPC) was at around 55% of the same category of cigarettes sold in neighboring Germany. Despite this, falling cigarette consumption, the steep rise in excise tax in 2000 (by 28%) and the relatively slower increase of prices, would bring about the excise tax incidence at the level required by the acquis already in the second half of 2001 or at the beginning of 2002 (IBnGR 2001: 5). The authors anticipated, however, that the likely increases of cigarette prices by tobacco producers willing to improve their profitability could result, in the longer term, in the subsequent fall of the tax rate to below 57%. The report, therefore, pointed to the behavior of the cigarette producers as an important factor in Poland's ability to adapt to the EU minimum excise tax level.

Partially following these recommendations, in the following negotiation position from March 2001 (PM Chancellery 2001d), Poland revised the duration of the

[170] In the next government the Chief Negotiator of the Accession Treaty.

requested transition period from five to three years. At the same time, the negotiators claimed that the share of the excise tax in the MPPC was 51.3% against 54.4%[171], as estimated by the IBnGR study (based on General Statistical Office (GUS) data) (IBnGR 2001). The position paper argued that bridging the gap with the minimal EU level of excise tax would require a 100% increase of this tax, and that the rapid pace of excise tax increases led to a relative fall of budgetary revenues, which in 2000 increased only by 0.2% (with an average annual excise tax growth of 28%). However, if the Institute's estimates were considered, the difference between the reference level and Polish tax rate would only amount to 2.6 points, clearly not sufficient to support the arguments for a transition period.

Table 4.4: The dynamics of excise tax increases and budgetary revenues on this account

	1999	2000	2001
Average annual growth of the excise tax rates (in %)	27.0	28.0	20.0
Share of the excise tax in the MPPC (in %)	41.0	49.7	51.3

Source: (PM Chancellery 2001d)

The Commission once again rejected these arguments and refused to change its position. Interestingly, it stressed that the member countries paid particular attention to respect for the principle of the minimum rate of excise duty in order to minimize the risk of fraud and tax evasion[172]. The considerably lower cigarette prices in Poland could cause disturbance to the functioning of the single market.

On the other hand, information on the resignation from the full length of the transition period was received by the KSPT with huge resentment. Accompanying the calls of the latter, the Confederation of Polish Private Employers "Lewiatan" also requested access to the justification behind the resignations from the postulates for the transition periods and criticized the government for the hurried pace of legal works, which did not allow for the conducting of social consultations.

At this time Poland's negotiators also seemed to undertake efforts to formalize the social consultations, ongoing for more than a year. On 23 March 2001, right after adoption of the Polish amended negotiation position, the Chief Negotiator, Jan

---

[171] In January 2001.
[172] Information note from the Minister of Finance to the Chief Negotiator Jan Kułakowski, on 2 February 2001.

Kułakowski, submitted an official note to the Prime Minister, Jerzy Buzek, stressing the need to work out more effective mechanisms of cooperation and consultation with the private entrepreneurs in the framework of the accession negotiations process. He noted a "clearly increased interest and engagement of private sector representatives in the process of the accession negotiations" (Kułakowski 2001). The Chief Negotiator also stressed that "there is a need for a bigger sensitivity of the members of Poland's government and consideration – while maintaining objective criteria of assessment – of the analysis and opinions formulated by the Polish entrepreneurs". The broader involvement of the business environment in the consultations during the works of executive branches of government would allow for avoidance of their later interventions in the midst of the negotiation process (Kułakowski 2001).

In the amendment of the Polish position paper from December 2001 the negotiators once again changed the position with respect to excise duty on tobacco products (PM Chancellery 2001e). In the new position paper the negotiators reserved the right to reapply for the transition period until 31 December 2008. The formal motivation was the works carried out in the Council on the amendment of tax directives[173]. The assumptions of the new legal act represented a significant change of the 'rules of the game', as it imposed on the member countries an additional requirement: to achieve a minimum of 64 euros per 1000 cigarettes level of the excise tax from 1 July 2006 (apart from continually applying the 57%). The European Commission conditioned the provisional closure of the negotiations in the Taxation area on finding a compromise on the project of the Directive (PM Chancellery 2001e), which was to become part of the acquis, and thus of Poland's legal order after enlargement.

The unstable legal situation with respect to the minimum excise duty incidence created a favorable institutional context for changing the Polish negotiation position in line with the requests of the tobacco industry. Earlier, the independent study of IBnGR had not provided sufficiently strong data, which could support a request for a long transition period. After the redesign of the acquis, the challenge of adjustment was, however, considerably greater. Although by the end of 2001 Poland was already very

[173] Council Directive 2002/10/EC entered into force on 12 February 2002.

close to achieving the 57% tax incidence (around 56%), due to the considerably lower retail prices of cigarettes the amount of excise tax per 1000 cigarettes was still close to 26 euros/1000 cigarettes (MPPC), which was approximately twice less than the minimum assumed by the new directive (PM Chancellery 2001e).

In the new amendment of the position paper, Polish negotiators presented in a more comprehensive way the supporting arguments behind the transition period and also, for the first time, stressed the negative social implications from the lack of a transition period. Those included the "social discontent" resulting from rapid adaptation as well as the financial losses of the tobacco producers and relative budgetary losses from non-realized revenues from excise and VAT. (PM Chancellery 2001e).

In light of the changes into the acquis narrowing down the negotiation win-set of the European Union, achievement of the compromise was possible only with some concessions granted to Poland. The last amendment to the common position stated that "following the information provided by Poland, in particular the commitment to reach the duty level of 57% not later than on 31 December 2005, and in consideration of the economic and social consequences for Poland from bringing the excise duties on cigarettes to the required level by accession, the EU can accept Poland's request provided that Poland provides a plan for gradual alignment with the Directive starting in 2002" (Conference on Accession 2002).

At the same time the EU member countries were allowed to maintain restrictions on the quantity of cigarettes brought by private travelers arriving from Poland as those applied to the third countries. Apart from the transition period on excise tax on cigarettes, Poland received agreement for a delayed adaptation of the VAT structure in the construction and renovation services, agricultural production, books and scientific magazines, restaurant services and a one-year transition period for ecological fuel, application of the zero VAT rate for international passenger transport, and permanent derogation on the exemption threshold in VAT payments for small and medium enterprises, which do not exceed the equivalent of 10,000 euros in annual turnover (Rada Ministrów 2002: 25).

Whereas in a number of these areas an abrupt change in fiscal environment could lead to massive bankruptcies and severe social costs, the rise of excise tax on tobacco would definitely bring fewer sales to the tobacco multinationals. Other

consequences, such as the budgetary revenues, were less certain, while consideration of public health protection would rather require raising cigarette prices. Thus, the strong defense of the application for a transition period resulted to a large extent from the lobbying activities of the tobacco interests. Moreover, as participants in the negotiation process argue, the behavior of the industry has been very professional. Apart from the provision of the expert study and data supporting arguments for the transition period, the KSPT employed professional lobbyists to exert influence on the decision-makers. This was in stark contrast to a number of other interest groups, notably fishermen discussed in the next chapter, which constrained themselves to merely opposing the governmental position[174]. The KSPT provided a 'one-stop shop' solution for the negotiators. In addition to that, the visibility of their actions allowed the negotiators to demonstrate consistent opposition at home to the measures imposed by the acquis, thus, paradoxically, strengthening their position.

The industry success in presenting its position on adaptation also resulted from their effective collaboration with UKIE administration officials, which provided the analytical back office of the Chief Negotiator. Deprived from a number of responsibilities to the benefit of the sectoral ministries (see Chapter III), the Department of Support for the Accession Negotiations in UKIE found social consultations and socio-economic analyses of the consequences of adaptation as a unique niche for specialization. Dynamic interest groups interested in the negotiation process and able to provide the necessary analytical input were valuable interlocutors for realizing this objective. Interestingly, the department survived the political turmoil after enlargement and was renamed the Department of Strategies and Analyses. The tobacco industry representatives claim, in turn, that communication with the government after enlargement has been more difficult than before, since the policy-makers use the membership in the EU as a scapegoat for their indecisiveness.

[174] Interview with the adviser to the Secretary of the Committee for European Integration in September 2008.

5. Effectiveness of the EU conditionality in the tax field

The Polish case was not isolated in terms of derogations on the minimum incidence of the excise tax on tobacco. All acceding countries, with the exception of Malta, Hungary and Cyprus, were granted a transitional arrangement to postpone compliance with the EC legislation on the level of cigarette excise duty rates until after accession. The duration of the transitional arrangements ranged from the end of 2007 for the Czech Republic and Slovenia, end of 2008 for Slovakia and Poland, to end of 2009 for Estonia, Latvia and Lithuania. In the case of the Czech Republic and Estonia the transitional arrangements also covered other tobacco products and smoking tobacco respectively (Council of Ministers 2002: 29).

Due to the long transition period negotiated by Poland's government, the tobacco producers could enjoy postulated time for adaptation of their price strategies. Additionally, due to the postponement of the enlargement date, the transition period was of the length initially proposed by the industry, that is, until the end of 2008, which was welcomed by industry representatives[175]. This enabled a relatively stable increase of the level of excise tax and there was no need for further special arrangements in that respect. Despite concerns that Poland would not manage to increase the level of excise tax, so to meet its accession commitment, there has been a general expectation in the second half of 2008 that the tax rate would reach the required minimum[176]. In June 2008 the Ministry of Finance presented the ordinance to the draft Tax law, which assumes adaptation to the EU minimum excise tax incidence of 64 euros per 1000 units. The controversies about the project, in particular among the tobacco producers, concerned solely the distribution of ad valorem and specific components of the tax within this limit (Świąder and Matyszewska 2008).

The compromise struck during the accession negotiations appeased the social actors and allowed all interested sides to carry out a gradual approximation with the EU, thus avoiding failure in compliance in the future. However, this effect has not been achieved in all tax subfields. In 2007 there still persisted inconsistencies with the acquis

---

[175] Interview with the president of the National Association of Tobacco Producers in September 2008.
[176] Ibid.

with respect to the VAT laws as well as some aspects of direct taxation. The key problems concerned the list of taxable products, special tax procedures for particular types of taxable persons or transactions[177], and the introduction of the specific regulations for intra-Community trade. Three years after accession, some of these adjustments have still not been carried out (Ministerstwo Finansów 2003: 33). Three cases related to adaptation of the Polish tax system have also been referred by Polish citizens to the European Court of Justice (Parulski and Lis 2006). Thus far the Court has ruled against the practice of the Polish government levying excise duty on used cars bought by Polish citizens in other EU member countries (C-313/05)[178]. Tax experts[179] anticipate that since Polish legal regulations remain discordant with the acquis, further court cases might be expected in particular with reference to the restrictions on the right to deduct VAT (Sachs and Namyslowski 2004; Litwinczuk 2005; Martini and Karpiesiuk 2006). None of these problems, however, concern the taxation of cigarettes.

Conclusions

Taxation represents the policy area of a relatively thin acquis communautaire, in which adaptation depended on taking appropriate administrative decisions rather than implementation of complex administrative solutions or structures. Numerous derogations from the common rules already granted to the member countries have undermined leverage of Community demands for adaptation from CEE candidates. Instead of assuring more coherence in the system applied between them, the EU member states have decided to impose a higher minimum excise incidence. This move presented a response to growing concerns that after Eastern enlargement, cheaper cigarettes may flood their markets. Nevertheless, this change of entry conditions mid-negotiations allowed Poland's government to sustain its application for a transition period, to which it was not equally committed throughout the negotiation process.

---

[177] For instance, for the travel agents, sales of second-hand products, antiques, internet sales.

[178] Two cases other cases were related to sanctioning the VAT (C-25/07 and C-168/07). While the first case has not been adjudicated, the second concerns the period prior to accession, and the Court decided it remained outside its competence.

[179] Among others, from Baker McKenzie and Ernst & Young.

The consistent pressures of the tobacco industry exerted upon Poland's negotiators contributed to their success in obtaining a transition period with respect to adaptation with the acquis in the field. Tobacco industry's success in imposing favored policy solution on the government and deferral of compliance with EU requirements confirms the hypothesis about the impact of the prior domestic opposition on the terms of accession.

Interventions by strong interest groups took place thanks to the tactics of building a partnership with the analytical unit in the back office of the Committee of European Integration. The expert advice and political pressures supporting their clear message proved successful in the upholding of Poland's request for a transition period since Poland's government was able to demonstrate the strong opposition at home limiting its negotiation win-set. At the same time, both negotiation sides realized that the thin acquis communautaire provided more room for manoeuvre than in other policy areas.

Although the presence of a transition period qualifies the Taxation case as an example of not an entirely effective conditionality, the adaptation record seems more successful than in other areas analyzed later on in this project. At least, Poland seems to be on the best course to implement the required level of the excise duty on cigarettes, while the tax structure, consistent with the acquis, has been adapted already during the accession negotiations.

CHAPTER V

DEMOCRATIZATION AGAINST THE ODDS: SOCIAL MOBILISATION IN FISHERIES

Introduction

The accession negotiations in the Fisheries chapter and adaptation to the Common Fisheries Policy (CFP) presented a vivid example of the two-level game logics (Putnam 1988) operating in negotiations on the EU membership. The thick acquis communautaire regulating in detail all commercial activities related to fishing created a small negotiation win-set on the EU side of the table. On the other hand, no active prior opposition to adaptation at home allowed Poland's government to close the negotiation chapter without applying for the transition periods. A brief attempt by the Polish negotiators to demonstrate resistance to reforms from the domestic stakeholders was not credible and did not convince the European Commission of Poland's need for a transition period in the area. Eventually, Polish negotiators undertook a commitment to full adaptation to the CFP from the day of accession[180][181].

The area represents a no-prior opposition scenario although Polish fishermen, who were mostly affected by the policy change, have been organized in the producers' groups since the pre-transition era. However, their institutional and economic weakness, combined with insufficient knowledge about the effects of adoption of the common fisheries acquis resulted in very limited involvement in the accession process in its initial stages. Although already during the course of the accession negotiations this attitude has gradually evolved,

[180] With small amendments to the fisheries acquis consisting of the inclusion of some species specific to the Baltic Sea in the intervention mechanisms under the CFP, which was seen by the Commission more as a technical than political issue.

the opposition to the reforms has proven too weak to exert any real pressure on negotiators. At the same time, the real scope of problems related to adaptation to the CFP became apparent only after the terms of accession had been sealed and Poland became an EU member. Even though most of the new legal framework was already in place, Poland's government was unable to assure realization of the key CFP goal to facilitate development of the competitive fishing industry while striking the right balance between fishing capacity and fish stocks[182]. Thus, despite an apparently positive result of the accession negotiations, adaptation to the EU in the Fisheries chapter neither was successful, nor cured the inherent problems of the Polish fisheries.

The chapter will proceed with an analysis of the scope of the Common Fisheries Policy and controversies linked to its application in the EU member countries. The next section examines the domestic context, in which the EU pressures for adaptation were applied. Further, the pre-accession conditionality regime in the Fisheries chapter is outlined. The last two sections discuss the results of these pressures in terms of policy adaptation and social mobilization as its 'side effect'. The conclusions summarize the findings in the context of the theoretical framework utilized in this research project.

1. The Common Fisheries Policy and its dilemmas

The Common Fisheries Policy (CFP) is the European Union's instrument for the management of fisheries and aquaculture. It lies at the heart of the Community policy-making, not as much due to its economic importance as because of the fact that the organization of the sector and conservation of marine resources remain within the exclusive Community competencies[183]. Moreover, although the fishing industry in Europe produces less than 1% of its member states' GDP, it is a highly concentrated industry providing a large number of employment opportunities in some coastal areas.

The CFP also belongs to the most controversial areas of Community interventions, in particular due to the inherent tension between the need to protect aquatic resources on

[182] http://europa.eu/pol/fish/index_en.htm

[183] Although the member countries represented in the Fisheries Council consistently opposed strengthening the Commission's role in enforcing the CFP since major efforts to reform the policy were undertaken in 2002.

the one hand and industry development on the other. The policy faces a challenge to secure a "stable and enduring balance between the capacity of fishing fleets and the fishing opportunities available to them in Community waters and outside Community waters"[184]. It aims to "provide for exploitation of living aquatic resources and of aquaculture in the context of sustainable development, taking account of the environmental, economic and social aspects in a balanced manner" ((EC) 2371/2002). As the Commission succinctly described it[185], the general goal of the CFP regulations is to ensure that appropriate subjects fish the "right amount, the right size and the right way". A complex regulatory framework, which is to facilitate the achievement of this goal, consists of hundreds of legal acts (the query in Eurolex hits 579 bills[186], see also Annex 5.1), as well as the rich case law of the ECJ.

Since most of the voluminous CFP regulations have a status of 'hard law', the accession negotiation Chapter 8[187] shows, similarly to the Competition policy case analyzed next, a 'thick acquis' policy area. The regulatory framework for activities in fishery creates a relatively tight win-set in negotiations with the applicant countries (Putnam 1988). In consequence, during the talks the Commission did not have much room for maneuver for accommodating candidates' specific demands. At the same time, no consideration for possibly divergent domestic interests could put at risk the negotiated terms of EU enlargement.

Earlier experience with the vetoed accession of Norway (see Kolegium Europejskie 1999a) revealed how sensitive an area Fisheries can potentially be. Although due to differences in the relative weight of the industry this example is not fully comparable, the Norwegian case demonstrated how the discontent of specific interest groups may disseminate to the larger social circles and thwart the agreement. The popular discontent with the terms of the accession agreement in the fishery area contributed to the 'involuntary defection' of the Norwegian government, caused by the negative result of the accession referendum.

[184] http://europa.eu/pol/fish/index_en.htm
[185] Ibid.
[186] http://eur-lex.europa.eu/en/legis/latest/chap0410.htm
[187] See Annex 1.1 for the negotiation chapters.

The wide-ranging scope of the Common Fisheries Policy

The role of the Community institutions in managing the CFP arises from the provisions of Article 3(1)(e) of the EC Treaty (1997), which lists fisheries among the 'Community' activities. Those are to facilitate achievement of the general goals of the Community, such as creation of the Common Market, harmonious and balanced growth, raising standard of living and quality of life. Article 37 of the EC Treaty, together with the provisions of Article 102 of the 1972 Act of Accession provided the Community with exclusive responsibility for the matters of maritime resource conservation and management in both inland waters and the sea. These provisions have been specified in a number of European Court of Justice rulings, which on the one hand determined the range of the Community's authority and on the other, ascertained that it has replaced the authority of the member states in Community waters and beyond them. The latter concerns international commitments with either individual countries (negotiation and conclusion of agreements) or groups of countries (Community representation in international fishery organizations)[188]. Further, the scope of the Common Fisheries Policy was confirmed in the secondary legislation, by Article 1 of Council Regulation (EC) 2371 (2002).

The first common measures concerning fisheries were introduced in 1973 with a view that as a principle, EU fishermen should have equal access to the member states' waters. The rule of non-discrimination from the perspective of nationality remains the fundamental principle of the CFP, defined broadly in Treaty Article 12 (1992) and confirmed by the ECJ in Delecta Aktiebolag (case C-43/95) case. The Court ruled that member countries should treat equally physical and legal persons from other members in the zones under the Community law. With respect to fishery, only the coastal band was exempted from such treatment, so to ensure that smaller vessels could continue to fish close to their home ports[189]. The Common Fisheries Policy was born in 1983 after years of wrangling over its major principles and division of competencies between the Commission

[188] See the Court's judgments of 14 July 1976 (Cases 3, 4 and 6/76, ECR 1976 p.1279), 16 February 1978 (Case 61/77, ECR1978 p. 417), 25 July 1991 (Case C-258/89, ECR 1991, p. 3977), 24 November 1992 (Case C-286/90, ECR 1992 p. I-6019) and 24 November 1993 (Case C-405/92, ECR 1993, p. I-6133).
[189] http://ec.europa.eu/fisheries/cfp_en.htm

and member states' authorities. Eventually, the European Commission took control over the general management of the marine resources in waters under member states' jurisdiction[190]. However, the member states still hold responsibility for annual adjustments of the management (and recovery) plans, including setting the catch limits, which is often seen as a 'major setback' of the policy (IEEP 2003).

Serious depletion of maritime resources as well as environmental distraction, putting at risk commercially important stocks, (see e.g. Hedley 2002; IEEP 2004) were pointed out as key threats to the CFP in the Commission's 2001 Green Paper (CEC 2001d) and triggered a major policy redesign in 2002. The post-reform CFP covers four key areas: conservation and sustainable exploitation of marine resources, structural measures, market regulation, and relations with the outside world (CEC 2001d; Hagan 2003).

To date, the biggest challenge for the policy-makers has been setting the fishing quotas at a level striking a balance between the size of catches that allow for fish reproduction, and such an amount of fish introduced into the market which could make a living for the communities dependent on the sector. In view of evidence that fish stocks have continued to decline[191], Community conservation measures established rules limiting fishing efforts through the total allowable catches (TACs) and imposed obligation to record and report catches and landings ((EC) 2371/2002)[192]. This set of measures, binding on Community waters, continues to cause controversy, due to an apparent ineffectiveness in achievement of any of the presented goals.

The 2002 reform also aimed to introduce a strategic fisheries management approach into the CFP in place of the annually agreed fishing quotas. The TACs, as a result of such negotiations, were permanently set at a level above the fishing limits recommended as safe by scientists (IEEP 2004). Resignation from the 'horse-trading' in the Council on the size of quotas could introduce an element of predictability and stability into the system

190 This area, in line with international developments, was extended in 1976 from 12 to 200 nautical miles from the coast.

[191] Despite efforts to prevent the decline of aquatic resources undertaken by the Community since 1983, that is implementation of the Council Regulation (EEC) 170/83 of 25 January 1983, which established a Community system for the conservation and management of fishery resources.

[192] See http://ec.europa.eu/fisheries/cfp_en.htm

(CEC 2001d). According to the new guidelines the policy would be guided by the strategic management principles and multi-annual plans for utilization of maritime resources, based on the "sound scientific advice" (art. 2(2) (EC) 2371/2002). However, the member countries have not accepted the delegation to the Commission of the responsibility for setting multi-annual plans with the catch limits. Eventually, the Commission's power was extended only to controlling the fishing limits of 'endangered' species. Even in these cases, however, the 'recovery plans' must be agreed on by the Fisheries Council. The scientists (IEEP 2004) argue that such a system does not solve the major problem and may continue to lead to overfishing.

The new CFP, in operation since 2003, has not abolished TACs[193] and did not exclude the member countries from decision-making about fishing limits. Yet, it has also not eliminated the persistent tension between the Commission, member states' governments and fishermen organizations[194]. On the one hand, the Commission, supported by the scientific institutes, such as the International Council for Exploration of the Seas (ICES) or the Institute for European Environmental Policy (IEEP)[195], raises alarm about the dramatically low level of fish remaining in the EU seas. On the other, the member countries, various domestic stakeholders and even the European Parliament continue to question these estimations. Fishermen organizations claim that the scientific evidence is produced on the political demand of the Commission and does not correspond with the reality, that is the true amount of fish in Community waters (Rotta 2005). At the same time, for instance, ICES claimed in 2001 that out of 113 stocks assessed (in the Northeast Atlantic), only 18% were within safe biological limits (ICES 2003).

The issue of data reliability is linked to another problem pertinent to CFP: illegal, unreported and unregulated fishing (IUU). Although in principle the legal origin of fish must be demonstrated before it is allowed to be offloaded at EU ports or imported into the

[193] Until enlargement only two recovery plans, under the auspices of the Commission, were set in place, for cod and for northern hake (by Council Regulation 423/2004 and Council Regulation 811/2004 respectively).
[194] For instance, European Mollusc Producers Association (EMPA), Federation of European Aquaculture Producers (FEAP), European Feed Manufacturers' Association (FEFAC), European Association of Fishermen's Organizations (Europeche), Fishing Industry Safety Group.
[195] See Fuchs (2000).

EU, the official reports estimate that more than 50% of fish catches do not fulfill these criteria. Polish fishermen approximate that real catches of cod in the Baltic Sea amount to 140–160 thousand tonnes, instead of the registered 67 thousand tonnes. If these calculations are correct, despite the ICES methodology of adding to official data around 40% of unreported catches, the estimations from these two sources still do not correspond with each other (Polish Marine Fishery Science Center 2005). In consequence, the depletion of maritime resources might be even higher than assessed by the scientists, who are unable to produce accurate reports; a basis for further policy decisions. Hugo Andersson[196] concluded that "[a] vicious spiral of unreported landings undermined scientific stock assessments, leading to lower quotas. Failed systems did immense damage to fishermen and the reputation of the fishing industry."[197]

Furthermore, despite legal provisions obliging the member countries to set control systems for CFP (1993) and measures providing conservation and sustainable exploitation of aquatic resources (2002), the effectiveness of the national control units varies considerably. Between 2002 and 2004 the Commission brought legal action against several member states due to their apparent breach of the CFP regulations and in particular for "failing to ensure compliance with the Community rules on the conservation of aquatic marine living resources by the monitoring of fishing activities"; failing to prohibit fishing by the nationally registered vessels when the quotas were deemed to be exhausted; and failing to initiate administrative or criminal proceedings against the masters of vessels infringing regulations[198]. Until 2004 the ECJ ruled against Ireland, Belgium, Denmark, Spain, Portugal, Finland and Sweden for such and similar wrongdoings related to observation of the CFP rules. These cases suggest that not only the policy assumptions but also the enforcement of the Common Fisheries Policy has serious shortcomings[199]. In 2003 the European Commission summarized in its Communication (CEC 2003a) that the

[196] A chairman of the North Sea Regional Advisory Council (NSRAC).
[197] http://www.nffo.org.uk
[198] Action brought by the Commission of the European Communities against Ireland (Case C-317/02 ECJ), against the Republic of Finland (Case C-437/02 ECJ), against the Kingdom of Sweden (Case C-271/02 ECJ), against the Portuguese Republic (Case C-332/02 ECJ), among the others.
[199] In April 2005 the Council of Ministers agreed to set up a Community Fisheries Control Agency as a key part of the drive to improve compliance with the rules. It is to strengthen the uniformity and effectiveness of enforcement by pooling EU and national means of fisheries control and monitoring resources, and introduce co-ordinated enforcement activities (see http://ec.europa.eu/fisheries).

"success of fisheries control is uneven" and that in a number of countries "the overall success of control will be as strong as the weakest link".

In order to improve the implementation record, the 2002 reform has also anticipated broader involvement of the stakeholders into the policy-making process, seen as an expression of good governance principles guiding the policy in its new phase (art. 2(2) (EC) 2371/2002). Numerous studies demonstrated that user participation raises the efficiency of policy management in the fishery area (see e.g. Hanna 1995). The reform introduced novel structures, the Regional Advisory Councils, designed to bring together fishermen and all other relevant stakeholders at regional and local levels. The added value from their involvement was "to enable the Common Fisheries Policy to benefit from [their] knowledge and experience" by taking into account diverse conditions throughout Community waters (art. 27 (EC) 2371/2002). The Regional Advisory Councils[200] comprise fishermen and other interest groups affected by the CFP, such as representatives of the fisheries and aquaculture sectors, environment and consumer interests and scientific experts from all member countries having fisheries interests in the sea area or fishing zone concerned (art. 31(2) (EC) 2371/2002). Therefore the CFP, in a similar way to the Regional policy discussed in Chapter VII, by design has included the element of social participation in the policy framework independently of the Community enlargement agenda.

Reduction of fishing capacity, either by limitation of fishing days or the decommissioning of vessels is inevitably linked to a worsening of the living conditions of communities highly dependent on fish. Thus, Community structural measures were put in place to assist in alleviating the costs incurred for the sake of protecting aquatic resources. The Financial Instrument for Fisheries Guidance co-finances the renewal and modernization of the fleet based on the multi-annual targets for the reduction of fishing capacity (1999), and provides emergency aid to support vessel decommissioning (2002). However, from the end of 2004 public aid for new fishing boats and export capacity was eliminated and tougher conditions for subsidies for the modernization of boats were put in

[200] There have been seven Regional Advisory Councils established by the European Council: North Sea, North-Western waters, South-Western waters, Mediterranean Sea, Baltic Sea, Pelagic stocks and High seas/long distance fleet.

place. Since, projects eligible for aid were restricted to those involving installation of new equipment, vessel monitoring systems and safety systems. Nonetheless, as environmentalists feared (Hagan 2003: 4), member countries modernized their fleets prior to the ban coming into force. Vessels' renovation financed by the EU Structural Funds was, however, unavailable to the CEE fishermen (eligible for aid only after 2004), provoking accusation against the EU of unjust and discriminatory treatment of its future members[201].

Regarding the last component of the CFP, relations with 'third countries' (non-EU), the need for fisheries agreements became apparent when 'distant-fishing vessels' from the Community lost access to their traditional grounds following the extension of fisheries zones. Fishing rights for such vessels have been negotiated with many non-Community countries in return for various forms of compensation, whose nature depends on the interests of a third country concerned. The Community is also involved in negotiations with international organizations and regional fisheries groups to ensure rational fishing. This remains the least controversial component of the Common Fisheries Policy, also in the context of adaptation of the accession countries to its regulations.

2. The context for adaptation: Poland's fishery prior to enlargement

The prospect of enlargement has created new opportunities but also challenges for the Polish fishery. On the one hand, the largest fishermen organizations[202] as well as most of the public administration officers[203] perceived accession to the CFP and participation in its structural pillar[204] as a chance to alleviate, at least partially, the hardship of necessary reforms. On the other, due to the scale of adaptation, it was expected to pose a considerable strain on both, the governmental administration managing the sector and private stakeholders, in particular in coastal municipalities economically dependent on fishery.

[201] Interview with the UKIE (Office of the Committee for European Integration) official from the Department of Support for Accession Negotiations in May 2003, the Presidents of the Fish Producers Organization and the Association of Maritime Fishermen in September 2008.
[202] Interview with Maciej Dlouchy, President of the National Fishery Chamber in Gojtkowski, J. (1999).
[203] Interview with Jerzy Pilczyk (member of Democratic Left Alliance, SLD), during 1997–2005 at various functions (from Under-Secretary of State to Minister) in the Ministry of Agriculture and Rural Development, in PAP (2005a).
[204] Initially under the Financial Instrument for Fisheries Guidance (Council Regulation (EC) 2369/2002 and (EC) 2370/2002) and since 2006 under the European Fisheries Fund (Council Regulation (EC) 1198/2006).

The key challenges constituted the introduction of the efficient management system of fishery and fish in the Baltic Sea, guaranteeing the balance between fishing capacity and available maritime resources. The second set of difficulties posed the implementation of modernization measures, such as renewal of the fleet, improvement of fishing equipment and upgrading of veterinary and sanitary standards (Ministerstwo Infrastruktury 2002: 16). The technical upgrade of the fleet was indispensable for making Poland's vessels competitive vis-à-vis Western European trawlers expected to gain access to the Polish coastal zone after enlargement.

Fifteen years after the commencement of the transition processes there was no state program of fishing capacity reduction, which could match the size of catches with the aquatic resources in the Baltic Sea. A diminishing amount of fish and reduced fishing quotas, an aging fleet and excessive fishing led to the falling profitability of the industry and subsequent worsening living conditions of the coastal communities. In this context, if adaptation tasks conducted prior to accession to the EU were to bring policy effects, they had to be linked to measures decreasing fishing capacity through scrapping at least some of the vessels. Thus, perhaps the biggest challenge for Poland's administration was designing and implementing an effective system of structural assistance for those fishermen that would be forced to or choose to leave the job.

The key facts about Poland's fisheries

In communist Poland fishermen were employed by state companies and acted on the basis of Law on public enterprise. The state enterprises in the fishing sector, as in all other industries, had assured a market for whatever amount of fish caught. Fishing capacity was restricted by the quotas agreed annually by all Baltic states in the framework of the International Baltic Sea Fishery Commission[205].

[205] The International Baltic Sea Fishery Commission (IBSFC) was set up in 1974, based on the Convention on Fisheries and Protection of Maritime Resources in the Baltic Sea and Belt Straits (so-called Gdańsk Convention). It ceased its activities on 31 December 2005 after the withdrawal of the European Union from the Convention. Since then, the management of resources in the Baltic Sea area has been based on the bilateral agreements between the EU and Russia.

Since the collapse of the communist regime the state fishing enterprises have dissolved (with the exception of one) [206]. The fishermen began to carry out their economic activities as private companies, individually taking care of the distribution channels and incurring all business risks associated with economic activity. In contrast to that, the EU has developed a highly sophisticated regulatory regime with a complex system of laws defining all activities, starting from fishing through distribution of resources, marketing and structural support. Compared to the CFP, the Polish fisheries policy at the time of accession represented a policy vacuum. However, perhaps the most obvious difference between Polish and Western European fleets prior to enlargement was the technological gap. It concerned both the vessels themselves and their fishing equipment. While most of the European countries had managed to complete extensive fleet modernization programmes before 2004, limited resources in the national budget precluded similar action in Poland. The CFP reform banned such measures after 2004, so the new member countries could not modernize their fleet using the EU Structural Funds' co-financing.

In 1995 Poland's fishing fleet consisted of 36 high-seas factory trawlers[207] as well as 403 cutter vessels (15–50 meters) and 870 boats (less than 15 meters) of the coastal fleet catching in the Baltic Sea. The sector employed around 40,000 people and contributed 0.4% to the GDP (CEC 1997b: 77). In the wake of accession the average age of the Baltic fleet was 30 years, with 40% of the vessels older than 36 years. The smaller fishing boats were in better condition, with 60% constructed after 1980. However, around 30% needed replacement engines and the general condition of their equipment had been very poor[208]. The Baltic fleet catches mainly sprat, herring and cod with the latter providing 80% of fishermen's income.

In 1995 Polish fishermen caught approximately 429 thousand tonnes of fish, which represented more or less the same level as the Netherlands. However, while in 2005 catches in the latter increased to around 549 thousand tonnes, Polish production went down to 156 thousand tonnes. Such a dramatic fall occurred mainly due to a decrease in deep-sea

[206] Only one company, Szkuner (the majority of shares belong to the state) from Władysławowo, has survived the transition, while the rest were sold out and parceled out.
[207] Which accounted for 61% of the total catch by the Polish fleet by volume, and 90% by value.
[208] Interview with the Director of the Department of Fisheries in the Ministry of Agriculture and Rural Development in May 2003.

fishing. Only four vessels remained in operation in 2004. To compare, in 1995 Poland's key competitors' catches in the Baltic Sea, Denmark, Sweden and Germany accounted for around 2 million tonnes, 400 thousand tonnes and 230 thousand tonnes, respectively (Eurostat 2007: 52). They dispose large trawlers, which carry out large-scale fishing for the feedstuff using technologically advanced equipment.

In contrast to fishing, the fish processing industry in Poland has been characterized by high growth rates since the beginning of the 1990s. It represents around 2% of Poland's GDP. Three-hundred and forty fish processing enterprises were operating by the end of 2003. Most of them base their production on imported fish and produce mainly canned fish and fresh and frozen fish fillets.

Polish law at the time also only indirectly referred to the producers' groups, without defining in the ordinances their specific activities and roles in the market. In the EU such organizations form the backbone of the common market organization[209]. In turn, Poland's Law on maritime fisheries (1996) merely imposed an obligation on the minister in charge of fisheries to consult producers' organizations on issuing fishing licenses to foreign subjects for operating in the Polish exclusive economic zone (1996, article 4(2)). The amendment of the act in 2001 revoked this right but obliged a regional inspector for fisheries to consult producers' organizations before taking a decision on the fishing order and marking system for the fishing boats (2001, article 35 (1)). However, neither these bills nor the secondary laws specified in detail the exact procedures applicable to these situations. Following the absence of specific regulations until implementation of the Act on the fish market organization and amendment of the maritime fisheries Law (2002), producers' organizations had limited function in the management of fisheries. It was basically restricted to consultations with the government on the annual fishing quotas.

In the wake of accession negotiations Polish fishermen were associated in several organizations. None of them, however, managed to take the leadership role. The largest

[209] Their role and responsibilities are defined in the Council Regulation (EC) 104/2000 of 17 December 1999 on the common organisation of the market in fishery and aquaculture products. And the Commission Regulation (EC) 1924/2000 of 11 September 2000 laying down detailed rules for the application of Council Regulation (EC) 104/2000 as regards the grant of specific recognition to producers' organisations in the fisheries sector in order to improve the quality of their products.

one, the National Fishery Chamber (NFC) aspired to this position; however, smaller groups opposed it on a number of vital issues, including application for a transition period in the course of membership negotiations. Thus, as public administration officials admit, there has been no single voice of fishermen even on the most important questions concerning them, which prevented effective communication with the industry stakeholders[210]. The key organizations, apart from the NFC, included the Association of Fisheries Development, the Union of Marine Fishermen, the Polish Association of Fish Processors and the Union of Fishermen of Szczecin Reservoir. Throughout the 1990s and after the conclusion of the accession negotiations, the map of associations has been very dynamic with old organizations renaming and restructuring and new mushrooming (see the next section). Nonetheless, the majority of fishermen prior to enlargement and in the first years of accession did not belong to any organizations. Although some of the producers' organizations have their origin in the pre-transition times, low membership rates, an absence of formal channels of communication with the government and no coherent vision of industry future contributed to their inability to play a role in the pre-accession process.

Apart from deficient regulations on fishermen organizations, the Law on maritime fisheries (1996), providing a regulatory basis for carrying out fishing activities in Poland, has not embraced a number of aspects covered by the EU directives and regulations, in particular concerning structural assistance and market organization. The amendment of the act during the accession negotiations (2001) has not closed this gap. The deteriorating condition of the industry since the beginning of the 1990s called in particular for the creation of a comprehensive sectoral assistance programme. However, regardless of numerous declarations, the government had not designed such a structural programme before Poland entered the EU and became eligible for financial assistance in the framework of the CFP structural pillar.

Prior to that the only aid available to fishermen was in the form of exemptions from VAT and excise tax on fuels for fishing vessels (1993) and subsidized loans for the purchase and storage of sea fish (1995). The structural aid, if adapted to the EU standards, was supposed to additionally cover such areas as adjustment of fishing capacities,

[210] Ibid.

modernization of the fleet, protection of marine resources, harbour infrastructure, promotion of fish products, social support for fishermen and support for scientific research (KPRM 2000).

3. The pressures for adaptation to the Common Fisheries Policy

Adaptation of fisheries to the acquis communautaire did not seem to lie within EU priorities in the beginning of enlargement process. The first indication about the need for alignment of Poland's fisheries to the CFP came from the Commission's Avis published in 1997 (CEC 1997b). Earlier accords between Poland and the Community do not contain requests for approximation of laws in this policy area, unlike in a number of other fields, notably the Competition policy (see Art 69, Europe Agreement with Poland 1991)[211]. The only reference to fisheries in the key document, the Europe Agreement, was a provision calling parties to "conclude as soon as practicable negotiations of an agreement on fishery products" (1991, article 23). The following White Paper on the Common Market (CEC 1995), listing the first-order legislation to be adopted by the candidates, also contained no measures concerning fisheries. Until September 1996 no negotiations on trade liberalization in the area took place (Kawecka-Wyrzykowska 1998: 29)[212]. Thus, the real pressure for adaptation began only after launching the Reinforced Pre-accession Strategy, announced on 13 July 1997 in the Commission's Agenda 2000.

The pre-negotiation phase of relations

The key concern with regard to adaptation in the Fisheries area was effective policy implementation, contingent on the administrative capacity of Poland's government. The Commission pointed out in its 1997 Opinion on applicant's readiness for membership

[211] Art. 69 of the Agreement requested Poland to approximate regulations in the areas of customs law, company law, banking law, company accounts and taxes, intellectual property, protection of workers in the workplace, financial services, rules on competition, protection of health and life of humans, animals and plants, consumer protection, indirect taxation, technical rules and standards, transport and the environment.

[212] The issue of trade in fish reappeared only when in 1995 Sweden, Finland and Austria (which had negotiated bilateral agreements with Poland) joined the EU. Poland, as a compensation for losses accruing due to the annulling of these agreements (anticipating some preferential quotas of fish) was granted an additional duty-free contingent of some fish.

(CEC 1997b) that Poland needed to make further progress on modernizing the sector and creating structures corresponding to the features of the EU fishery industry. The candidate lacked its basic institutions, such as first sales points and auctions, did not maintain satisfactory sanitary standards in fish processing plants and had deficient fisheries administration. The tasks of the latter after accession would considerably increase, to include keeping the fishing fleet register, application of the structural policy, management of the market schemes and collection and processing of statistical data (see also UKIE 2001a). The Commission expected that the management of resources in the Baltic Sea, accomplished in the framework of the Sea Fishery Commission (IBSFC), would not pose a major problem once the issue of access to resources and mutual trading concessions had been solved (CEC 1997b: 79).

The Accession Partnership (CEC 1999a) encountered adaptation in the Fisheries chapter into the short- and medium-term priorities and administered the elaboration of an integrated programme for establishing adequate institutional structures and acceleration of preparations for adoption of the fisheries restructuring programme. The Commission was not satisfied with the achievements to date and in its 1999 Regular Report noted a very poor level of alignment with the acquis, including an almost complete absence of progress on legislation, institutional capacity, market organization and implementation structures. It criticized public authorities for their inability to set clearly defined policy objectives accompanied by a realistic timetable for actions and budgetary planning (CEC 1999: 43).

The following, 2000 Regular Report, based on conclusions from the screening of applicant's legislation, reiterated the request for acceleration of activities related to adjustment in all key CFP sectors (CEC 2000: 49). The Commission specifically pointed out a lack of "major legislative developments" (CEC 2000: 48) since the previous, 1999 Regular Report.

On the positive side, the Report noted progress in institutional developments, in particular the establishment of the three Regional Maritime Fisheries Inspectorates in Gdynia, Słupsk and Szczecin, which replaced the General Inspectorate for Maritime Fisheries. However, since the majority of administrative personnel was simply relocated

from old to new institutions, together with the tasks assigned, the Commission did not deem this move as groundbreaking. The practical fisheries control activities were additionally hindered by the absence of adequate regulatory framework, containing provisions on landing declarations and first sales notes, as well as by a lack of computerized retrieval of data, obstructing the performance of the crosschecks.

Some progress has been noted in the field of structural actions (including fleet registration), where Poland adopted a structural policy plan for the fishery sector for the years 2000–2006. This, in the Commission's opinion could constitute the initial basis for developing programmes for the restructuring and modernization of the Polish fishing fleet and fish processing infrastructure (CEC 2000: 49).

In 2001 the Polish government, in line with the Commission's recommendations, transferred the fisheries management from the Ministry of Transport and Maritime Economy to the Ministry of Agriculture and Rural Development. The staffing of the Department of Fisheries was also increased to fifteen officials (with plans to double this number until the end of the year). The three Inspectorates employed by that time 78 personnel (UKIE 2001). Poland also introduced a satellite-based fishing vessel monitoring system (VMS) and vessel register projected in the Law on maritime fisheries, eventually adopted in September 2001 (2001). The Commission noted these efforts in its last, 2002 Regular Report (CEC 2002) but stressed that there was still considerable room for improvement, especially with respect to administrative capacity. Faster progress was also advised in the areas of inspection and market policy, as by autumn 2002 no instruments had been put in place (CEC 2002: 74). Their absence precluded application of the intervention mechanisms.

In general, the Commission assessed Poland's progress in adaptation, since the publication of the Avis, as slow and inconsistent. Only a "limited degree of alignment" (CEC 2002: 75) had been achieved and further progress was contingent on considerable reinforcement of administrative capacity, in particular in the area of control.

The course of accession negotiations in the Fisheries chapter

Both, the Regular Reports and Poland's National Programme for Adoption of the Acquis (UKIE 1998) projected that alignment of the Polish fisheries to EU standards would pose primarily a technical problem, related to insufficient administrative capacity.

The largest anticipated benefit for Poland's fishermen from joining the CFP was participation in the intervention mechanisms, assuring the market for fish at minimum price levels. From the government's perspective, available Structural Funds could facilitate the necessary reduction of fishing efforts while assuring the social safety net otherwise difficult to provide from the empty national budget. The biggest challenge, on the other hand, was the administrative burden related to policy management and monitoring requirements, as well as policy reform balancing protection of maritime resources with the needs of coastal communities. The most contentious issue during the accession talks, however, has appeared to be adoption of the basic CFP principle, that of equal access to Community waters. Thus, only during the course of negotiations has adaptation in the Fisheries area emerged also as a politically-loaded question.

The accession negotiations of the Fisheries chapter commenced on 19 May 1999 and were concluded on 10 June 2002, at the very end of negotiations. Poland's negotiation position divided the area into four thematic groups: managing and control of maritime resources, organization of the common market, state aid and structural policy, and international agreements. Despite wide-ranging problems affecting the sector, pointed out in the previous section, the Polish government did not apply for any transition period and declared 31 December 2002 as a date by which alignment with the fisheries acquis would be completed. The negotiation position from 11 February 1998 stated that Poland "accepts and will implement in full the acquis communautaire in the area of 'Fisheries' and will not request derogations or transition periods" (UKIE 2000: 201).

This declaration, however, was watered down only a couple of lines later, where the negotiators affirmed that Poland would harmonize its law with the acquis only "whenever possible" (UKIE 2000: 201). Further wording of the position paper suggested that

anticipated adaptation was by no means unconditional. Furthermore, the paper stated that Poland would strive to consider, in a sustainable way, the biological, social and economic contexts of fishermen activity. However, for achievement of this goal it deemed it necessary to include a protocol in the Accession Treaty extending the range of state aid admissible in the EU into the area of fisheries. Further, the EU should consider "specific economic and social characteristics of the Polish coastal zones and biological features of the Polish exclusive economic zone (EEZ)[213] through maintenance of the existing level of mutual access to the resources". Thirdly, Poland requested an "extension of the acquis" to include in the intervention mechanisms species of Baltic herring and sprat[214]. These kinds of smaller fish are an industrial product in EU countries and are therefore not covered by such measures. Polish negotiators claimed that these species belonged to "the elements of traditional consumer preferences in Poland"[215]. All of these three points constituted in fact indirect applications for transitional arrangements, if not derogations from the acquis.

In addition to that, Polish negotiators expressed their expectation that on accession to the EU Poland would maintain its historical rights for catch quotas granted within the framework of international fisheries organizations.

In terms of two other areas of the acquis, the organization of the common market and international agreements, the negotiation position made a commitment to full harmonization with the common fisheries market acquis by the end of 2000[216]. The Polish

---

[213] Pursuant to Council Resolution of 3 November 1976 (the Hague conference) and confirmed by the Council Regulation (EEC) 3760/92 of 20 December 1992 establishing a Community system for fisheries and aquaculture.
In its Resolution of 3 November 1976, the Council of the European Communities decided that, from 1 January 1977, the member states would extend the limits of their fishing zones to 200 miles off their North Sea and North Atlantic coasts, and the exploitation of fishery resources in these zones by fishing vessels of third countries would be governed by agreements between the Community and the third countries concerned. The acquisition of rights for Community fishermen in the waters of third countries, as well as the maintenance of existing rights, would also be ensured by such agreements.

[214] By adding these species to Annex I of the Council Regulation (EEC) 3759/92 of 17 December 1992 on the common organisation of the market in fishery and aquaculture products and Annex II of the Council Regulation (EC) 2406/96 of 26 November 1996 laying down common marketing standards for certain fishery products. The initial request covered a minimum market size of the sprat of 8 cm but it was then increased to 10 cm in the addendum to negotiation position (PM Chancellery 2001b) from 6 February 2001.

[215] Similar requests were also put forward by Malta and Latvia.

[216] This goal was to be achieved through upgrading regulations in force to the status of parliamentary acts and the introduction of an Act laying down the legal framework for the establishment and functioning of organizations of producers.

government also declared that it would implement the structural programme for the industry until July 1999.

Table 5.1.: Calendar of accession negotiations on Chapter 8: Fisheries

PROMOTER	THE MILESTONES IN NEGOTIATIONS	DATE
PL	Poland's Negotiation Position in the area of Fisheries	11 February 1999
EU	European Union Common Position	15 April 1999
EU	European Union Common Position Fisheries	4 October 2000
EU/PL	Technical consultations in Brussels	15 November 2000
PL	Additional explanations on the Negotiation Position	15 January 2001
PL	Addendum to Poland's Negotiation Position in the area of Fisheries	6 February 2001
EU	European Union Common Position	14 July 2001
PL	Amendment to Poland's Negotiation Position in the area of Fisheries	16 October 2001
PL/Swe	Bilateral consultations with Sweden	8 February 2002
PL/Den	Bilateral consultations with Denmark	19 February 2002
EU/PL	Technical consultations in Brussels	14 March 2002
PL	Amendment to Poland's Negotiation Position in the area of Fisheries	9 April 2002

Of the topics listed in the Polish position paper the most serious problem presented the request from the EU to recognize the 'uniqueness' of the applicant's coastal zone. In practical terms it denoted an intention to ban Community vessels from entering Polish territorial waters, which would lie in clear contradiction of the CFP principles.

Until accession to the EU, Polish law applied a general rule that foreign vessels were not allowed to fish in waters extending 30–40 nautical miles[217] from the shore. In line with the international Law of the sea, Poland also disposed the sovereign right to exploit living resources in this area (1991). Foreign fishermen would be allowed to fish in the Polish exclusive economic zone only as an exception to this general rule and under specific provision of an international agreement. In that way, Polish as well as international law has legitimized discrimination against EU fishermen in the Polish exclusive economic zone.

As mentioned above, the principle of non-discrimination on the national basis and equal access to Community waters remains the fundamental rule in the CFP. Therefore, the described legal situation was inconsistent with the acquis, in particular after the ECJ ruling of 10 June 1984 in Regina *contra* Kent Kirk (Case-63/83). It considered lawful only temporary restrictions imposed with the objective of conservation of marine resources, but

[217] Depending on the route of the border.

ruled out any discriminatory measures. Therefore, from the moment of accession the Polish 'exclusive economic zone' should cease to exist and the only activities remaining within the scope of Polish legislation would be those carried out in the territorial sea, up to 12 nautical miles from the shore. The rest of the economic zone would become part of the 'Community fishing zone'[218]. This, however, was not obvious from Poland's perspective.

Polish negotiators in the position paper from February 1999 (UKIE 2000: 203) motivated the need for maintenance of the "existing level of mutual access" to sea resources by specific features of the Polish maritime areas. The South Baltic was described as "extremely high in biological production", which required that "the catches carried out there must be balanced and at a level that is proportionate to the changing status of fishery resources". The presence of foreign vessels should be limited due to the "necessity for rational management and conservation of living maritime resources as well as a need to defend economic and social interests of local communities on the Polish coast" (UKIE 2000: 203). Although these words reflected the concerns of some fisheries experts, from public administration and fishermen themselves[219], the negotiators decided not to file an official application for a transition period.

Opinion on the potentially detrimental impact of competition from Western European vessels (if let into the Polish EEZ) on the domestic industry has been widespread, in particular among Poland's fishermen[220]. However, some of the Chief Negotiator's staff[221] have also argued that opening the South Baltic to Danish, Swedish and German trawlers would possibly lead to destruction of the Polish fisheries. Higher productivity of the Polish zone of the Baltic would encourage foreign vessels to change their fishing patterns. Thanks to their technological superiority and larger size they were able to operate in much worse weather conditions, while catching more fish at the time. Although these

[218] The term was introduced by the ECJ ruling on Asociación Profesional de Empresarios de Pesca Comunitarios (Apesco) v Commission of the European Communities (Case-207/86 ECJ).
[219] Interview with the Key Expert in Fisheries from the Department of Support of Accession Negotiations in the Office of the Committee of European Integration in May 2003.
[220] Interviews with the Presidents of the Fish Producers Organization and the Association of Maritime Fishermen in September 2008.
[221] Interview with the Key Expert in Fisheries from the Department of Support of Accession Negotiations in the Office of the Committee for European Integration in May 2003.

arguments were presented to the EU, the Commission has rejected suggestions from the first negotiation position as standing in opposition to the whole philosophy of the CFP. It explained that since the CFP is a fully communitarian policy, there was no space for individual actions and the acquis had to be observed by EU members in full. It also stressed that any protective measures had to remain in accordance with Regulation 3760/92 (1992), be non-discriminatory and supported by adequate scientific analysis.

The technical consultations in Brussels on 15 November 2000[222] did not lead to a rapprochement of positions on the mutual access to water. The European Commission has not accepted the arguments of the Polish team, which this time focused on the 'social' dimension. The negotiators claimed that a lack of transitional arrangement would have a negative impact on the coastal communities, already suffering from structural unemployment. Around 30,000 jobs could be at risk as Polish fishermen, with their obsolete cutter vessels and fishing equipment, would not withstand competition from the European fleets (Jesień 2000).

In an earlier Progress Report on adaptation in Fisheries (CEC 2001e) the Commission asked Poland (and not Malta and Latvia) to "reconsider" its position since it did not "fulfill several of the criteria laid down by the EU in its general negotiation position". It also argued that no special measures were necessary as the "sustainable use of resources is already an essential objective of the Common Fisheries Policy". The upcoming draft common position (DCP) was to consider whether Poland's concerns could be accommodated within the framework of the EU law.

Since in formal terms Poland's request was not an application for a transition period, it was also not accompanied by any scientific support. The Commission complained that despite several technical meetings it had not managed to obtain satisfactory answers to its questions and would thus continue reiterating them in the subsequent position papers. In consequence, during the period from May 1999 until February 2001, despite an exchange of correspondence and technical meetings, the negotiations did not progress.

[222] The Polish group was led by Robert Gmyrek (Secretary of State from the Ministry of Agriculture) while Francoise Gaudenzi-Aubier (the EU Chief Negotiator) represented the European Union.

The fishermen organizations and conclusion of the accession negotiations

Although no progress in negotiations was achieved until the adoption of Poland's second position paper, a number of events on the domestic scene preceded its formulation. Firstly, in June 2000 the Polish government decided to publish first versions of the position papers (UKIE 2000). Secondly, the responsibility for administering fisheries was transferred from the Ministry of Transport to the Ministry of Agriculture. The publication of the position papers revealed to public opinion detailed content of the negotiations, and brought the attention of society at large and groups affected by the reforms to the accession negotiations. Also fishermen organizations, thus far uninvolved in the negotiation process, began to realize that without formal application for a transition period the terms of accession might prove particularly unfavorable to the industry. Although, similarly to other policy areas during the screening, key organizations received the screening lists of the acquis, the conducted consultations were illusory[223]. The impediments inbuilt into the social consultations system, designed for the preparation of the position papers (discussed in Chapter III), hindered productive participation of industry representation in this process, even in cases where it was better organized than in the fishermen's case.

Nonetheless, since the end of 2000 fishermen organizations, particularly representatives of the National Fishery Chamber (NFC)[224], began openly to demand admission to the negotiation process[225]. Yet, the organizations have not managed to work out a uniform position even on the key issue, namely the desirability of the transition period with respect to mutual access to fishing waters[226]. While smaller groups advocated an application for a transition period, the largest one, NFC, opposed it by arguing that the Polish negotiation stance had already been defined and there was no point in changing it. Maciej Dlouchy, the President of the NFC, claimed that Poland's fisheries had already

[223] Interview with the Key Expert in Fisheries from the Department of Support of Accession Negotiations in the Office of the Committee of European Integration in May 2003.
[224] Krajowa Izba Rybacka.
[225] See interview with Maciej Dlouchy, the President of the National Fishery Chamber in Gojtkowski, J. (1999).
[226] Interview with the Director of the Department of Fisheries in the Ministry of Agriculture and Rural Development in May 2003.

embarked on the modernization process and there was no need for special arrangements[227]. This lay in full opposition to the opinion of other organizations, which supported an application for maintaining restrictions on access for foreign vessels. Disagreement between the fishermen themselves considerably weakened their position and ability to convey their message to the government.

In response to rising fuel prices and general uncertainty about the industry future related also to accession to the EU, the key organizations set up the Crisis Center of Fisheries in the mid-2000[228]. The Center formulated key postulates of the environment, focusing on the system of exemptions from excise tax, financing for the Vessels Monitoring System (VMS) and protection measures against import (Barkas 2000). The structure has also become utilized as a platform for contacts with the Team of Negotiators.

The relocation of responsibilities related to managing fisheries to the Ministry of Agriculture, as in most European countries, brought about hopes for better policy management. However, the Department of Fisheries remained understaffed and underfunded. Deficient human and operational resources prevented it from tackling effectively the mounting problems in the industry. Additionally, it seemed marginalized within the structures of the ministry, which dealt with problems of much larger political importance. Some fishermen claimed that the weak position of the Department of Fisheries within the ministerial structures hampered its ability to conduct the reforms and contributed to legislative delays in adaptation (Gzel 2002). In the opinion of fishermen, but also some administration officials, the government was intellectually, technically and financially unprepared to carry out a reform of such scope as adaptation to the CFP[229].

Nonetheless, since the amendment of the negotiation paper on 16 October 2001, the publication of Poland's positions was preceded by domestic consultations with fishermen organizations (Truszczyński 2001). The negotiators conducted a series of meetings with industry representatives in February and March 2001. Following the escalating conflict and

[227] Ibid.

[228] National Fishery Chamber, Association of Fisheries Development, the Union of Marine Fishermen and Union of Fishermen of Szczecin Reservoir.

[229] Interview with the Political Advisor to the Secretary of State in charge of Fisheries in the Ministry of Agriculture and Rural Development, from March 2006.

threats of protest action (Barkas 2000), the government decided to formalize the initial comments on the need to protect the Polish maritime zone into the formal application for a five-year transition period for access of foreign vessels to Polish territorial waters (PM Chancellery 2001c). The ban was to apply to foreign vessels longer than 30 meters and with engine power exceeding 611 kW. Polish vessels of these parameters (six among the fleet of 434), however, were excluded from the ban. This time the arguments behind the application focused on the precarious situation of Poland's fishermen rather than the sustainable usage of marine resources. Opening the waters would create unsustainable pressure on the Polish fishery, additionally aggravated by insufficient harbour infrastructure and poor organization of the market.

Apart from the access to sea zones, the amended negotiation position (PM Chancellery 2001c) sustained the request to expand the acquis by the inclusion of the Baltic sprat and smaller herring into the market intervention mechanisms of the EU. Poland has also postulated that the fishing quotas, which it enjoyed for the last ten years (based on the international agreements) remained the basis for future TAC (total allowable catch). In line with the fishermen's request, Poland repeated its demand that the rules of state aid under articles 92-94 should be expanded to cover structural aid to fishermen in the Protocol to the Treaty of Accession. This request was motivated by the fact that modernization aid had been granted within the EU in the course of 2002 reform only until the end of 2004. As mentioned above, after accession the CEE members would be excluded from such assistance in spite of the very poor condition of their fishing fleets.

The Commission disapproved Polish government's strategy to solve the issue and reiterated its earlier arguments while asking Poland to motivate the application with objective scientific arguments. The Commission's officials tried to dismiss Polish claims by suggesting that access to territorial waters for European vessels was of psychological rather than economic dimension (Świeboda 2002). They maintained that Polish fishermen would lose out with the ban since their fishing space would also remain restricted. In fact, this did not matter as Polish fishermen did not have sufficiently modern equipment to fish in the more distant areas. The European negotiators also refused to accept Poland's request

for structural aid, by arguing that the acquis provides a sufficient amount of protectionist measures for fishermen and requested an interpretation of the provision referring to the aid program inserted into the negotiation position[230].

In the course of negotiations the position of both sides seemed to toughen. From the amendment of the negotiation position, Poland's government tried to present its small win-set to the Commission, but the latter seemed to remain unconvinced. The evolution of the Polish position as well as the arguments behind it undermined the credibility of the Polish negotiators. Further, until this time no comprehensive scientific evidence had been presented to back up the application[231]. This stood in sharp contrast, for instance, to the Taxation (tobacco industry) or Environment (large combustion plants) negotiation chapters. In these two cases the Office of the Committee for European Integration (UKIE) commissioned expert studies on the effects of adaptation in the field for the stakeholders and the state budget (see Chapter IV). These were presented as an 'objective' motivation behind the application for a transition period, as requested by the Commission. No such effort had been undertaken in the Fisheries area.

At the same time, Poland's negotiators themselves seemed to underestimate the European Union's commitment to the issue of access to waters. The Chief Negotiator argued that disapproval of Poland's application had a political nature (Truszczyński 2001). In order to soften the EU position they embarked on a series of bilateral consultations with the EU member countries mostly interested in the topic: Spain, Sweden and Denmark. The talks took place at the beginning of 2002 but have not brought any results. In the wake of such tough opposition at the European table, the negotiators turned to the Polish fishermen with a proposal to formulate a more compromising position on the access to waters, which could be accepted by the EU. The new concept worked out after consultations with the fishing industry representatives assumed that a ban on fishing efforts in the Polish zone would encompass large vessels[232] of EU and Polish origin for three years after enlargement (Świeboda 2002). Once again, however, the Commission rejected this proposal.

[230] The negotiation position of 16 October 2001.
[231] Such expertise was prepared by the Marine Science Institute only in December 2001.
[232] Defined as vessels longer than 30 meters with main engine power over 611 kW.

The outcome of accession negotiations

In the amended negotiation position from April 2002 (PM Chancellery 2002a) Polish negotiators withdrew their request for a transitional arrangement with respect to mutual access to fishing areas. Poland has also declared that any state aid incompatible with the acquis and applied in fisheries would cease to be applied from the accession date. The only upheld application for a special arrangement concerned extension of the acquis to include Baltic sprat in the market intervention mechanisms, which the Commission in any case considered a technical problem. Apart from that, Polish negotiators declared that Poland "accepts the rules of the Common Fisheries Policy in the scope of access to resources, including the principle of relative stability[233]. Poland acknowledges the principles of the Common Fisheries Policy in the scope of mutual access of the Member States to exclusive economic zones." The Polish government made a commitment to organize the fishery market in line with the principles of the CFP and implement structural policy for the sector, which would be coordinated by the Ministry of Agriculture.

The Report on the Results of the Accession Negotiations presented by Poland's government (Council of Ministers 2002: 22) summarized the result of the negotiations in the Fisheries chapter as a success. It stressed that the EU had accepted the Polish request to include Baltic herring and sprat in the system of the market intervention applied in EU territory within the framework of the Common Fisheries Policy. This implied that fishermen catching these species would be entitled to compensation for retreat of the surplus stock from the market and payments from the EU budget. Apart from that, the Report stressed that Poland had managed to retain existent rights to fishing quotas and gain access to the Community waters. Polish fishermen could also benefit from the first year of accession, from the financial instruments of the CFP. The latter, however, has proven not to be the case due to delays in preparation of the Operational Programme for Fisheries, which constituted the legal framework for the FIFG spending.

[233] Based on the TAC for particular member countries.

The opinion of fishermen on the terms of accession was far less positive. Around 45% of them questioned by OBOP in 2002 negatively assessed the results of negotiations, while the same percentage did not have any opinion on the topic (OBOP 2002). The president of the Fisheries Chamber of Commerce, Maciej Dlouchy, described the negotiations with the EU as treason[234]. The majority of fishermen organizations accused negotiators of rushing to open the economic zone for competitors, even before the publication of the Commission's Green Paper setting the major directions of the CFP reform (see the section above). In addition to that, fishermen complained about the lack of guarantees on their eligibility for the restructuring projects and delays in preparation of the Operational Programme (OP) for Fisheries (Gzel 2002). Local governments in the coastal areas complained about insufficient involvement in the preparation of the programmes and deficient coordination of the country-wide Regional Programme (see Chapter VII on Regional policy) with the sectoral Operational Programme for Fisheries[235].

Poland's application for a transition period with respect to the mutual access to fishing waters was bound to fail. The formulation of a request for special treatment in formal terms was not even an application for a transition period. It reflected either a deep misunderstanding of the rules of accession negotiations (highly unlikely) or rather a lack of serious commitment to this project. It seems that negotiators, anticipating domestic protests on the issue, filed a pro-forma request and did not bother about its fate. Such a peculiar form of presentation of Poland's demands allowed the government to claim two contradictory things at the time. At the European table, that Poland put most of its efforts into adopting in full the CFP acquis communautaire, and at home, that the interests of the Polish fishermen were being taken care of. Since negotiators could always claim that the EU refused to accept Poland's conditions, accession conditionality could be utilized as a scapegoat for politically costly reforms.

Furthermore, the incoherent argumentation behind this 'application for a transition' suggests that its key purpose was to soften potential domestic protests rather than achieve

[234] During the meeting of the Parliamentary Commission for Fisheries and Agriculture on 25 September 2002.
[235] Opinion of Krystyna Wróblewska, Director in the Marshal Office expressed in "Pomorskie w Unii" (2004).

negotiation success. On the one hand, the negotiators claimed that the South Baltic was exceptionally rich in maritime resources, while on the other, asked for restriction on fishing activities in the area due to an apparent risk of overfishing. Additionally, no scientific evidence accompanied these claims for nearly two years after the start of negotiations. It was clear that the Commission would not treat such an application seriously.

4. Fishermen's mobilization in consequence of accession to the CFP

As outlined above, fishermen organizations were unable to exert sufficient pressure on the negotiators and extort the transition period in Fisheries. Despite general disappointment in the end result of negotiations, industry representatives have achieved partial success. Their pressure led to the amendment of the negotiation position and inclusion of the formal application for a transition period. Industry representatives claim that accession negotiations were the breaking point in terms of realization of the potential effects of concerted action against the policy-makers[236]. The rules of the CFP further reinforced this newly acquired sense of power.

As mentioned in the first section of the chapter, one of the measures designed by the Commission to improve the policy implementation record of the CFP was involvement of the fishermen organizations in policy planning and management. Poland had to adapt to these requirements and formally accept participation of the interest groups in policy conduct. The Act on fishery market organization (2002) introduced the new category of 'recognized' fishermen organizations, defined their roles in policy-making and secured funding of their operational activities in the framework of the Fisheries and Fish Processing Operational Programme (financed by the Structural Funds). Producers' organizations gathering at least 20% of the ship owners specialized in particular fish or at least 25% of the market share in fish sales became eligible for financial support during the first years of operation.

[236] Interviews with the Presidents of the Fish Producers Organization and the Association of Maritime Fishermen in September 2008.

These provisions encouraged establishment of the new organizations, which have been mushrooming since 2004. As of 2007 the fishermen community, amounting to around 30,000 people, had around twenty organizations representing its interests, among which six were 'recognized' by the Minister of Agriculture and Rural Development.

5.2.: Key fishermen organizations in Poland after accession

	NAME	YEAR OF RECOGNITION BY THE MINISTRY OF AGRICULTURE
1.	The Union of Marine Fishermen	2005
2.	Organization of Fish Producers in Władysławowo	2005
3.	National Chamber of Fish Producers (earlier National Fish Chamber)	2004
4.	North Atlantic Producers Organisation	2003
5.	Organization of Employers – Producers of Inland Fish	2005
6.	Kołobrzeg Group of Fish Producers	2005

Apart from the 'recognized' groups listed in the table above, other producer organizations represent Association of the Polish Fishermen, Polish Association of Fish Producers, the Union of Fishermen of Szczecin Reservoir and Association of Development of Fish Market. These groups, although not 'recognized' by the Ministry of Agriculture, have been particularly active in drawing policy-makers' and media attention to the industry problems. There is a general tendency for the groups outside the register to be more radical, anti-CFP and its fishing quotas regulations than those organizations which benefit from the new order.

The easiest way of social partners' involvement in the decision-making over fisheries was participation in the institutional structures in the EU funds distribution system, such as Steering and Monitoring Committees for the Operational Programme Fisheries and Fish-Processing (see Chapter VII). As in other sectoral programmes, the EU regional policy rules anticipate (1999) active involvement of the social actors in all stages of programme preparation, implementation and control. Although participation of the fishermen organizations have not automatically assured effective usage of the Structural Funds (see the next section), it institutionalized the communication with the policy-makers. Thus far the talks with the policy-makers were conducted in less formal fashion, as *ad-hoc* meetings focused on solving a particular problem.

Implementation of the CFP rules in the Polish legal order did not solve key industry problems. The most important challenge for the administration is creation of a system allowing fishermen to carry out fishing at a level of economic profitability and stability of income, which is contingent on the biological regeneration of the cod population. In 2007 fishermen have managed to convince the Minister of Maritime Economy about the need for a special body, a Team for Marine Economy (2007). The team, to which all 21 organizations were invited, was to advise the minister on a "strategic approach towards fisheries". Nonetheless, the body did not manage to have any tangible effect and ceased to exist a few months later, when the responsibilities for fisheries management were moved back to the Ministry of Agriculture. The fishermen organizations pointed out a permanent institutional instability within public administration and the transfer of decision-making powers to Brussels as key impediments to communication with the government[237].

They did, however, attempt to use the rights conferred upon the social partners by Structural Funds regulations. Despite a legal obligation to conduct a social consultation process, the Department of Fisheries have submitted to the Commission a project of the OP Fisheries 2007–2013 without such consultations. Fishermen organizations assessed the priorities of actions and earmarked budgets as entirely missing out the tackling of the industry problems[238]. Thus, they threatened to veto the programme in Brussels, should the government not withdraw it and present it for consultations with the vested interests. A series of meetings were conducted to make corrections to the programme in line with fishermen suggestions. As during the accession negotiations, the *ex post* corrections might, however, bring worse effects than if the programme were offered for consultation prior to its presentation to the Commission. This, however, seems to be an effect more of the lack of a communication culture within the government executive structures than disorganization of the social groups. It remains to be seen whether the latter's confidence in communication with the government gained in the post-accession years will be sufficient to bring about the revival of a failing industry.

[237] Ibid.
[238] Ibid.

5. Mixed effectiveness of the EU conditionality

As already mentioned, adaptation to the CFP encountered considerable problems. While the acceptance of the principle of free mutual access to Community waters was a merely political decision, the creation of the legal and administrative underpinning for the CFP has proven a formidable challenge.

Political turbulence concerning the administration of the sector at the central executive level and transfer of responsibilities for the sector from the Ministry of Transport to Agriculture, then to the Ministry of Maritime Economy and back to Agriculture over the course of a few years, hampered development of an efficient policy management system. Furthermore, in 2006 the new Minister of Agriculture, Andrzej Lepper[239], dismissed the majority of key employees of the Department of Fisheries. The structure lost its intellectual capacity to prepare good quality programming documents, such as the Operational Programme Fisheries in the 2007–2013 budgetary perspective.

Nonetheless, the key problem with fisheries is that the policy has simply not been working. While eventually the formal goals related to adaptation were achieved, the most visible result from CFP implementation is the 40% decrease in the fishing powers of Polish fisheries without an accompanying increase in its profitability.

Implementation of the pre-accession commitments: legal and institutional adaptation

Of the three framework regulations adapting Poland's fisheries to the CFP, two were adopted with delay, and work on the third has been continued without effect until a few years after accession. In consequence, secondary acts implementing the policy and providing legal framework for the institutional structures also remained behind schedule. The encountered delays did not stay out of sight of the European Commission. It complained about Poland repeatedly rescheduling its implementation timetable and

[239] Leader of the Self-Defense party in governmental coalition with the Law and Order party, in power from October 2005 until November 2007. From May to September 2006 Minister of Agriculture in the government of Kazimierz Marcinkiewicz, from October 2006 until July 2007, in the same post in the government of Jarosław Kaczyński.

reoccurring delays in the adoption of legislation "in all key areas of the policy, resource management, inspection and control, and in the area of market policy", which should be "urgently addressed" (CEC 2002: 76).

Particularly consequential was the deferred adoption of the Law on maritime fisheries (2001). The act had been passed a year later than assumed in the pre-accession commitments from the National Programme of Preparation for Membership (NPPM) (UKIE 2001). Similarly, the Act on fish market organization (2002) (also amending some provisions of the sea fishery act) due to be adopted by the end of March 2001 (UKIE 2001), eventually came into force in February 2003. Additionally, out of 22 ordinances to the above legal acts, which were adopted or planned to be adopted, the 2003 Report from the realization of the NPPM (UKIE 2003) noted that thirteen were delayed and the rest not specified by the NPPC, so the timing of adoption was impossible to assess.

Furthermore, the Act on the structural aid in the fisheries sector, according to the NPPM to be adopted in the beginning of 2001, has never come into force. The state aid in fisheries has been governed by the structural policy regulations, in particular the Act on the National Development Plan (2004) and ordinances concerning the Operational Programme Fisheries (2004). The adoption of the latter was also overdue (as with most of the Structural Funds regulations), which posed a threat to the rate of the EU funds absorption in the sector (Donigiewicz 2004).

Deferrals in adoption of legal acts led to delays in institutional adaptation scheduled in the National Programme for Preparation for Membership and accession negotiations documents. Delayed implementation of the maritime fishery Act (2001) postponed the setting of the Vessels Monitoring Control (VMS) system implementing Council Regulation (EEC) 2847/93 and establishing a control system applicable to the CFP (1993). Provisions of the law regulating the VMS system entered into force on 1 November 2002 and only since then could contracting the construction of the system begin. The NPPM anticipated the implementation of the system in the second half of 2001 but the Report from the realization of the NPPC (UKIE 2003) noted that the system should function in the first quarter of 2003. Similarly, delays occurred with respect to setting the vessels registry,

created in February 2002 instead of the third quarter of 2001, as anticipated in the NPPC (UKIE 2001a), due to the absence of legal underpinning.

In fact, most of the key adaptational measures were overdue and implemented two years behind schedule, at the end of 2003. These included the technical fittings for the system of control of catches, vessel register, opening of the first sales centers as well as the projecting and implementation of the integrated information system for public administration (UKIE 2003).

In addition to that, the system of financial support for fishermen anticipated to take effect from the day of accession was implemented with delay due to the absence of legal framework. The report on the control of Fisheries' adaptation to the EU, carried out by the Supreme Chamber of Control in 2004, (Donigiewicz 2004) revealed that the assistance programmes could not be activated due to the lack of major ordinances regulating it. The government had not prepared the specimen of applications for financial assistance to fishermen organizations, for withdrawal of fish products from the market and of co-financing agreements for reimbursement of the modernization costs to the fishermen, despite the latter being available only up to the end of 2004.

Moreover, the report pointed out that despite the creation of an IT system for managing fisheries, due to the organizational problems within the Ministry, it was not used for its purposes. The Regional Inspectorates were unprepared for fulfilling their functions due to the technical, human resources and organizational deficiencies. The delays also pertained to the program of fish market organization. Out of five projected first sales centers, the construction of only two, located in Ustka and Władysławowo, has commenced. The reason for the delays was the incorrect specification of the project prepared by the Ministry of Agriculture (Donigiewicz 2004).

Poor policy results and escalating conflict with the European Commission

The Common Fisheries Policy was created to protect maritime resources but also, what arises from the Treaty provisions, to ensure harmonious and balanced growth and to raise the standard of living and quality of life for the coastal communities (Article 3(1)(e)

of the EC Treaty). The most evident effect of adaptation to the CFP in Poland was an around 40% reduction of the fishing fleet capacities due to the scrapping of the vessels with the Structural Funds support (Ministerstwo Gospodarki Morskiej 2006). In this sense, implementation of the CFP provisions, assuming a reduction of the fishing capacities, has proven a success.

However, although the fishing limits had been distributed among a smaller number of fishermen after fleet reduction, they were still insufficient to provide a living for those who stayed in the job. As fishermen argue, the fishing limit (for cod catches), set at the level of 40 tonnes, has been sufficient merely to pay the annual costs of fuel. In order to cover other expenditures, fishermen are forced to exceed the limits and avoid reporting all catches. There is a general concern among fishermen organizations that overfishing by Poland's fishermen reaches around 150–200% above the legally set quotas[240]. They are also in consent that all EU countries overfish, but not all make such a noise around the issue.

If fishermen's estimations are right, most of the Polish fish is of illegal origin. This would explain other industry problems, notably the poor condition of the first sales market. Fishermen whose fish is illegal do not sell it on the market or at auctions, but rather directly at the harbour, where an exchange may take place without registering. In consequence, the two fishing centers that were constructed partly by the EU Phare projects until 2007, in Ustka and Władysławowo, do not trade due to the lack of fish (Sandecki 2006).

Additionally, fishermen claim that control institutions, the Fisheries Inspectorates, do not have sufficient equipment to control fishing activities, though due to the installed monitoring system they are able to monitor vessels' movements. At the same time, a stricter control policy would force the government to implement a comprehensive assistance programme for most of the industry, which would remain without source of income. Since even the design of such a programme has proven thus far impossible, the government tolerates the *status quo* and the infringement of the acquis. As in most other policy areas, the EU Structural Funds applied in the fisheries since the end of 2004 finance ambitious

[240] Interviews with the Presidents of the Polish Association of Fish-Processing Industry, Fish Producers Organization and the Association of Maritime Fishermen, in August and September 2008.

goals, but goals that are of secondary importance in situations where the basic needs remain unsatisfied.

Partly due to this fact and partly due to the complexities related to funds' management within public administration, the level of absorption of the EU funds in the Fisheries Operational Programme for 2004–2006 is around 60%, the lowest of all Operational Programmes realized within this budgetary perspective. The Ministry of Regional Development pointed out as the key problem continuously low level of contracting and payments, in particular concerning the funds for temporary suspension of fishing and vessels modernization. In the latter priority, the level of absorption reached only 18% of available allocation and only four agreements have been signed (Ministerstwo Rozwoju Regionalnego 2008). The problem with such actions is that it is very difficult to renovate 30-year old engine without increasing its main power, for which the funds cannot be spent. Additionally, the funds have not filled in the key capital deficiencies, with respect to harbour infrastructure, storage capacities and transport infrastructure. As a result, the Polish fish-processing industry, in contrast to fisheries developing after accession, based 90% of its production on foreign fish.

As mentioned above, the key point of contention regarding the functioning of the CFP was the observance of the fishing quotas agreed by the European Council of Ministers. The smouldering conflict rapidly escalated in 2007, after DG Fisheries decided to take action against the violation of the limits by Polish fishermen. In addition to that, some fishermen representatives were manifesting their insubordination in the media (Sandecki 2006). Particularly noticeable were the actions of the president of the Association of Polish Fishermen (not a 'recognized' organization), Grzegorz Hałubek, who claimed that nobody in Poland obeys the limits, so the controllers gave up on controlling the fishermen (interview in Gazeta Wyborcza 2006). Mireille Thorn, the spokesperson for Commissioner Borg admitted that the Commission has evidence for such interviews, in which fishermen representatives disputed the scientific data on the amount of cod in the Baltic (see Socha 2007). Moreover, while in 2004 the fishing limit for Poland was 16 thousand tonnes, during this year Poland exported 52 thousand tonnes. This meant that Polish fishermen

caught around 100 tonnes of fish[241]. The Commission claimed that in 2007 the Polish limit of 10.8 thousand tonnes was exceeded by 300% (Dziennik Bałtycki 2007).

In the wake of evidence of overt infringement of the acquis, the Commission decided to impose a complete ban on cod catches as of July 2007 until the end of the year, and to decrease further the Polish TAC for the following years[242] as a penalty for the overfished quota[243]. The Fisheries Commissioner, Joe Borg, threatened Poland with referral to the ECJ and further cuts of the quotas. In response, Poland's government appointed in July 2007 Grzegorz Hałubek[244], the key contester of the CFP[245] (see Gazeta Wyborcza 2007), to the position of deputy minister of Maritime Economy. According to the new minister the Commission miscalculated the Baltic fish resources, and its measures restricting fishing activities were ill-suited. Thus, the minister did not impose an unequivocal ban on fishing upon the fishermen after the Commission imposed its ban (Kraśnicki 2007). Taking an example from the position of the minister, some fishermen organizations encouraged their members to ignore the ban and continue fishing. Others, however, such as the Association of Maritime Fishermen or the National Chamber of Fish Producers appealed to their members to respect the ban and charged the government with irresponsible behavior. Their concern was not only the consequences of over-fishing for cod, but also the possible retaliation from the Commission, such as the delay or suspension of distribution of Structural Funds for fisheries. They have seen negotiations for higher compensation to the fishermen a more reasonable solution to the problem than embarking on an open conflict with the Commission (Niklewicz et al. 2007).

However, since the ban threatened the income of all fishermen, those overfishing and those who were not, fishermen organizations, even those that did not break the ban, staged protests against the Commission's decision. While fishermen organizations differ

[241] Interview with a Commission official from DG Fisheries, Conservation Policy unit, October 2003.
[242] In 2008 by a further 2000 tonnes.
[243] The Commission Report from 2007 estimated that Poland exceeded its fishing limit by 48.6%, Sweden by 21.4%, Lithuania by 15.5%, Germany by 13.6%, Denmark by 12.7% and Latvia by 7.5%.
[244] Who in the meantime ran in an election for Parliament from the list of the ruling political party, Law and Justice.
[245] As a protection measure for the population of cod in the Baltic Sea, the limits on fishing of this species have been gradually decreased. While in 2000 Polish fishermen could catch 16 thousand tonnes, in 2004, 2005 and 2006 only 15 thousand tonnes. In 2007 the limit was further decreased to 13.5 thousand tonnes.

when it comes to the strategy of dealing with the industry failure, all agree that joining the CFP has led to agony in the industry and the ban on cod catches would just seal its end (Dziennik Bałtycki 2007). There is a general agreement that all Baltic countries consistently over-fish and scientific data based on the legal catches is inaccurate. However, the 'recognized' organizations criticized Hałubek's actions bringing international attention to the apparent wrongdoings of Poland. The consequence of this kind of promotion was the falling price of Poland's fish, widely considered to be illegal, which further deteriorated the industry's situation. The policy failure in the sector is related to the CFP but mostly has worsened due to the government's inability to design such structural programmes that would alleviate at least part of the problems and make fishing a profitable activity for those few fishermen that decide to stay in the job.

Instead, the government has decided to take action against the Commission, even referring its decision on prohibition of fishing for cod in the Baltic Sea ((EC) 804/2007) to the ECJ[246]. The lawsuit was tacitly withdrawn by the following government, which realized that there was no chance to win the case (Niklewicz et al. 2007). Mireille Thom admitted to Gazeta Wyborcza that during ten years of her work for the European Commission, she has not encountered such a situation in which a member country openly dismissed the request of the Commission to end fishing (Chrzan and Niklewicz 2007).

Conclusions

The evolution of accession negotiations in the Fisheries area demonstrated particularly well Putnam's two-level game logic operating in the international negotiations (Putnam 1988). A thick acquis communautaire combined with particularistic interests of the EU member countries stiffened the negotiation position of the European Commission. The aggregated preferences of the member countries and the Commission's defence of inviolability of the acquis principle created a small international win-set. At the same time, opposition at home narrowed down the domestic win-set of Poland's government. The

[246] (2007) Poland v. Commission (Case T-379/07 ECJ)

combination between the two made for a small or nearly non-existent overlap, which resulted in huge problems in implementation after Poland's accession to the EU.

Poland's demand for a transition period in Fisheries, presented to the Commission in the later stages of negotiations and representing a shift upwards from its initial stance, was not credible and thus not serious from the Commission's perspective. Fishermen groups were too weak and too disorganized to intervene on time, unlike in the previously analyzed case of Taxation. Even though they did finally manage to bring about an amendment of the negotiation position, it was too late for these pressures to have any real effect. Some fishermen have argued, however, that the reason for failure was a trade-off between Fisheries and the politically more important question of the milk quotas (in the Agriculture chapter)[247].

Nonetheless, as the Fisheries case demonstrated, pretending to have a small win-set domestically is unlikely to lead to negotiation success. Additionally, despite the uniform preferences of a very narrow group, which according to Olson's logic should have resulted in strong opposition and delays in implementation, resistance was limited. Fishermen's inability to intervene in the negotiations trajectory in their initial stages squandered their chances for a transition period. Eventually, the only way to express their discontent with the negotiated terms of accession was defiance against the rules considered harmful and unjust.

As the Fisheries area demonstrates, the agreed terms of accession without any transition periods do not guarantee effective adaptation. Further, implementation of the measures against the key stakeholders may prove particularly problematic, even more so when they are supported by the incumbent government unwilling to recognize commitments undertaken by the predecessor.

Another dimension of the problem that came out among accession negotiations is the administrative capacity issue. Similarly to the Regional policy area discussed in another chapter, the implementation of complex policies proves particularly difficult without capable public administration, even when clear distributory benefits should guide it. Implementation of the partnership principle into policy-making in fisheries has further

[247] Interview with the President of the Association of Maritime Fishermen in September 2008.

complicated its realization. Industry stakeholders, who learned from the negotiations experience and were reinforced by the new policy design, were matched with a weak government. This seemed to further stall the government's actions in the adaptation of Fisheries to the CFP standards.

CHAPTER VI

NEGOTIATION DEADLOCK ON THE REFORM OF THE STATE AID SYSTEM IN POLAND

Introduction

The Competition policy has emerged as one of the most contentious policy areas in the context of adaptation to the EU. Since the early 1990s, the CEE applicants implemented a broad array of measures with a view to increasing their attractiveness as a potential localization for FDIs, necessary to redress trade imbalances ensuing from the economic transition. On the other hand, generous payoffs or tax exemption schemes were offered to the obsolete, still mostly state-owned factories in the sensitive sectors. These measures aimed to prevent their bankruptcy in the new market conditions and alleviate high social costs of such scenarios. Most of these incentives, however, remained inconsistent with the EU law as they created state-regulated frameworks distorting free competition. Convergence between the Polish state aid regime and the competition acquis was thus likely to involve high economic and political costs.

The major difficulty of approximation to the Competition policy acquis stemmed from the fact that it would harm numerous beneficiaries of the 'illegal' aid schemes. While massive entrenched interests have been blocking reforms in the steel, shipbuilding and coal industries, business environments opposed adaptation of the regionally oriented aid programmes applied in the Special Economic Zones (SEZ). The latter anticipated tax exemptions and other fiscal incentives for investors located in the zones.

The different nature of adjustment problems pertaining in these two sub-fields of state aid requires separate analyses for each issue area. Restructuring processes in the state-owned industries are of the most contentious and politicized fields of Poland's political economy. They also involve many interests possessing powerful political

leverage and implicit party representation in the Parliament. These properties make this field a less appropriate subject for analysis of entanglement between the interest groups and the government in the context of accession process. Consequently, this chapter focuses on the trajectory of adaptation to the EU applied to the enterprises located in the SEZ.

The Special Economic Zones were established in 1994 with an aim of encouraging investment in regions stricken with economic problems and high unemployment levels. However, from adaptation to the EU perspective, their major problem was that incentives offered to investors in the zones were inconsistent with the competition acquis. Nonetheless, investors already located in the zones and benefiting from favorable investment conditions had high stakes in maintaining the legal *status quo*. The companies operating in the zones belong mostly to large and foreign companies, whose interests are represented by strong countrywide business organizations. Thus, the Competition case denotes a policy area with strong prior interests opposing adaptation to the acquis, which would worsen investment conditions in the SEZ. Opposition to the reforms from the strong interest groups narrowed down the Polish government's win-set in the accession negotiations. Paradoxically, in line with Putnam's prediction (Putnam 1988), this should have reinforced the Polish negotiation position.

The Competition policy also represents a particularly regulated and politically important policy area, one of the pillars of the Common Market. Its three tiers constitute anti-trust/cartel, merger control and state aid. Each of these branches addresses an artificial distortion of the market that reduces efficiency and thereby harms the consumer (Bannerman 2002: 8). The policy, based on the principle of non-discrimination, is framed by a dense network of legal provisions and case law. The politically ascertained role of the European Commission provides additional support for its implementation. Consequently, the European Union reluctantly admits exemptions from the acquis in this field, which are usually hedged with detailed conditions and timetables for adaptation.

These features place the Competition policy on the the thick acquis/prior opposition to reforms section of the grid presented in the introductory chapter to this

research project. In line with the hypothesis presented in the Introduction, the relatively weak position of the Polish government at home may reinforce it internationally. This chapter analyzes whether the achieved terms of accession and results of adaptation follow such a scenario. The investigation proceeds with discussion on the features of the acquis communautaire, justifying its classification as a thick acquis area. The next section focuses on the domestic context of implementation of the acquis, outlining the state of the policy prior to enlargement. The following part analyzes sources of EU conditionality before the start of the accession negotiations, and discusses the dynamics of the accession negotiations. Further, the record of adaptation and the impact of interest groups on their eventual outcome is outlined. The conclusions summarize the findings.

1. EU competition rules and state aid regulations

Although most of the European competition policy tools are targeted at private sector firms, a large part of the DG Competition workload concerns regulations on government handouts to companies (see Annex 6.1. for acquis communautaire in the Competition policy area). The European Union treats state aid granted by the member countries as an exemption from the general rule that free competition secures a level playing field for enterprises operating in the Community area. It reflects a liberal approach to the functioning of the economy, centered on the principle that financial support from the state budget distorts the operation of the market. Along with the gradual removal of trade barriers, the control of public aid disposed by the national governments became one of the priorities accompanying the creation of the single market (Fornalczyk 1998a: 22), and one of its key pillars (Bannerman 2002).

A key objective of the EU state aid regime has been "to ensure that government interventions do not distort competition and intra-community trade"[248] and in return do not counterbalance the positive effects of abolishing trade barriers (Bannerman 2002: 5). State aid, in the form of grants, soft loans or tax benefits, is permissible in the EU provided that it responds to the "exceptional circumstances" and under the condition that its positive effects in important policy areas outbalance the possible distortions caused (European Commission 2007b: 2). Despite the Treaty provisions not addressing

[248] http://ec.europa.eu/comm/competition/state_aid/overview/index_en.cfm

the potentially distortive effects of the high levels of state aid, both the Commission and the European Council have stressed the exceptional character of such support.

Nonetheless, the importance of the state aid instruments has been decreasing since the 1992 Maastricht criteria imposing public debt restrictions on countries willing to join the Economic and Monetary Union (EMU). Following Stockholm and Lisbon European Councils endowed the new rules with the "necessary political impetus" (CEC 2007b: 7). During both meetings, the member countries agreed that the level of state aid in the European Union must be reduced and the system made more transparent (European Council in Stockholm 2001), so to assure an increase in productivity and sustainable economic growth. Apart from reducing the overall volume of state aid, its character was to shift towards horizontal objectives tackling issues such as employment, regional development, environment and training or research (European Council in Lisbon 2000). These landmarks, together with the continuous efforts of the Commission "to ensure a strict control of state aid throughout the Union" and pressure for redirecting aid from sectoral lines towards horizontal issues "of common interests, including cohesion objectives", (CEC 2004b: 4) have led to a steady decrease in public aid throughout the EU.

Table 6.1.: Trends in the level of state aid in the EU-15, 1992–2002

	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	Average 1998-2000	Average 2000-2002
Total state aid less railways in billion EUR	70.4	75.2	72.4	71.0	71.5	67.1	60.5	52.5	50.9	49.5	48.8	54.6	49.7
Total state aid less agri, fisheries and transport in billion EUR	54.4	60.2	55.4	52.6	54.2	50.2	46.4	37.6	35.4	34.0	34.0	40.2	35.4
Total aid less railways as % of GDP	1.09	1.18	1.11	1.00	0.98	0.88	0.77	0.64	0.59	0.57	0.56	0.67	0.57
Total aid less agri, fisheries and transport as % of GDP	0.85	0.95	0.85	0.74	0.75	0.66	0.59	0.46	0.43	0.41	0.39	0.49	0.41

Source: European Commission based on the data from DG Competition (CEC 2004b)

Although the majority of member states appeared to respond positively to the calls for "less and better targeted State aid" (CEC 2004b), there still remained considerable differences between particular EU members[249]. Nonetheless, the Commission's 2004 Report on State Aid[250] confirmed that most aid discharged on the

[249] The share of aid as a percentage of GDP ranged from less than 0.2% in the Netherlands, Finland, Sweden and the United Kingdom to around 0.55% in Germany, Spain and Portugal, and 0.72% in Denmark (CEC 2004b).

[250] Covering development and data up to 2002.

eve of the fifth enlargement was horizontal in character, covering such areas as research and development, small and medium sized enterprises, or environment and regional economic development. Only 27% of the aid was intended for specific sectors, with manufacturing, coal and financial services high on the list. In several member countries, notably Belgium, Denmark, Greece, Italy, Netherlands, Austria and Finland, virtually all the aid awarded in 2002 was earmarked for horizontal objectives (CEC 2004b: 5). These trends confirm EU member countries' gradual achievement of the key goals of state aid reform, that is diminishing its absolute volume while refocusing existent assistance schemes onto the horizontal objectives (see CEC: 2004b).

Nonetheless, these achievements have not precluded debate on the desirability and sensibility of strict public aid controls exercised by the Commission. The challenges of the contemporary world, in particular in the context of globalization, and the increasing international dimension of the EU competition policy, gave new dynamics to these discussions. The European state aid regulations raise questions about equal footing for EU-based and foreign companies in the situation where EU restrictions on state aid concern the former. Controversies arise due to the diffusion of benefits from such policies and concentration of losses, in particular in terms of job losses due to the bankruptcies of the companies deprived of support. Equally contentious remains the issue of state support to sensitive industries (such as steel, coal mining, motor vehicle). As a response to these questions, the Commission started a process of modernization and simplification of state aid procedures. To this end, the Council adopted Regulation (EC) 994/98 (1998), which enabled the Commission to apply so-called "*block exemption regulations*" for state aid (CEC 2007b: 7). The need to stretch the EU rules to the CEECs, relatively inexperienced in practicing competitive markets, have also been perceived as an upcoming test for the policy, which would verify its ability to withstand pressures from the EU expansion.

The dense legal underpinning for the EU competition rules

The basic EU competition rules applicable to the state have been outlined in Articles 87–89 of the Treaty and amplified over the years by secondary legislation and Court rulings (CEC 2007b: 2). In general, the EU state aid regulations have three key dimensions. Firstly, they outline the situations in which state aid is allowed; secondly,

they define cases in which it might be used and thirdly, they regulate the application of these exemptions.

The complexity of the system derives from the fact that the acquis does not ban government support *per se*, but rather targets those measures that give undue advantage to some firms and so distort competition within the EU. The Commission, as a 'guardian of the Treaties' has developed a sophisticated system of appraisal of whether support provided by the member countries falls outside the frames outlined by paragraph 1 of Treaty Article 87 (ex Article 92) stipulating that:

> ... *Any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favoring certain undertakings or the production of certain goods shall, insofar as it affects trade between Member States, be incompatible with the common market.*[251]

The Treaties do not provide a precise definition of state aid. It may be, however, inferred from the secondary law, for instance, the 1986 Commission Decision 2064/86/ECSC, establishing Community rules for state aid to the coal industry (1986). It defined the concept as "aid granted by central, regional or local authorities and any aid elements contained in the financing measures taken by Member States in respect of the [coal] undertakings which they directly or indirectly control and which cannot be regarded as the provision of risk capital according to standard company practice in a market economy" (1986, Art. 1.2). A later Council Regulation (1999) defined 'aid' as "any measure fulfilling all the criteria laid down in Article 87(1) of the Treaty".

Treaty Articles 87(2) and 87(3) specify cases in which state aid should, or could, be considered acceptable (the so-called *exemptions*). Treaty (1997, Art. 87(2)) explicitly allows for the application of some types of state aid. Types of assistance considered compatible with the common market include support having a social character, reimbursement of losses incurred due to the natural disasters or aid granted to East Germany. Additionally, the Treaty specifies the types of aid that may be considered lawful within the EU (1997, Art. 87(3)). These include aid to promote development in areas lagging behind, support the execution of projects of important European interest, or remedy serious disturbances in the economies of member states, as well as

[251] Treaty on European Union OJ C 340 of 10 November 1997.

facilitating development of certain economic activities or areas (provided it does not adversely affect trading conditions), and assistance for promoting culture and heritage conservation. The Treaty also gives leeway to the Council to accept other types of state support by qualified majority voting on a proposal from the Commission.

Based on the provisions of Treaty Article 88 (ex Article 93), the European Commission supervises exemptions from free competition and closely follows cases of state support for enterprises (1997). Member countries must notify the Commission of any plan to grant state aid before putting it into effect. The Commission has the power to decide whether the proposed aid qualifies for exemption under Article 87(2) or 87(3), or whether the "State concerned shall abolish or alter such aid" (CEC 2007b: 4)[252]. The Commission has also taken a leading role in overseeing the admissibility of public aid granted by member states' governments and in reviewing aid systems applicable in member countries. Empowered with investigative and decision-making competencies, the European Commission holds an exclusive authority to accept exemptions from the general prohibition of state support.

Application of the EU state aid rules and thus the powers of the Commission is, however, restricted to the measures lying within Community competencies (in line with Treaty Art. 87(1)). These cover situations involving the transfer of state resources[253], aid providing the economic advantage, selective in character and affecting the balance between enterprises[254] as well as with potential effects on competition and trade between member countries (CEC 2007b: 3).

In order to provide transparency and legal certainty to the decision-making system on state aid, the European Commission has developed and established a consistent practice for the application of Article 88. It is based on the voluminous case law of the ECJ as well as procedural rules and principles, which took the form of secondary legislation, but also communications, notices, frameworks, guidelines and letters to the member states. Over the years, special rules have also been adopted for a

[252] The Council Regulation (EC) 659/1999 of 22 March 1999 laying down detailed rules for the application of Art. 93 of the EC Treaty set out procedural rules to be followed in the area of state aid and the Commission Regulation 794/2004 of 21 April 2004 implemented these rules.

[253] The aid may also involve the transfer of resources by a private or public intermediate body appointed by the State, such as in cases when, for instance, a private bank is given the responsibility to manage a state funded SME aid (CEC 2007b).

[254] Unlike the "general measures" applied across the board to all firms, such as most of the nation-wide fiscal measures (Ibid.).

number of sectors featuring specific types of problems or conditions (see Annex 6.2. on the acquis communautaire in the state aid area)[255]. Overall, the acquis communautaire in the state aid area includes Treaty provisions, horizontal provisions, regional aid and sectoral provisions as well as measures on utilization of specific aid instruments such as guarantees, fiscal aid, export credit insurance etc.[256]

Regionally oriented assistance in the context of the EU competition rules

A particularly important element of the European Union state aid regime, due to its wide application in the framework of the EU Cohesion policy but also within this research framework, is the regional type of aid. Treaty (Art. 87(3)(a)) admits regionally oriented assistance in the areas "where the standard of living is abnormally low or where there is serious underemployment". Such aid may be used "to promote the execution of an important project of common European interest or to remedy a serious disturbance in the economy of a Member State" (Art. 87(3)(b)). The criterion for designation of such areas is the Europe-wide threshold of 75% of GDP per capita (PPS) at NUTS II level.

The rationale behind the usage of the regional type of state aid is the provision of some form of compensation to the enterprises, which decided to settle in 'unfavorable' locations, in order to encourage investment and hence development in disadvantaged regions. The relevant provisions of the acquis related to the regional aid were assembled in 1998 under the 'Guidelines on national regional aid'[257]. The document stipulates that granting such aid is "conditional on the maintenance of the investment and the jobs created during a minimum period in the less favored region".

Derogation from the incompatibility principle established in Article 87(3)(a) of the Treaty may be granted in respect of regional aid only if the equilibrium between the resulting distortion to competition and the advantages of aid in terms of development of a less favored region may be guaranteed (point 2). Fulfillment of the Commission

[255] These currently include the sectors of audiovisual production, broadcasting, coal, electricity (stranded costs), postal services, and shipbuilding. Specific instructions have also been issued for the regional type of aid. Apart from that, particular restrictions pertain to aid granted to the steel and synthetic fibers industry. DG Competition is competent in state aid for all sectors excluding aid in agriculture and fisheries, transport and energy.

[256] See http://ec.europa.eu/comm/competition/state_aid/overview/index_en.cfm

[257] Information from the Commission – Guidelines on national regional aid of 10 March 1998.

guidelines for regional aid is a precondition for its positive decision on a particular aid programme. The Commission pays particular attention to the territorial scope, permissible aid ceilings and the investment and current aid, export aid, sectoral aid and limits applied to all forms of aid (Ambroziak 2003). The Commission has also issued specific guidelines for various types of aid that may be granted in disadvantaged areas. The categories include aid for SME, environmental aid, aid for R&D&I, support for rescue, and restructuring aid for enterprises. It also checks that such assistance does not come to offload the economic difficulties on other countries and does not in unduly distort competition and trading conditions (Tadeusiak 1998: 115). Overall, the extensive prerogatives of the European Commission combined with a dense network of mostly 'hard' laws neatly delineate and narrow down the Community win-set in the Competition area.

2. A domestic context for implementation of the EU state aid regulations

The competition policy constituted one of the key elements of the economic transformation, which commenced in Poland in January 1990. The major challenges to tackle in the beginning of the 1990s, and stipulated in the act to ensure fair competition in the marketplace (1993), included the restructuring of enterprises and economic sectors, regulation of the infrastructural sector and introduction of a state aid monitoring system (Banasiński et al. 2003: 168).

The competition policy rules were not only indispensable for development of the free market economy, but moreover the latter was contingent on their presence in the reform package. Ensuring a level playing field for enterprises operating in the market and the introduction of transparent state aid rules aimed to encourage badly needed Foreign Direct Investments (FDIs). They were hoped to reduce the dynamically growing level of unemployment and to maintain the balance of payment[258].

An inherent feature of the communist economic system was practically permanent access to the state support. State-owned companies undergoing economic difficulties were subsidized from the central budget or internally, through financial

[258] In particular in the wake of the growing deficit in foreign trade and current turnover (see e.g. Orłowski, W.M. 1998).

transfers within the multi-company structures (Fornalczyk 1998a: 27). Such assistance was available as means of securing execution of the central production plans but at the same time fuelled pathologies persistent in the enterprise financing system, in effect reducing their self-financing capabilities.

The revision of this approach to the financing of operating activities arrived with the economic transformation. The Balcerowicz reform programme anticipated a reduction in the massive state aid for coal mining[259] and other state-owned industrial sectors as one of the remedies to the excessive budgetary deficit. The measure, implemented in the first half of the 1990s, aimed also to facilitate the growth of competitiveness among the enterprises (Balcerowicz 1992). Rather than being the source of financing for current operations, state assistance in the new era was to be solely a temporary remedy targeting specific objectives, achievement of which would be verified by the market. These principles were also consistent with the EU competition policy rules.

Implementation of this plan, however, has proven only partially effective. State aid granted to large, chronically unprofitable enterprises has continued to stop gap production and employment, instead of facilitating radical and effective reforms (Banasiński et al. 2003: 173). For political reasons the first post-communist governments did not manage to resign fully from subsidies to the biggest enterprises, especially in the 'sensitive' industries. In 2001, the 40 largest beneficiaries of aid received almost half of the available state aid resources, with PKP (Poland's Rail Company) as the record breaker (20%). While the EU countries allotted on average 70% of aid to the horizontal objectives, such as research and development, environmental protection or support for SMEs, in Poland such aid constituted in 2001 less than 7% of the volume of state aid (Banasiński et al. 2003: 173). The persistence of 'unlawful' state aid, in particular to the steel production industry, coal mining and shipbuilding, remains a source of major controversy with the European Commission, a few years after enlargement.

[259] Complete removal was impossible due to the massive gap between domestic and international prices of coal, which needed to be reduced with time. Otherwise a many-fold rise of the price would be necessary.

By 1994, the year the Association Agreement came into force, state aid in Poland, at 3.84% of GDP[260], was among the highest in Europe. The only country distributing more support was Luxembourg (with 3.9% of GDP) (Podlasiak 1998a: 30). According to the Polish government's estimates, the level of state aid in 1998 went down to 1.2% of GDP, but increased to 1.5% in 1999 (UOKiK 2000: 8). These numbers seem consistent with DG Competition data from a later period, estimating Poland's state aid level in 2000 at 1% GDP vis-à-vis the EU-15 average at 0.4%. This difference deepened in 2003 to 2.6 points[261] and nearly disappeared in 2006, when the level of state aid in Poland decreased to 0.5% of GDP (and the EU continued to grant 0.4% of GDP aid) (Podlasiak 1998a: 30). Thus, the level of state aid in Poland shows a clear downward pattern after accession to the EU, which must be associated with EU membership and gradual alignment with the competition policy principles.

Table 6.2.: State aid in Poland as a share in GDP

	1999	**2000**	**2001**	**2002**	**2003**	**2004**	**2005**	**2006**
Share in GDP	1.5%	1.1%	1.5%	1.3%	3.5%	1.9%	0.5%	0.6%

Source: (UOKiK 2002; 2007)

Due to the notoriously empty national budgets, the structure of assistance granted by Polish authorities also tended to differ from that of the EU average. Government support to enterprises in Poland most often took the least painful forms from the budgetary perspective, which are tax exemptions and tax/public liabilities deferrals. At the same time, these are also the least transparent types of aid and thus only reluctantly accepted by the European Commission.

In 1998, on the eve of accession negotiations, grants and tax exemptions (See e.g. CEC 2000c: 29) constituted 75.9% of Polish state aid, which is similar to the EU (81%). However, while in the case of the EU most of this category constituted grants (58%), and tax exemptions only 23%[262], this relation was the reverse in Poland. In 1998 in Poland, the writing-off of public liabilities amounted to more than 50% of the total volume of state aid. In following years the share of tax exemptions was gradually decreasing but interestingly, just prior to accession in 2003, it plummeted to as high as

[260] However, these are only approximate values due to the imperfect compatibility between statistical data from the EU countries and Poland in the pre-accession period (see Podlasiak, Z. 1998a).
[261] With the EU-15 remaining constant and Poland increasing state aid to 3.0% of GDP.
[262] However, some member countries make greater use of tax exemptions, in particular Germany (38%), Ireland (67%) and Portugal (74%) (CEC 2004b).

66% of the total volume of state aid. It then started to fall rapidly, reaching the EU average already in 2005.

Table 6.3.: Percentage share of state aid in Poland according to the EU typology

	% share in State aid in Poland									
	1996	1997	1998	1999	2000	2001[263]	2002	2003	2004	2005
A – grants and tax deferrals	**81**	**79.9**	**75.9**	**86**	**84.5**	**55.2**	**64.8**	**75.3**	**74.9**	**94.9**
A1 – grants	19.3	20.4	25.7	32.8	46	26.3	37.8	9.2	24.9	77.1
A2 – tax exemptions	61.7	59.5	50.2	53.2	38.5	28.9	26.9	66.0	50.1	17.8
B – equity participation	**0.6**	**0.4**	**0.4**	**2.6**	**1.5**	**0.2**	**0.3**	**4.9**	**15.8**	**0.0**
B1 – capital contribution	00	0.1	0.1	2.1	1.3	0.2	0.2	0.5	12.8	0.0
B2 – conversion of liabilities	0.6	0.3	0.3	0.5	0.2	0.0	0.0	4.4	3.0	0.0
C – 'soft loans'	**15.8**	**17.9**	**22.8**	**8.2**	**11.4**	**20.9**	**11.5**	**11.3**	**3.5**	**3.1**
C1 – preferential loans	5.6	9.1	7.8	7.3	9.6	15.5	4.4	3.5	2.9	2.6
C2 – tax deferrals	10.2	8.8	15.0	0.9	1.8	5.4	7.1	7.8	0.5	0.5
D1 – guarantees	**2.6**	**1.7**	**1.0**	**3.2**	**2.6**	**16.6**	**21.8**	**5.4**	**5.8**	**2.0**

Source: (UOKiK 2000; 2002; 2003; 2004; 2005; 2006)

In the post-accession period, the decreasing volumes of tax exemptions have been accompanied by the diminishing level of tax deferrals ("C2"). This instrument accounts in the EU to only 3%[264] of state aid (CEC 2004b: 37) and is reluctantly accepted by the Commission as difficult to quantify and leaving excessive discretionary powers to public authorities when it comes to its application (See e.g. Commission Notice from 1998). In general, after Polish accession to the EU, the volume of state aid has decreased and the structure seemed to gradually simplify, with grants occupying the first position among the forms of state aid (77%) in 2005.

The Special Economic Zones as the tool of regional aid in Poland

The Special Economic Zones (SEZ) constituted, prior to enlargement, the single instrument for distribution of regionally oriented assistance in Poland. They were set up in 1994 by the Act on Special Economic Zones (1994)[265] with an objective to contribute

[263] The data do not include tax exemptions granted to enterprises in the Special Economic Zones due to the reporting difficulties. The obligation of Treasury Offices to include reports on the volume of such aid in the state reporting system was included only in the amendment of the Act on conditions of admissibility and monitoring of state aid to enterprises from 27 July 2002.
According to the UOKiK report from 2002, the value of aid granted in the SEZ in 2001 was 3.1% of total state aid volume distributed in Poland in 2001.

[264] Only in Italy the tax deferrals reach 14% of the volume of state aid (CEC 2004b).

[265] It was amended in November 2000 (O.J. 2000.117.1228), October 2003 (O.J. 2003.188.1840) and on 30 April 2004 (O.J. 2004.123.1291) by the Act on proceeding with matters related to state aid (regulating

to the development of areas characterized by a high level of structural unemployment or where major industrial restructuring took place (see UOKiK 2003a). The key means to achieve this goal was the promotion of specific economic activities, increase of competitiveness, support for new technologies, job creation and increase of export (1994, Art. 3). The law defines a Special Economic Zone as a "non-inhabited area of the Republic of Poland where business activities can be carried out according to the rules designated by the Act". They function as public companies with majority-voting rights, in possession of the State Treasury or the voivodship self-government (see Annex 6.4). However, the latter enjoys this privilege in only one: Pomorska SEZ[266]. The key rationale behind the establishment of the SEZ was to enhance the attractiveness of disadvantaged areas by encouraging companies to invest in their territories.

The SEZs were established by the Council of Ministers on the proposal of the Minister of Trade[267] after consultations with the Voivod and Municipality Council. The legal basis for operation of each zone constitutes a separate ordinance to the Act on the SEZ. On the basis of this law there were fourteen SEZ and two technological parks created between 1994 and 1998. The majority of them were bound to operate for twenty years (and technological parks for twelve years).

The license to act in the SEZ, issued by the Minister of Economy[268], allows the entrepreneur established in the zone (after meeting specific conditions for each zone with regard to the volume of capital invested etc.) to benefit from tax exemption or tax relief. The most important incentive for companies to locate within the zones was complete tax exemption for the first ten years of operating and 50% exemption for another ten years. During the first years of operation enterprises were also eligible for exemption from real estate taxes (1991). However, automacity of this preference was removed with the amendment to the Act on the income of self-government territorial units in 1999 and 2000 (2000).

---

procedures of notification to the European Commission, proceeding with the European Commission, rules on return of unlawful state aid, monitoring and control of aid, proceeding with the ECJ, etc.)

[266] It is managed by the Pomorska Regional Development Agency, with the majority of shares in the hands of self-government.

[267] Since 2000, Minister of Economy, in agreement with the Minister of Regional Development.

[268] The SEZ are managed by the join-stock companies or limited liability companies with the major share of the Treasury of the State represented by the Ministry of Economy.

The legal provisions do not restrict the geographical range of the zones. Thus, despite declaratory statements about their contribution to the development of particularly disadvantaged regions, nowadays these two maps do not exactly overlap. Although in the first years the zones were set up in less favored areas[269], with time they started not only to expand, but also to 'mushroom' into various, sometimes surprising locations.

As later practice has proven, branches of the SEZ were designated even within the most developed areas, such as the city of Warsaw (see Annex 6.3.). In particular, in recent years zones followed the investors and their preferable locations rather than *vice versa* (Maciejewicz 2006; 2006a). Although the Treaty of Accession restricted the possibility to create new zones[270], this practice has not ceased. The preferable locations of potential investors were co-opted to the existing SEZ and the same size territory carved out from another part of the zone, so to leave the total size intact[271]. The outcome is often absurd situations, such as the one in Warsaw, which became part of the Łódzka economic zone,[272] or for instance a section of the Warmińsko-Mazurska zone becoming part of the Suwalska zone (see Annex 6.3. for the map). Another result is that fourteen SEZ were spread over a territory of 79 cities and 55 municipalities (Ministerstwo Gospodarki 2005c: 10), with the Tarnobrzeska zone taking leadership and spreading over six voivodships (KPMG 2007: 12). In consequence, the zones have ceased to play the role of regionally oriented assistance tool designed with an aim to redress regional differences.

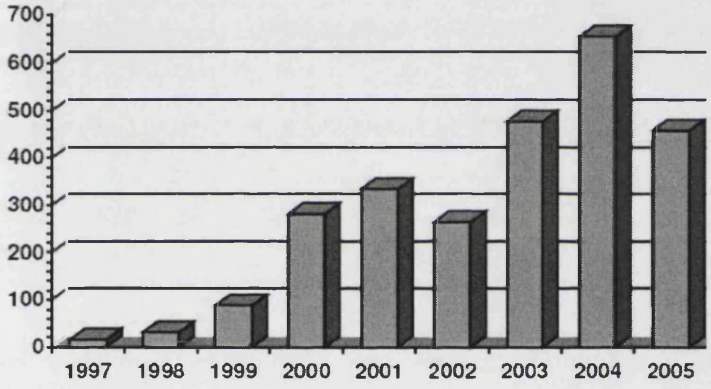
Since the moment of enactment, the zones started developing rapidly in terms of the number of companies operating in their territories as well as the volume of investment and consequently, granted tax reliefs. While in 1998 the tax benefits amounted to 31.3 million PLN, in 2001 this was already 334.2 million (UOKiK 2003: 7) and in 2005 more than 450 million PLN (Ministerstwo Gospodarki 2007: 20). By 1999 there were 250 companies operating within the zones, which increased to 679 in 2004 (Ministerstwo Gospodarki 2005c: 13) and 924 in 2006 (Ministerstwo Gospodarki

[269] However, it remains disputable whether Katowice, the largest zone, belongs to such.
[270] The total area of the SEZ could not exceed 6325 ha until the end of May 2004. Such a commitment was undertaken in the accession negotiations on the membership of the EU (in Poland's negotiation position from February 1999) and formalized in the amendment of the Act on the SEZ in 16 November 2000 (O.J. 2000.117.1228).
[271] Another rationale is that the creation of a new zone would require setting up a new managing company, which would considerably increase the costs.
[272] This location was requested by Procter & Gamble.

2007: 11). These dynamics have not decelerated after accession. There was a 300% increase in investment rate in six of the zones in 2004, which suggests that accession to the EU, even despite the relative worsening of the financial incentives and outcries of investors located in the SEZ (see below), positively contributed to the development of the zones (Ministerstwo Gospodarki 2005c: 14).

By 2001 the companies operating within the zones invested over 12 billion PLN (UOKiK 2002), which increased to 35 billion by the end of 2006 (Ministerstwo Gospodarki 2007). Consequently, there has been a dynamic increase in state aid in terms of tax reliefs granted to enterprises operating in the SEZ, even despite the fall in the rate from 40% to 19%.

Graph 6.1.: State aid in the SEZ 1997-2005 (in mln PLN).



Source: (Ministerstwo Gospodarki 2007)

The SEZ have developed at their own paces[273], with Katowicka holding the position of indisputable leader in terms of the number of issued licenses (143 until 2006) and Słupska at the end of the line (35 licenses) (Ministerstwo Gospodarki 2007: 11). These numbers are also different in terms of volume of investments but since this often happens due to the presence of one large company in a particular zone, it is not necessarily the best performance indicator[274]. Notably, 45% of invested capital is located in two zones: Katowicka and Wałbrzyska in south-west Poland, closer to Western Europe and with better infrastructural connection. This pattern of distribution

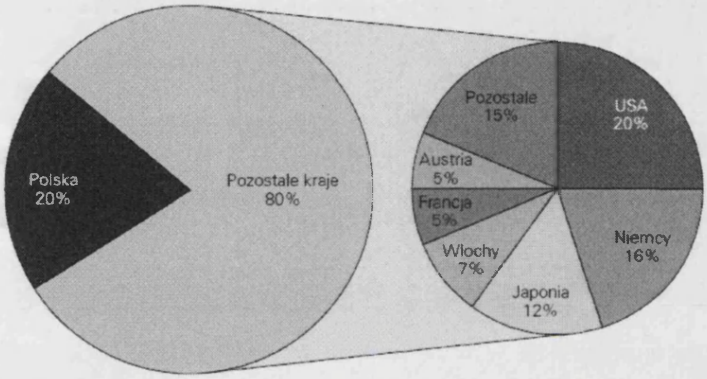
[273] In 2001 two zones (Mazowiecka and Częstochowska) were closed as no enterprise had decided to invest in these areas.

[274] For instance, Słupska zone noted a 380% increase in investment rate, but this is only thanks to the investment of one large company, Kronospan Polska.

once more confirms the weak contribution of the zones to the least developed, eastern regions of the country.

In terms of the origin of the capital invested in the zones, companies from Poland and the US take first place, both with 20% of the share. However, 80% of investors in the SEZ are foreign companies and almost 70% of the capital originates from four countries, Poland, the US, Germany and Japan.

Graph 6.2.: Structure of invested capital in the SEZ



Source: KPMG Report, based on the (Ministerstwo Gospodarki 2007)

There are a number of zones with clear domination of capital from the particular country. For instance, German investors dominate in Kamiennogórska and Legnicka zones (with more than 70% of invested capital), French companies (Michelin) in Warmińsko-Mazurska (above 60% of invested capital) and American capital in Krakowska zone (more than 60%).

In terms of business structure, the motor vehicle industry took the leading position (35% of capital), thanks to investors such as Volkswagen, Sitech, Sanden (dominating in Legnicka zone) and General Motors, Isuzu, Fiat-GM Powertrain, NGK (Katowicka) as well as Toyota, Faurecia (Wałbrzyska). The processing of rubber and plastic occupies second place with 10% of the share and the electronic industry is in third place (LG Electronics, LG Philips, Sharp, Orion and their suppliers), followed by wood processing and paper production (BRW, BDN, RR Donnelley, ICT Poland). Of fourteen zones, six are dominated by one (broadly defined) industry (KPMG 2007: 15).

Although from the perspective of capital invested and the general economic performance of the zones, Poland's government considered them a success, their

operational principles stood in clear contradiction of the EU competition policy rules. The problematic issues were the lack of a regional map as the basis for designation of zones' territories, an operational type of assistance, tax exemptions and pro-export aid. The principles of assistance granted in the SEZ were worked out in 1994, while the Polish government formally committed itself in the Association Agreement to aligning its state aid rules with the EU competition policy regulations. However, the inclusion of the provisions on competition policy in the accord, which came into force in 1992, did not interfere in the creation of a state aid system entirely inconsistent with the EU competition policy principles.

3. The mounting pressure for Poland's adaptation to the EU Competition policy rules

As outlined in the first section of this Chapter, Competition policy belongs to the most important policy areas from the common market perspective. For this reason, since the beginning of the pre-accession process, as well as during the accession negotiations, the Commission has continued to stress the importance of candidates' adaptation to the EU rules in this area.

The sources of pre-accession conditionality in the Competition policy area

The Europe Agreement (EA) (1991) was the first official document, which mentioned the necessity to adapt Poland's competition policy to EU standards. The provisions of the accord applied to transactions affecting commerce in the EU or any of its members. They explicitly requested that any practices incoherent with the competition rules should be "assessed on the basis of criteria arising from the application of the rules of [the Treaty of Rome]"[275]. Article 68 of the Agreement reads that:

... [The m]ajor precondition for Poland's economic integration into the Community is the approximation of that country's existing and future legislation to that of the Community.

[275] Art. 62.2., 63.2 of Poland's Europe Agreement

Poland shall use its best endeavors to ensure that future legislation is compatible with Community legislation.[276]

Moreover, Article 69 has the competition rules among the policy fields shortlisted as the most important for the approximation of laws.[277] In turn, provisions of the Agreement directly referring to the competition policy[278] deem illegal "any public aid which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods" (1991, Art.63(1)(iii)). For the first five years the whole of Poland was to be regarded "as an area identical to those areas of the Community described in Article 92(3)(a) of the Treaty [...]" (Art. 63(4)(a)). Thus, considering the difficult economic situation of Poland, aid to promote development in the areas lagging behind can be considered lawful. This provision, however, has not released Polish authorities from observation of the principles of transparency, *inter alia* by reporting annually to the EU on the amount of aid granted and on request, on aid schemes or individual cases of public aid (Art. 63(4)(b)) [279]. In this way, the EA imposed on Poland very similar obligations as those pertaining to aid schemes applied by EU members.

Due to the absence of major discrepancies in the rules of competition applicable to enterprises, the pre-accession documents focus on the rules of competition applicable to state. While the Commission assessed Poland as "reasonably advanced" in adaptation to the anti-trust provisions, in the state aid area "considerable efforts would be required to build the necessary legal framework and ensure the functioning of the monitoring authority" (CEC 1997b).

In its 1998 and 1999 Regular Reports, the Commission underlined the need for urgent adaptation of the rules of competition applicable to state. Particular concerns raised were the absence of the "satisfactory State Aids law" and "independent State Aid Monitoring Authority" as well as incompatible aid schemes applied in the Special

[276] Europe Agreement, Art. 68

[277] Art. 69 of the Europe Agreement states that: "The approximation of laws shall extend to the following areas in particular: customs law, company law, banking law, company accounts and taxes, intellectual property, protection of workers at the workplace, financial services, rules on competition, protection of health and life of humans, animals and plants, consumer protection, indirect taxation, technical rules and standards, transport and the environment."

[278] Title V of the Agreement devoted to "Payments, capital, competition and other economic provisions", Chapter II "Competition and other economic provisions" (Europe Agreement 1991).

[279] This obligation was reciprocal.

Economic Zones (CEC 1998: 25; 1999: 33). Indirect aid granted to enterprises (social security write-offs, tax-relief, debt write-offs, and tax arrears write-offs and aid given by sub-national authorities) raised particular concerns due to the serious concerns about the transparency of these kinds of assistance (CEC 1999: 33).

After adoption by Poland's parliament in June 2000 of the Law on the conditions of admissibility and monitoring of state aid to entrepreneurs (2000), the next Report by the Commission noted progress in this policy area. The law contained basic principles of the EU state aid regime, thus approximating the Polish system of state aid control to the acquis. It charged the Office of Competition and Consumer Protection (OCCP) with the responsibility to monitor public aid in Poland. However, the Commission criticized the fact that the legislation in force on the SEZ continues to include "elements contrary to the acquis and Poland's immediate obligations under the Europe Agreement"(CEC 2000: 42). Moreover, the Commission assessed as particularly problematic the 'acquired rights' (c.f. tax holidays) of investors, which were intended to be upheld until 2017 despite the contradiction to Poland's earlier obligations under the EA. "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" (CEC 2000: 42).

The main priority now is to ensure that 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. 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. (CEC 2000: 42)

Although numerous positive changes were introduced into the state aid legal system before the publication of the 2001 Report, the Commission still pointed out that "[t]his flurry of legal alignment has not resolved the issue of existing tax benefits granted in the SEZs which has not been brought into line with Poland's pre-existing obligations under the Europe agreement" (CEC 2001b: 50). The assessment of transposition of the acquis in the state aid area was not positive even in the last, 2002 Regular Report. The Commission pointed out inadequate provisions in the restructuring and environmental aid, which did not fully transpose the Community guidelines. Room

for improvement also remained in the SEZ fiscal aid schemes, in particular for permits granted before 2001. The less than satisfactory record was also noted in "aid arising from cancellation or rescheduling of public liabilities". The quality of enforcement was more positive in the areas of regional and R&D aid (CEC 2002: 64). The Commission called for particular attention to the issues of sensitive sectors, such as the steel industry[280]. "Overall, on legislative alignment, administrative capacities and enforcement record Poland is reasonably advanced, except in the areas of fiscal aid and steel" (CEC 2002: 64).

Accession negotiations on adaptation of Poland's rules on state aid to the acquis

Negotiations on Chapter 6, 'Competition Policy', commenced on 19 May 1999 and concluded with a hard-won compromise on 20 November 2002. Similar to other analyzed policy areas, the applicant adopted 31 December 2002 as a timeframe for adaptation to the competition acquis communautaire. The Polish government declared full compliance with the EU competition rules applicable to undertakings already in its initial negotiating position; therefore the thrust of the negotiation effort focused on issues related to state aid. In this respect, the Polish position paper pointed out the low level of economic development and necessity to narrow the developmental gap, as arguments for assessment of the aid schemes and projects in accordance with "Articles 92–94 of the Treaty of Rome, with due consideration given to its specific conditions" (UKIE 2000: 101).

Apart from the rules on state aid granted to some sensitive sectors (notably coal, steel[281] and the motor industry) and environmental aid[282], the key negotiation problem constituted the Polish request for exemption from the acquis with regard to some forms of state aid granted to entrepreneurs in Special Economic Zones (CONF-PL 2/99). The Polish negotiators requested a transition period until the end of 2017 allowing

[280] Aid for restructuring can only be given if the national and individual restructuring programmes of the companies would include the necessary measures for reaching viability and the necessary cuts in production capacity, in line with the requirements set out in Protocol 2 of the Europe Agreement (1991).
[281] The coal mining, for the sake of simplicity, was excluded from the negotiation Chapter 6 'Competition policy' and incorporated into the 'Energy' Chapter 14.
[282] Failure to implement the last point had serious negative repercussions for the regional policy of Poland and the possibility to make use of the Structural Funds. The funds had not been released until the date of accession due to delays in implementation of the Law on the rules of public aid. It was accepted by parliament on 30 April 2004 but until that date lacked ordinances, which made it a dead letter of law.

operational and export aid, exemptions from the principle of accumulation of aid, aid ceilings and restrictions ensuing from principles for granting aid to the motor vehicles sector (CONF-PL 2/99). The duration of the transition period has been justified by the obligation to respect the 'acquired rights' obtained by entrepreneurs who commenced business activities in the zones[283].

Disparate views on implementation of the EU competition acquis in Poland

The European Union refused from the outset to accept transition periods with respect to the state aid granted to enterprises operating within the SEZ. In the Common Position from 19 May 1999 (CONF-PL 18/99) the Community underlined Poland's commitments to respect the EU competition rules under the provisions of the Association Agreement. From the EU perspective, the introduction of the Act establishing the SEZ (1994) represented a violation of Poland's obligations under the accord at the adoption of the Act, and thus an overt breach of the letter of international commitment. The Commission argued that since the Association Agreement came into force, Poland has been legally obliged to adapt its competition policy rules to the acquis. Thus, at the start of the negotiations the EU requested that the acquis in the competition policy field "has to be applied by Poland already now" and no transition periods could be considered in that respect (Conference on Accession 2000b).

In terms of the substantial arguments, the European Commission has pronounced that Poland shall adjust all competition rules to the acquis communautaire, since the common market is assuring a level-playing field for enterprises operating anywhere in EU territory. Specific concerns about the fiscal aid schemes operating through the system of SEZ referred to the lack of objectivity in the criteria designating particularly disadvantaged regions, and secondly, to the type of aid granted to enterprises, that is tax exemptions. These are difficult to reconcile with the principles of transparency and proportionality. Additionally, the EU Guidelines stipulate that there must be a close relation between regional aid and its effects, which refers to the 'balance' and 'effectiveness' principles enshrined in Art. 87.1 of the Treaty.

[283] These rights would expire with termination of activities of the zone, in various cases anticipated for the period 2009–2017, with twelve zones ceasing to operate in 2017.

The ordinances regulating state aid in the Polish zones did not anticipate such measures. In fact, up until the commencement of the accession negotiations it had been unclear how much aid was granted (also as a share of investment costs) and what effects particular SEZs had on the development of their host regions or level of unemployment[284]. A lack of appropriate statistics hindered the monitoring of the actual level of state aid. As a result, it was difficult to measure the intensity of aid, its economic importance and more importantly, its potential impact on competition after enlargement.

Apart from the violating of the terms of the Europe Agreements, the Commission argued that Poland might have enjoyed an 'unjustified' high level of FDI, while on the other hand, some of the international firms located in the SEZ could gain a competitive advantage *vis-à-vis* enterprises located elsewhere. Maintenance of attractive business incentives in one EU member country, which Poland was to become after accession, could influence business location decisions and capital transfer to CEE, thus contributing, for instance, to rising unemployment levels in companies' previous place of residence. The Commission seemed extremely reluctant to consider a compromise on Poland's request for a transition period with respect to the 'acquired rights' of investors in the SEZ. Polish regulations stood clearly in contradiction to the acquis and approval for their (even temporary) operation could set a precedence for the other states. Moreover, it could undermine the authority of the European Commission as the impartial and independent 'guardian of the rules'. Therefore, the European win-set in the negotiations on this policy chapter was particularly narrow, especially in comparison with other policy areas, notably those characterized by the thin acquis communautaire leaving more room for maneuver for the European Commission.

The formal arguments against these charges were cantered around the low income level as a criterion for aid admissibility. The Polish negotiators maintained that state aid granted in the framework of investment programmes realized in the SEZ was justified due to the low level of economic development of these areas when compared with the EU average. In line with the Community guidelines on national regional aid

[284] Until the introduction of the Act on admissibility and monitoring of state aid to entrepreneurs in 2001, local governments were not even obliged to keep statistics or estimate the level of taxes not collected from entrepreneurs due to the tax exemptions applied.

(1998), the whole territory of Poland should be treated as an area fulfilling conditions set by Article 87(3)(a) (CONF-PL 2/99). The principle of non-admissibility of the state aid could therefore be temporarily suspended. Moreover, the negotiators argued that most of the regions, in which the zones were established, fulfilled the Community criteria on admissibility of regional aid in 'disadvantaged' areas, that is income per capita below 85% and unemployment above 110% of the country average.

Furthermore, in economic terms, the existence of the SEZ in particularly disadvantaged regions was presented as having great importance for the creation of favourable investment conditions and opportunity for their development. Poland's negotiators also argued that in a number of regions the initial investments related to opening a zone were already completed and their closure would involve considerable sunk costs. Eventually, closure of the zones would bring firm resistance from the local authorities, populations and social actors. In consequence it could also raise the necessity to redirect part of the EU Structural Funds to reinvigoration of these areas.

Additionally, the negotiators argued that aid granted in the SEZ would have a negligible effect on the single market. Due to the relatively small volumes of support, it would not qualify as state aid as defined in Article 87(1) of the Treaty insofar as it does not affect trade between member countries. Poland's negotiators maintained that as of 1997 the aid granted amounted to around 4 million euros while export aid had been admissible only for one SEZ and could potentially concern 22 entrepreneurs[285] (CONF-PL 2/99).

Finally, the length of the transition period was justified by the necessity to respect the acquired rights of investors operating in the SEZ. These rights would terminate within 2009–2017, with twelve SEZ ceasing their operation in 2017. Adjustment of the Polish law to the acquis in that respect would mean the necessity to pay retributions to investors, who would lose guaranteed benefits. Such treatment would diminish trust in Poland as a country governed by law. Poland's negotiators also

[285] Export aid facility was established only in Mielec SEZ and ceased to be applied on 20 October 1997 when there was an amendment to the regulations governing the zone. At the time of issuing the negotiation position only four enterprises took advantage of export aid.

complained about the double standards in treatment of the candidates and EU members, since the SEZ functioned also in 'old' Community members[286].

The negotiation dynamics

Poland has commenced accession negotiations in the field with application for a transition period until 2017 in respect of operational and export aid, exemptions from the principle of aid accumulation, aid ceilings and restrictions ensuing from principles for granting aid to the motor industry (CONF-PL 2/99). However, Polish negotiators made a commitment in the first negotiation position that the Act on the SEZ would be amended by the end of 1999, which would harmonize the principles of granting aid in the zones with the acquis. The acquired rights of investors who started their operations before amendment of the Act would, however, be respected (CONF-PL 2/99); otherwise, indemnities to the investors would have to be paid. As mentioned above, the EU has dismissed this argument and requested immediate adaptation to the acquis, pointing out that Poland remains in breach of her international commitments (CONF-PL 18/99).

Table 6.4.: Calendar of negotiations on Chapter 6, Competition policy

PROMOTER	THE MILESTONES IN NEGOTIATIONS	DATE
PL	Poland's Negotiation Position in the area of Competition policy	26 January 1999
EU	European Union Common Position	12 May 1999
EU	Draft Common Position of the European Union	28 January 2000
EU	European Union Common Position	7 February 2000
	Technical consultations in Brussels	10 July 2000
	Technical consultations in Warsaw	22 May 2001
	Technical consultations in Warsaw	21 September 2001
EU	European Union Common Position	21 November 2001
PL	Amendment to Poland's Negotiation Position in the area of Competition policy	21 May 2002
	Technical consultations in Brussels	6 June 2002
	Technical consultations in Brussels	28 June 2002
	Bilateral meeting of OCCP and DG Competition Brussels	26 July 2002
EU	Draft Common Position of the European Union	9 October 2002
EU	European Union Common Position	14 November 2002

Officially, until the summer of 2002[287], Polish negotiators did not consider any alternative solution to the SEZ problem other than a temporary derogation. In response

[286] The most important are Madera in Portugal, Canary Islands, Shannon in Ireland and British zones lying in proximity to La Manche.

to the Commission's charges, they presented a legal interpretation of the provisions of the Accession Agreement, according to which adaptation of Poland's state aids to the EU rules was obligatory only after laying down the Implementing Rules[288] on 'assessment of compatibility' of aid, that is after 2001. Therefore, the Polish government accepted its responsibility to harmonize state aid rules only from that date onwards (UOKiK 2002a). As expected, the Commission rejected such interpretations, reiterating that "Poland can be considered to be ready for EU membership only if its companies and public authorities have become accustomed to a competition discipline such as that of the Community well before accession, as already now required under the Europe Agreement" (CONF-PL 102/01).

The relations with the Commission deteriorated further after Poland's adoption in 2000 of the amendment to the Act on the Special Economic Zones (2000), which came into force in January 2001. Although the law adjusted the provisions of aid distributed in the SEZ to the European rules, Polish authorities have continued issuing permissions for investments in the SEZ based on the old rules throughout the year 2000. The government has not been discouraged by warnings from the Commission, which charged Polish authorities with acting with 'wrong intentions' and questioned the legality of the new licenses (PM Chancellery 2000a), also noting this fact as a failure in the 2001 Regular Report.

Since spring 2000, however, it became clear that searching for some sort of compromise would be necessary if the chapter on Competition was to be provisionally closed. Such a solution would unavoidably involve the worsening of investment conditions in the SEZ.

The compromise proposed by the Commission was "to convert, in collaboration with the beneficiaries, the incompatible benefits granted under the Law on the Special Economic Zones of 1994 into compatible aid arrangements. This could be achieved by way of transforming the operating aid into regional investment aid i.e. by limiting the tax exemptions to a percentage of the initial investment". The member states upheld this view of the Commission in the common position of 21 November 2001 (CONF-PL

[287] Although the UKIE had already worked on such scenarios before commencement of the negotiations in 1998 (UKIE 1998).
[288] The rules were adopted by the Association Agreement on 23 May 2001 and therefore the Polish government accepted this day as a 'cut-off' date for all cases of state aid in Poland.

102/01). In answer to this proposal, the Office of Competition and Consumer Protection (OCCP) analyzed alternative solutions to the problem of unlawful aid schemes, considering, among others, exclusion of some types of enterprises from the programme, such as SME or large companies. Instead, the UKIE (UKIE 2002c), being the government agenda in almost permanent contact with the Commission and likely better aware of the restricted scope of its flexibility, proposed to focus on the qualities of state aid granted in the SEZ.

Responding to the positive developments on the Polish side, the Commission decided to narrow down the negotiation problem to only those undertakings that began their investment prior 2001. In return, Poland resigned from the transition period "with regard to those investors who started their activities after 1 January 2001" (PM Chancellery 2001a). At this moment, the solution needed to be drawn up only with respect to enterprises that started operating prior to 2001.

Similarly as in the Taxation chapter, the accession negotiations on the SEZ were conducted in parallel on two separate, domestic and international tables. Investors in the SEZ were clearly interested in the outcome of negotiations, as it defined their future. Their discontent could also have had serious political repercussions, in the case of triggering wider debate on the insufficient defense of the national interest by Poland's negotiators.

Despite advanced talks with the Commission on the resignation or amendment to the application for a transition period, at the domestic table Poland's negotiators kept reassuring investors about the government's commitment to protect their interests. In an answer to the parliamentary enquiry on guarantees and tax exemptions in the SEZ[289], the representative of the Ministry of Finance assured that according to the principles at work in any law-abiding state, citizens could not be deprived of their acquired rights. Similarly, answering to the subsequent interpellation in 1999, the representative of the same ministry once more reiterated this argument, pledging to investors that "undertakings acting in the SEZ will be able to use legally protected preferences also after accession of Poland to the EU".[290] As had happened in other negotiation chapters, the government, after initial denial of any intentions to compromise to the demands of the Commission, did not quite know how to withdraw from such promises.

[289] Interpellation to the Minister of Finance No. 1024 of 13 October 1998.
[290] Interpellation to the Minister of Finance No. 1489 of 25 February 1999.

The agreement reached by the end of the negotiation process was a hard-won compromise from the perspective of both Poland and the EU. The Commission eventually agreed to grant a transition period for the public aid in SEZ, although not of the initially requested length and not for all undertakings. Poland received allowances for the phase-out period for small and medium enterprises until 2011 and 2010 respectively. The aid for large companies was to be converted into 'regional aid' in the understanding of the acquis, with the aid ceiling at 75% of the eligible investment costs if the company obtained it after 1 January 2000. In the motor vehicle industry the aid is limited further, and set at a level that corresponds to 30% of the eligible costs. However, this is still higher than the EU standard of 20%, so could be interpreted as a triumph by the Polish negotiators.

To sum up, the core of the 'state aid' discussion between the Polish government and the EU Commission concerned interpretation of the obligations imposed on the accession countries by the Europe Agreements. Poland's negotiators presented the dire consequences of a lack of accession period: among others, the threat to survival of whole industrial sectors and of a number of small and medium (SME).

4. The role of the social actors in (non)adaptation to the EU competition acquis

Notwithstanding the relatively weak institutional structures for consultations with social partners interested in the outcome of accession talks in particular policy areas (see Chapter III), the outcome of the Competition policy negotiations was contingent on social consultations. Polish authorities could not impose the worsening of investment conditions in the Special Economic Zones without giving notice to the entrenched interests[291]. Moreover, as section 2 demonstrates, many of the beneficiaries of the tax-holiday in the zones were large, foreign or multinational enterprises, whose opinion was difficult to discard. Mishandling of this matter by the government could undermine Poland's position internationally as an attractive investment location. The EU seemed to follow this rationale and somewhat cynically advised Poland to convert

[291] Interview with the Director of the Department of Support for the Committee of European Integration (in 2001–2004) at the Office of the Committee of European Integration, in September 2008.

incompatible aid granted in the SEZ into compatible aid arrangements "in collaboration with the beneficiaries" (Conference on Accession 2001). However, at the same time, the Commission's officials[292] were concerned about the possible impact of interest groups' lobbying activities on the accession negotiations. Particular concerns were raised on the beneficiaries of aid in the SEZ and their potentially detrimental impact on harmonization of Poland's competition laws with the acquis. They were also vocalized during technical consultations on the Competition chapter (PM Chancellery 2000a).

Similarly to other policy areas, no formal structures created (theoretically) with a view to open the negotiation process to a wider audience have been effectively used for seeking a socially acceptable solution to such contentious issues as state aid in the SEZ. The two basic institutions, the Partnership Groups[293] and the National Council for European Integration, failed to fulfill their roles, as by design they could not serve as much more than a discussion forum about general issues related to accession. In the case of the former, the shortcomings outlined in Chapter III either prevented the social partners from active participation or their impact ceased with completion of the screening stage of the accession negotiations[294]. The National Council, created in autumn 1999, was too large and too politically involved for conducting often very technical consultations on specific matters. Thus, most of the contacts between the Chief Negotiator's Team and the interest groups took place on an *ad hoc* basis and in an informal fashion.

The genuine consultations with entrenched interests on Poland's negotiation position with respect to the issue of the Special Economic Zones commenced, however, not earlier than summer 2002. Prior to that, the investors notoriously complained about their lack of involvement or even basic information about the Polish negotiation position (Rzeczpospolita 2002; Niklewicz 2002c). The common concern expressed by the companies once the meetings with negotiators were finally organized, was the absence of concrete proposals in the government's presentations (Niklewicz 2002d). Some investors argued that had the consultations been organized at an earlier stage, the

[292] Interview with a DG Enlargement official in October 2003.
[293] See Chapter III.
[294] Interview with the Director of the Analytical Unit in the Department of Support for Accession Negotiations in March 2006.

government could have avoided 'ridiculing itself' by promising 'the golden mountains' and later failing to deliver on these promises (Niklewicz 2002c).

The companies operating in the SEZ acted not only individually (see e.g. Niklewicz 2002c) but also *via* countrywide business organizations, such as the Business Center Club (BCC) and the Polish Confederation of Private Employers (PKPP)[295] as well as the Club of Investors in the SEZ. In the concerted opinion of these organizations, the government's negotiation position was too soft. Business organizations argued that a change of the 'rules of the game' for investments in the SEZ would undermine Poland's position as an investment location, induce a prompt relocation of some of the companies to other countries, and represent a general worsening of investment conditions due to an apparent legal instability (Club of Investors 2002). Similar concerns were expressed by individual companies, which also exerted pressure on government representatives for maintenance of the *status quo* in the zones. For instance, Fiat–GM Powertrain[296] argued in a letter to the Minister of Economy that the stability of legal order and rules of conduct for economic activity stood among the key reasons behind its decision to locate in Poland.

Similar in tone was the correspondence exchanged between the Club of Investors in the SEZ and the Secretary of the Committee for European Integration, Jarosław Pietras[297]. The organization expressed its "deepest concern" about the prospect of resignation from the transition period on state aid granted in the SEZ. It warned that a change in regulations might provoke withdrawal, especially of foreign investors, and would impede the economic development of Poland. At the same time, investors considered the "uncompromising stance of the European Commission" as an unconvincing reason for change of the rules. "The EU has no right to force the government to break the principle of acquired rights protection, which EU countries observe in their own territories in a rigorous way". The entrepreneurs assessed as "inexcusable" the argument that the inflexible stance of the Commission might force the government to compromise on its initial claims. This act was depicted as a sign of

[295] Interview with the Deputy President of the Business Centre Club in January 2006 and a member of the Establishers' Board of the Business Centre Club in March 2006.
[296] The letter from Fiat GM Powertrain to the Minister of Economy, Jacek Piechota, 8 July 2002.
[297] The letter was sent on 13 March 2002 and signed by investors from EURO-PARK Mielec and EURO-PARK Wisłosan. Jarosław Pietras held the position of UKIE representative in the Negotiation Team and at the same time was Secretary of the Negotiation Team.

"complete defeat", without the slightest attempt to defend the SEZ, an "offspring of the governing coalition". Furthermore, entrepreneurs demanded that the EU pay from the common budget indemnities for the breach of the principle of acquired rights protection"[298].

In response to increasing pressure from the interests groups, summer 2002 brought about an intensification of their contact with the government. As pointed out in the previous section, this was, however, after Poland's publication of its amended negotiation position (in May 2002), in which the negotiators had already taken a decision to compromise on the initial application for a transition period and requested derogation until 2011 instead of 2017. At this point, the issue at stake was the number of investors that would be deprived of the privileges after accession to the EU, rather than whether to maintain the benefits or not. While the Commission suggested that all large companies employing more than 50 persons should belong to this group, the Polish government pressed for reducing the number of negatively affected firms to 120 (out of around 700 that had invested in the SEZ) (Bielecki 2002).

A series of meetings with investors from the SEZ, their representative organizations, the Club of Investors in the SEZ and countrywide business organizations took place. These included conferences organized by the Office of Competition and Consumer Protection, the Ministry of Economy, and even a meeting of the Parliamentary Commission of Economy in one of the zones. A number of meetings were also organized on the initiative of the investors and their organizations as well as by the zones (XIII Conference on SEZ 2002).

In order to finalize the talks on the Competition policy chapter Poland's government had to agree to the Community proposal to transform the aid schemes for companies, which invested in the SEZ prior to 2001, into measures compatible with the acquis. This would involve the worsening of investment conditions, which went contrary to the provisions of licenses obtained by the enterprises. Since the government wanted to avoid lawsuits from companies operating in the zones, the change of conditions had to be negotiated individually with each investor. Additionally, as mentioned above, the European Commission also pressured the Polish authorities to

[298] Ibid.

conduct such consultations[299] prior to the formal modification of Poland's position paper in summer 2002, and after defining the scope of flexibility on both sides of the negotiation table during the visit of Alexander Schaub, Director General of DG Competition.

Prompted by the Commission, the Office of Competition and Consumer Protection (UOKiK) indeed organized such a meeting on 19 June 2002 (UOKiK 2002a). It presented the key provisions of the amended negotiation position on the SEZ (from May 2002), arguing that adopted solutions were not final but rather proposals for consultations with enterprises, their organizations and the European Commission, with a view to come up with the optimal solution. Similarly, during an earlier conference in the SEZ[300], which convened on 3–5 June 2002, Minister Hübner claimed that the "absolute priority for the negotiators should be to maintain the 'acquired rights' of investors from the SEZ".

The latter were, however, disappointed with the proposal to set up an aid ceiling at the level of 75% (for large companies), proposed in the amendment of the negotiation position, and asked for a restriction of the qualification criteria for the SME only on employment and annual turnover. The motor industry in particular complained about the insufficient representation of its interest by the government during the accession talks.

Leading business organizations were not satisfied with the consultation process conducted in the context of negotiations on the SEZ. They complained about their insufficient involvement in drafting the negotiation position and participation in the dialogue with the government in general. The Polish Confederation of Private Employers (PKPP) even claimed that the "environment directly interested in the problem is omitted in the process of preparation of the Polish negotiation position. Moreover, investors are not sufficiently informed about the directions of conducted works and the only source of information constitutes press publications" (PKPP 2002). Furthermore, when the meetings with social partners did take place, it was after the formulation of the Polish government's proposals for the European Commission, as in

[299] Letter of 10 June 2002 from Eneko Landaburu to Jan Truszczyński, Ministry of Foreign Affairs Government Plenipotentiary for Poland's Accession Negotiations to the EU.
[300] The Conference was located in the Katowice SEZ, particularly important for the motor industry.

May 2002. In a way, the goal of such meetings seemed to be rather a 'window dressing', aiming to increase the legitimacy of the government's proposals in front of the Commission. Business organizations, instead, expected a discussion about the negotiation problems concerning them, *ex ante* formulation of the formal government proposals (PKPP 2002; XIII Conference on SEZ 2002). Only such proceedings would provide them with due chance to take part in the substantial negotiations.

However, in an anonymous poll conducted among investors operating in the zones[301] (see Annex 6.4.), most of them positively assessed the performance of the Polish negotiators during the talks. Around 70% of the questioned companies admitted that members of the Negotiation Team did their utmost to achieve favourable terms of accession for the investors that had decided to locate in the zones. The eventual outcome of the negotiations was perceived as equally satisfactory. This is less surprising when one considers that most of the companies were aware of the upcoming change in the operational conditions due to accession, but nonetheless decided to invest in Poland. Moreover, business environments were the largest proponents of Poland's accession to the EU, thus theoretically willing to accept more concessions than other social groups.

At the same time, the majority of respondents were unaware of any institutional methods of contacting the government on matters concerning adaptation to the EU and had not taken part in any social consultations. This is unsurprising. As the interviewed KIE[302] representative admitted, most active in the negotiations were large companies, which acted *via* the biggest business organizations or directly through their head offices in European countries[303]. He assessed this last strategy as the most successful from all strategies undertaken by various sectoral interests in different negotiation areas. Pressures on the EU member governments from their own companies led to the member states insisting on the Commission to soften its negotiation position. Thus, the actions of the Polish branches of the Europe-based companies led to a widening of the initially narrow win-set of the European Union in the Competition policy field. This may

[301] Most of which, however, were smaller companies.
[302] The Committee for European Integration.
[303] Interview with the Director of the Department of Support for the Committee of European Integration (in 2001–2004) at the Office of the Committee of European Integration, in September 2008.

explain the surprisingly positive eventual outcome of the accession negotiations in the area, and the high number of temporary derogations granted to Poland[304].

5. The effectiveness of EU conditionality in the state aid area

EU conditionality in the Competition policy field has not been entirely effective. The number and length of the transition periods negotiated by Poland's government, the disregard of the Polish government for provisions of the Association Agreement, and the legal delays in adoption of the relevant acts seem to confirm the hypothesis on the ineffectiveness of EU conditionality in the Competition policy area. On the positive side lies the fact that once the legal provisions were adopted, the state aid regime in Poland has been gradually approximated to the Community rules.

The legal provisions, which came into force after accession, and in particular the Act on proceeding with matters related to state aid (2004), the amendment of the Act on the Special Economic Zones (2003) and earlier Act on the conditions on admissibility of state aid (2002), adapted Poland's legal system to the EU competition rules. The government negotiated with each of the operators in the SEZ, which started operating prior to 2001, on the basis of the provided data on investment and aid received, and the new license agreement adjusting the type of aid received to a scheme compatible with the single market. The compromise solution was achieved with all investors since no lawsuits followed the change of the investment conditions after accession. Thus, although the Competition policy has appeared to be one of the most difficult negotiation chapters, in the area of the SEZ no major problems with adaptation after accession occurred[305].

Nonetheless, although formal adaptation may be considered to have been successfully carried out, the policy outcomes are less certain. As discussed in the previous sections, the Special Economic Zones were spread around massive territories and have long ceased to fulfill their role of investment encouragement in the worst-off regions. Although the Commission has tried to limit such development by banning

[304] Interview with Cezary Banasiński, the President of the Office for Competition and Consumer Protection in Apanowicz (2002).

[305] Which cannot be said about other sub-fields, notably the restructuring of state-owned sensitive industries.

extensions of the existent zones, Poland's government continues to tamper with their territories. Once potential investors point to a preferable location for their investment, an area of equal size is simply carved out from one of the zones. In this way, their total area remains intact. These developments confirm the viability of the initial arguments of the European Commission refusing to accept the zones as regional policy tools. However, from Poland's perspective, success in attracting an increasing number of investors to Poland is equated with the success of the SEZ.

Conclusions

The Competition policy chapter vividly illustrates the conflict between domestic priorities and exigencies of accession to the EU. The Commission pressed on the timely adjustment in the field, perceived as one of the cornerstones of the common market. On the other hand, the delays in implementation seem to reflect the weak incentive of the government to comply with EU rules, which in turn was based on strong opposition from domestic industries to the EU competition rules. There has also been broad support for these claims from society, which was explicated in the fact that 65% of the population supported maintaining the aid system operating according to Polish rules beyond the date of accession[306].

During the accession negotiations, the Chief Negotiator's Team came under considerable pressure from a number of groups, in particular representing business environments, which demanded transition periods in various areas. Jan Truszczyński pointed out in a press interview (Warzecha 2003) that only in some cases were these postulates well motivated. Entrepreneurs frequently prepared economic analyses of their situation, which anticipated grave consequences of resignation from the transition period, usually for the country as a whole. Sometimes the negotiators faced difficulties with distinguishing between the real problems and the "exaggerated" ones.

Nonetheless, particularly in the Competition policy area, the negotiators had to consider such concerns. The economic power of the enterprises investing in the SEZ might have produced a backlash against EU accession if their claims were ignored. The Commission has also seemed to have concerns over whether Poland's government was

[306] OBOP 2001.

able to deliver socially acceptable solutions. It encouraged the Polish authorities to work out its negotiation position in cooperation with investors.

In line with Putnam's prediction (Putnam 1988), strong domestic opposition to the reforms has reinforced the Polish government's claims internationally. The strategy of the domestic interests has proven even more successful due to the interventions aimed at softening the EU position 'from within'. In effect, the results of the accession negotiations in the thick acquis field have been surprising. Poland, and Hungary, were granted several transition periods, also concerning large companies operating within the zones and producing most of their output for export. At the same time, the economic impact of the Polish zones on the functioning of the common market has been negligible. Thus, it would be difficult for the European Commission to oppose the arguments about the desirability to maintain the legally acquired rights of investors. Nonetheless, despite the difficult accession negotiations, adaptation in the Competition policy field may be assessed as partially successful. The transition periods granted to Poland allowed for gradual adjustments, prevented social mobilization against accession and have proven part of the solution to the challenges of conditionality.

At the same time, there has been no evidence of the long-lasting activation of the economic actors as a result of the hardship of the accession process. The social interests remained mostly passive, with the largest operators in the zones taking the leading roles in consultations with the government. Most of the smaller actors were unaware of any formal possibilities to influence the negotiators and Poland's negotiation position. Other actors have used existing structures of business organizations as a transmission belt for their demands. However, their modes of operation have not radically changed because of the negotiations and the social mobilization around the negotiation problem of the SEZ seems to represent only a one-off action.

CHAPTER VII

THE FLAWED ADAPTATION OF POLAND'S REGIONAL AID SYSTEM TO THE EU COHESION POLICY

Introduction

Poland's regional reform commenced well before accession to the EU, at the beginning of the 1990s. It was triggered by the mounting need for detaching from the 'democratic centralism' and democratisation of the governance system to accompany sweeping changes in the economic and political spheres. The reforms were conducted also in view of future participation in the EU regional policy.

Nonetheless, by the year 2000, when the accession negotiations on the Regional policy chapter commenced, Poland's administrative system was certainly unprepared to benefit from the EU cohesion policy in a way ensuring respect for its rules and principles. Incapacitated territorial structures, inadequate financial resources of the voivodships as well as poorly demarcated competencies between various administrative tiers did not guarantee successful adaptation.

Nevertheless, it was commonly anticipated that Poland would manage to ensure timely adjustment to the EU acquis in the cohesion policy field. These expectations had been based on a few premises. First of all, positive distributional consequences made participation in the EU regional policy popularly seen as part of the rationale for membership. Tangible financial benefits from the Structural and Cohesion Funds were also expected to outbalance the potential costs of adaptation incurred in other fields. Unlike in previously analysed cases[307], the link between conditionality and reward in this policy area has been particularly clear.

[307] With the exception of the Fisheries policy, where financial retributions were also expected.

Furthermore, ensuring appropriate absorption level of the EU Structural and Cohesion Funds was a political requisite, since failure would make Poland a net payer to the EU budget right after accession. Such risk guaranteed sufficient political focus on adaptation in this particular policy field. Finally, since the circle of potential policy beneficiaries was very wide and included state administration at various levels as well as economic and social actors, there has been practically no domestic opposition to implementation of the EU rules.

Despite the presence of all these elements, implementation of the EU cohesion policy in Poland came across serious difficulties. The difficulties were shown to be delays in the adoption of the legal framework, low absorption level and eventually the uncertain impact of the funds on evening out regional differences. Neither a decision to implement a centrally-managed system for funds' distribution, set with a view to increase its accountability and efficiency, nor the potential negative consequences of suspension of the funds' flow in case of non-compliance, have proven sufficient to secure timely adaptation.

This chapter analyses the reasons behind the weak capability of the EU in promoting policy change in the area on the surface holding properties, which should make the pre-accession conditionality most effective. As claimed in the Introduction to this thesis, counter to common knowledge, the combination of the thin acquis communautaire and the absence of prior domestic opposition to the reforms may, paradoxically, prove detrimental to the effectiveness of the EU conditionality.

The regional policy is referred to in the academic sources as a thin acquis policy area (see e.g. Hughes et al. 2003). It embodies scarce legal provisions on the institutional framework for policy conduct, which leaves a large part of decision-making to the discretion of the member countries. The regional acquis focuses on the outcome rather than processes. As such, it is also to some extent ambiguous, having several consequences for the accession negotiations and conditionality itself. The scarcity of legal provisions creates large win-sets (see Chapter I) on the international side (Level I) of the negotiation table (Putnam 1988). Hence, there is theoretically a relatively broad array of institutional solutions, which could be adopted by the candidate and still conform to the acquis. On the other hand, the virtual absence of domestic opposition to the institutional reform designed to facilitate funds' inflow, denoted in this work as 'no-

prior opposition' scenario, has also created a large win-set at the domestic table (Level II).

The combination between the two elements created potentially favourable conditions for striking an accession agreement. However, as Putnam argues (1988), larger win-sets at Level II may also provoke stronger pressures on the negotiators from their international partners (see Chapter II). In case of accession negotiations, the broad domestic win-set combined with the thin and partly ambiguous regional acquis allowed the Commission to wield its asymmetric power for change to a greater extent than in other policy areas. It also permitted a shift of priorities for adaptation presented to the candidates in response to unfolding internal dynamics within the EU or changing political contexts in the CEE. However, as earlier studies on regional adjustments in the CEECs demonstrate (Hughes et al. 2003; Hughes et al. 2004), such changes were often interpreted by the applicants as inconsistency in demands and in effect tended to be detrimental to the workings of the pre-accession conditionality.

As this chapter argues, pressures by the Commission, not firmly anchored in the acquis have less causative power than in the policy areas with detailed legally-binding prescriptions for adaptation. Additionally, the shifting emphasis of the Commission has added to the general confusion among Poland's decision-makers about the rules of the game in the cohesion policy area. Paradoxically, the absence of a clear blueprint for the ultimate funds distribution system intensified competition between the rent-seeking non-governmental and governmental agents and further delayed adaptation.

This chapter proceeds as follows. The first section presents the motivations behind qualification of the Regional policy as a thin acquis policy. It outlines key points in the academic debate on the EU cohesion policy and its impact on the governance system and economies of the member countries. The second section traces the origins and evolution of the regional development policy in Poland, demonstrating the prevalence of domestic over international sources of the policy reform. Further, the tools of EU conditionality are examined. The third part analyses the scope and dynamics of the accession negotiations and the role of the social partners both, before accession and during implementation of the first budgetary perspective 2004–2006 in Poland. The final section examines the results from the application of EU conditionality in the Regional policy field. Conclusions summarize the findings.

1. The Cohesion policy of the EU as the 'thin' acquis area

The EU regional policy aims to 'strengthen the unity' of the economies of EU Member States and to "ensure their harmonious development by reducing the differences existing between various regions and the backwardness of the less favoured regions."[308] These goals are realised through interventions of the EU 'regional funds'[309] in the least advantageous areas of the Community. Since the Maastricht Treaty these funds were complemented by the Cohesion Fund for the least prosperous member countries supporting projects in the fields of environment and transport. After the designation of economic, social and territorial cohesion in the Treaty on the European Union[310] as one of the key Community objectives, alongside the Economic and Monetary Union and the Single Market, it has received considerable political silence. On the other hand, the economic importance of the policy area derives from its position in the EU budget, where it is the second largest item, after the Common Agriculture Policy.

Despite its economic and political weight, the EU regional policy is not uniformly applied across the member countries. The institutional system for its implementation varies considerably between the EU members. It is largely by dint of sparse and in some respects even vague (Hughes et al. 2003: 9) regulations and guidelines on the policy institutional requirements. Apart from the treaty basis[311], the legal underpinning for these actions provide in particular the framework Council Regulation (EC) 1260/1999[312] laying down general provisions on the Structural Funds (1999)[313], specific regulations governing each of the funds as well as Commission decisions, communications, guidelines for programming, evaluation and monitoring

[308] European Commission, Treaty of Rome, 1957.
[309] Until 2007 the EU regional funds comprised the European Regional Development Fund (ERDF), European Social Fund (ESF), Financial Instrument for Fisheries Guidance (FIFG), Guidance Section of the European Agricultural Guidance and Guarantee Fund (EAGGF) and the Cohesion Fund. In the 2007–2013 budgetary perspective the means of the EU Cohesion policy were amended to include the European Regional Development Fund (ERDF), European Social Fund (ESF), Solidarity Fund, Instrument of Pre-accession Assistance (IPA) and the Cohesion Fund (see http://ec.europa.eu/regional_policy).
[310] European Commission, Treaty of Maastricht, 1992.
[311] The area of social and economic cohesion is governed by Art. 158–162 (Title XVII: economic and social cohesion), Art. 146–148 (European Social Fund) and Art. 33 (objectives of CAP) of the Amsterdam Treaty.
[312] Prior to the fifth enlargement.
[313] Substituted by the Council Regulation (EC) 1083/2006.

(see Annex 7.1). Most of these, however, are 'soft laws', which do not require transposition into the domestic legal systems. The acquis communautaire, which is largely based on one framework regulation, outlines only the key principles of the EU cohesion policy, without specification of the mode of its implementation in particular member countries[314]. The EU's emphasis is on the process and outcome rather than on particular institutional models (Hughes et al. 2004: 5).

Even in cases where a common prescription for particular aspect of funds' operation exists, the EU regulations stress the national context of its application. The framework law for the Structural Funds (EC 1260/1999) specifically stated that "the implementation of assistance shall be the responsibility of the Member States, at the appropriate territorial level according to the arrangements specific to each Member State"[315]. Similarly, when it comes to implementation of the partnership principle, bodies to be consulted shall be designated "within the framework of [...] national rules and current practices" (Art. 8(1), (EC) 1260/1999). The decision on the management system of funds distribution was also left to the discretion of the EU member countries, and the managing authorities are expected to "act in full compliance with the institutional, legal and financial systems of the Member States concerned" (Art. 34 (EC) 1260/1999).

In line with the acquis, the EU countries manage the Structural Funds through the Sectoral and Regional Operational Programmes organized into the so-called Community Support Framework (CSF). The shape and content of the programmes is set by the member states according to domestic administrative arrangements and developmental needs, but requires the approval of the European Commission. The CSF Managing Authority coordinates all processes related to funds' absorption and monitoring, while each programme is governed by the assigned Programme Managing Authority (MA).

There are considerable differences in the organization of the system among various member states. In some countries structures managing EU assistance function within the government, while others set up for this purpose separate, parallel institutions

[314] With the exception of the Council Regulation (EC) 1257/1999 of 17 May 1999 on support for rural development from the European Agriculture Guidance and Guarantee Fund (EAGGF) and amending and repealing certain Regulations.
[315] Council Regulation (EC) 1260/1999 of 21 June 1999, Art. 8(3).

(or they delegate the tasks to existing ones). The former solution has been applied in Ireland, Spain and Germany and the latter in Portugal. The scope of the tasks assigned to the Managing Authorities and their resources and capacities also differ. For instance, a Managing Authority may perform the functions of a Paying Authority (the drawing up and submission of payment applications) or the tasks are split between two separate institutions.

There has also been no standardized system of NUTS[316] territorial classification, serving as a statistical basis for funds disbursement. The member countries used to designate the regions at various levels (NUTS I, II, III, IV, V) in line with existent territorial divisions and drawing on historical and political idiosyncrasies rather than EU pressures. The Commission has not intervened in the process of drawing regional boundaries, rather its role was restricted to giving a *pro forma* agreement on member states' proposals for regional divisions. Some accounts, however, point to the Commission's efforts to influence the designation of NUTS areas in the CEECs (see Hughes et al. 2003: 18). However, even in these cases, the impact of the Commission was limited to blocking candidates' attempts to manipulate the statistical units to maximize funding opportunities (for instance by designating a separate region for a capital city). The acquis communautaire did not furnish the Commission with any powers to play an active role in the process of designation of the regions.

Another feature of the thin regional acquis is its fragmentary character. The Community actions in the regional policy complement or correspond to the national operations (Art. 8, (EC) 1260/1999). Unlike in the Fisheries or Competition policies, the regional acquis provides, albeit not precise, premises only for a distribution system for the funds originating in the Community budget. It leaves all other 'regional' issues within the sole competencies of the member states[317]. The latter decide on other types of regionally-oriented aid, for instance from the national or regional budgets, and an institutional system of their distribution (under the condition that it complies with the competition acquis).

[316] Nomenclature of Units for Territorial Statistics.
[317] There is, however, broad academic discussion on its impact upon the regional policies and governance system in the member states, outlined in the following part of this section.

Thus, the degree of decentralization of the management functions also tends to be a derivative of specific historical and political idiosyncrasies. It might be traced through the relative volume of EU assistance distributed between the Sectoral and Regional Programmes. Federal countries generally opt for more a regionalized version of the system. In turn, the majority of key decisions concerning regional policy-making in centralized countries with relatively weak local administrations, such as Greece (Getimis and Economou 1996) or Ireland, remain within the remit of the central government. This choice, however, does not seem necessarily to predetermine whether funds' absorption and impact on economic development is a success or failure, as these two cases present (see e.g. Grosse 2000). With the multitude of solutions adopted by the EU member countries, there has been no single unambiguously most effective system that the candidates for EU membership could use as a template for their own adaptation. There exists, at least in formal terms, no clear blueprint of the regional policy the EU could offer to the candidates for membership.

The impact of the EU regional policy on the countries and regions benefiting from funding

A considerable part of the literature on the EU regional policy focuses on its impact on the governance of the countries participating in aid programmes (Keating 1995; Kohler-Koch 1996; Keating 1998; Goetz and Hix 2000; Hughes et al. 2001) and in particular the 'regionalizing effects'. The key argument holds that application of the principles attached to the EU-funded regional programmes, in particular partnership and programming, contribute to the empowerment of the regions vis-à-vis central authorities. A number of authors argued that such systemic design coalesced with the Commission's preference for involvement of the sub-national actors in regional policy making. This view is derived for instance from the 1985 speech by Jacques Delors[318], who claimed that the goal of economic and social cohesion could be achieved through active participation of the regions themselves in all stages of regional policy-making.

The Commission's actions (Smyrl 1997) in practical terms have been driven by the search to decrease resource-dependence of the regional actors vis-à-vis their national governments. "In explicit recognition of the fact that many sub-national units did not

[318] Jacques Delors's speech to the European Parliament, OJEC 1985, 95.

possess the means to play the role expected of them, the Community's reformed regional policy provided technical and political resources to the regions concerned" (Smyrl 1997: 291). Strong regional authorities were an indispensable element for such systems and the Commission is seen as searching for the means of promoting them, not least in order to strengthen its own position over the policy-making vis-à-vis national governments. Arguably, distributional and political logics of compensation for the poorer states likely to lose out on the Single Market Programme (Keating 1998: 172) have underpinned the Council assent for the Commission's leading position within the policy.

The 'bottom-up' explanations of the apparent power devolution in the EU member countries (Keating 1995: 2) are based on the evidence showing regional political and economic mobilization. The cohesion policy of the EU encouraged the member states "to establish planning authorities at the regional level, which in turn produce demands for democratisation of these new structures, and hence the creation of elected regional assemblies and governments" (Goetz and Hix 2000). Goetz and Hix (2000: 11) argue that in countries with existent regional institutional structures, such as Italy and Spain, the EU regional policy has reinforced "demands of regional bodies for further delegation of policy competences away from central governments". On the other hand, in member states without these structures, or with 'statist' public administration, such as France, it acted as a catalyst of change. Thus, it is expected that accession to the EU and establishment of the new links between EU-level, national and sub-national administrative tiers over regional policy-making is likely to forge radical transformation in regional and local governance in post-communist Europe.

These views were contested by proponents of the opinion that, paradoxically, participation in the EU cohesion policy has been detrimental to the emancipation of the regions and further reinforces central governments (see Keating and Hooghe 1996; Urwin 1998; Grosse 2000). This concerns in particular countries with more centralized governance structures (as most of the EU members)[319] and follows from the dominance of central authorities in the decision-making process. Legally, the Commission's partners in decision-making over the policy and financial issues related to regional

[319] With the notable exception of the federal countries, such as Austria, Germany, Belgium and regionalized Spain.

assistance are member countries' executives. The organization of the social dialogue at the regional level enforced by the partnership principle also remains at their sole discretion, as well as the disposal of the whole envelope of the Cohesion Fund (Keating and Hooghe 1996).

Furthermore, as Marks et al. argue (1996) the policy in a number of cases has contributed to the exacerbation of rivalry and conflicts at the territorial level, either between the regional and central authorities or their representatives in the regions. Central governments control financial resources in countries with weak regional structures, where most of the EU funds are distributed in the framework of sectoral rather than regional programmes. It may thus be viably argued that the occurrence of power devolution is fully contingent on domestic factors, such as pre-existent administrative structures and culture.

Equally contentious is the issue of economic and social performance resulting from the application of EU funds in the least-developed regions. While there have been numerous accounts of the successful application of the policy, in economic terms its results are uncertain. The empirical data presents an increasing convergence between development levels of rich and poor countries, however, redressing these differences is too procrastinate and brings differing effects (CEC 1999b). While some countries, such as Ireland, managed to catch up or even exceed the richest Community members in terms of income level (and other indicators), others, such as a number of Greek, Portuguese, South Italian and Spanish regions stayed behind in their laggards position (Barro and Sala-i-Martin 1999). The highest pace of decreasing regional differences took place between the 1950s and 1970s, when the role of the EU cohesion policy was negligible (Barro and Sala-i-Martin 1999). Some studies claim that the EU regional policy is ineffective in terms of fostering convergence or that it even preserves the marginal position of the least-developed, mostly peripheral regions (Martin 1998; CPB 2002). Since it is difficult to isolate the effects of the funds' application from other factors influencing economic performance, it remains questionable whether the success stories are owing to the general state policies or the EU financial assistance.

The outlined properties of the regional acquis qualify it as a thin acquis area, in line with criteria outlined in Chapter I, namely the stress on the achievement of specific policy objectives rather than processes, the sparse volume of hard laws, and the leeway

left to the member countries with respect to implementation of specific provisions and fragmentary character. The high political sensitivity of regional issues, related to questions of territory and governance, restricted the decision-making powers of the EU to the issues of EU funds. In this sense, however, there is a direct link between the volume of the funds granted for a particular country and the scope of Community involvement. This relation is particularly relevant for the CEE case, in which the bulk of regionally-oriented financial flows come from the EU budget. The implications for the Community power to structure regional policy-making in the applicant countries are discussed in greater detail in the following sections.

1. The domestic context for implementation of the EU cohesion policy rules in Poland

The institutional model of regional policy established in Poland has been shaped by historic path dependancy and endogenous forces rather than EU conditionality. Prior to the start of accession negotiations the EU exerted little pressure on Poland's authorities with respect to territorial issues. If any, they were restricted to informal recommendations and experts' participation in the common study projects, realized frequently with other international institutions, in particular OECD[320].

On the other hand, the process of Poland's regional policy reform commenced already in the early 1990s, well prior to the pre-accession phase of relations with the EU. The direct trigger provoked concerns that the regional deficit may impair the positive results of the sweeping changes taking place in the economic and political spheres since 1989. Although formulation of Poland's regional policy assumptions took place largely 'with a view' of accession to the EU and future adaptation to the European regional policy, its direct impact on the reforms trajectory was limited. The thin regional acquis is nebulous enough on the fundamental institutional solutions to be filled in with various mixtures of substance. Hence, in absence of direct and focused pressures its guiding role was very limited. The pace and shape of the regional changes implemented in Poland throughout the 1990s coincided more closely with the timetable of domestic rather than international political events, with the key role of the election calendar.

[320] Mostly in the framework of the SIGMA project, a joint initiative of the OECD Center for Co-Operation with non-member economies and the European Union Phare programme.

Should the post-Solidarity forces have lost the 1998 elections, realization of the reform in its present shape would likely have been postponed indefinitely.

The evolution of Poland's regional policy prior to the start of the accession negotiations

The communist regime left behind a fragmented territorial administrative structure based on forty-nine 'voivodships' and sectorally oriented public finance flows. The 'national councils' governing these small regions remained entirely subjugated to the communist party rule and did not play any role in designing structural policies at their areas. The concept of regional policy understood as a bulk of territorially oriented policy actions[321] appeared in this institutional context redundant.

Nevertheless, the political and economic challenges that Poland faced in the wake of systemic transformation put regional and administrative reforms back on the political agenda. Rising regional differences, unemployment levels and the abrupt impoverishment of large sections of the society reinforced the debate about regional policy as a remedy to the negative effects of the 'shock therapy'. An additional stimulus for change came from the national councils, which, as the repository of the old communist elites, seemed at most unsuitable partners for putting the modernization reforms into effect.

The post-communist government of Tadeusz Mazowiecki took the first modest step towards devolution of some central government's powers and democratization of Poland's governance. The local government Act (1990) adopted in March 1990 introduced the two-tier administrative system restituting self-governing municipalities. Although around 2500 *gminas* were too small to conduct any regional policy, the reform lent importance to the notion of local interest and created nascent structures willing to pursue it. At the same time, the forty-nine voivodships remained the repository of the state's powers in the regions.

Although the 1990 reform fell way short of the fully fledged democratization of the Polish governance system, it constituted an important advancement in the direction of the institutional model postulated by Poland's academics since the 1970s. The

[321] Law of 12 May 2000 on the principles of support for regional development.

leading experts in the regional policy field, Jerzy Regulski[322] and Michał Kulesza[323] enacted in 1978 the "Experience and the Future" seminar[324], which formulated the key principles of self-governance reform to be carried out in Poland. They anticipated splitting from the "democratic centralism" of the single state authority and conferring legal status upon the communes (*gminas*) (Emilewicz and Wolek 2002: 27-30). The systemic change in the late 1980s presented a tremendous opportunity to put these theoretical postulates into practice.

Rationalization of the territorial policies by transfer of some state powers to the sub-national structures was the key objective of the awaited reform. A country the size of Poland with forty million inhabitants simply could not be effectively managed solely from the central level. On the one hand, territorial reform was expected to facilitate economic growth and increase Poland's attractiveness to the foreign capital (Szomburg 2001: 12). On the other, decentralization was seen as potentially contributing to further democratization by mobilizing social energy and activating local communities (Grosse 2003: 9). The advocates of change, in particular academics, representatives of the newly created local units and some politicians, emphasized the positive effects of institutional reform spilling over to the political and social domains.

Yet, the political turmoil of the 1990s impeded further progress on the territorial issues involving the decentralization of state's power. The incumbent governments focused on restoring economic equilibrium and putting the country on the path of economic growth[325] while regional development was seen as having secondary importance (Hausner and Marody 2000: 97). Additionally, decentralization was associated frequently with the threat to the unity of the country and thus remained a

[322] Jerzy Regulski, a professor of the Łódź University co-chaired the negotiations on the local government reform during the Round Table talks. Government Plenipotentiary for Self-government Reform in 1989–1991. In 1998–1999 Chair of the Council for the Systemic Reform at the Prime Minister's Office.

[323] Michał Kulesza, a professor at Warsaw University, in 1992–1994 Government Plenipotentiary for Public Administration Reform, from December 1997 until January 1999 Government Plenipotentiary for Systemic Reform, Under-Secretary of State in PM Chancellery until April 1999.

[324] Although communist authorities banned the seminar after its first session, it continued to work as an informal gathering. After martial law was introduced in December 1981, research on self-governance in Poland was carried out by three major academic institutions: the Polish Academy of Science Institute of Economic Science, the Łódź University, Institute of Cities' Development, and the team of Michał Kulesza at the University of Warsaw.

[325] The question of self-governance and state decentralization, however, appeared on the Round Table agenda. Jerzy Regulski, together with Kulesza and Jerzy Stępień represented the "Solidarity" side at the sub-table on pluralism of social organizations, later on replaced by the sub-table on self-governmental reform.

politically contested topic. None of the major political forces showed particular resolve towards broader application of the self-governance principle, the key component of academics' proposals[326]. The attitude of political heirs of the Solidarity movement[327] was, however, generally more pro-reformist. On the other hand, post-communist parties, the Democratic Alliance[328] and the Polish Peasants Party, which formed the governing coalition in 1993–1997, outwardly opposed power devolution and territorial decentralization. There was thus no chance for progress in this sphere until the shift in political representation took place in October 1997.

The reinstatement of political activities in the regional policy field became feasible with the coming to power of the post-Solidarity Jerzy Buzek government[329]. It won the elections on the premise of systemic changes[330], which would complete the country's transition efforts. They included the reform of the health system, pensions and insurance, education and territorial administration. Earlier, the post-Solidarity environments had managed to ensure the insertion of provisions on self-governance into the Constitutional Act (1997).

After plenty of political wrangling over the size and number of provinces, which dominated political discourse on the territorial issues, the government adopted a compromise solution assuming the division of Poland into sixteen self-governing provinces (voivodships). The key premises of the reform[331] were the introduction of a tri-level territorial administrative system, devolution of central government's powers to the voivodships and the introduction of self-governance at all levels of territorial administration. The voivodship marshals appointed by the elected regional parliaments were to assume a substantial part of the competencies thus far executed by central administration. In each province the Minister of Internal Affairs also appointed the

[326] Interview with Michał Kulesza, Government Plenipotentiary for Territorial Reform in May 2003.
[327] Liberty Union and small fractions of the Election Action "Solidarity" (AWS).
[328] The major political players of the time were post-communist Left Democratic Alliance (Sojusz Lewicy Demokratycznej, SLD), Polish Peasants Party (Polskie Stronnictwo Ludowe PSL), Democratic Union (Unia Demokratyczna, UD) Election Catholic Action (Wyborcza Akcja Katolicka, WAK), Confederation of Independent Poland (Konfederacja Polski Niepodległej, KPN), Civic Agreement Centre (Porozumienie Obywatelskie Centrum, PC), Christian Democrats (Chrześcijańska Demokracja, ChD), "Solidarity" Trade Union and others.
[329] Jerzy Buzek led the coalition between the Election Action "Solidarity" (AWS) and the Liberty Union (UW).
[330] The AWS-UW government introduced major health, education and pension system reforms.
[331] Introduced in legal terms by the Act of 18 December 1998 on amendment of the act on the governmental departments; Act of 5 June 1998 on Voivodship self-government; Act of 26 November 1998 on income of territorial self-government units; Act of 26 November 1998 on public finance.

voivod, in charge of guarding the 'national (central government's) interests' in the region. In practice, the voivods' offices formed parallel regional bureaucratic structures.

The territorial reform aimed at the introduction of the rational division of public tasks and competencies between the central and regional administration and enhancing social integration by strengthening local communities and citizens' participation in public life at the local level.[332] Strong provinces were expected to facilitate pro-developmental actions in the regions but also in the future to become players at the EU level (Klasik 2001: 183). However, the capacity of regional self-governments to act was constrained by weak financial safeguards based on their own limited financing (Gilowska and Misiag 2000; Gilowska 2001b). The regional contracts, designed as the key instruments for the regional policy conduct have also not fulfilled their roles (Pyszkowski et al. 2000: 120; Grosse 2003: 17). Experts argue that the Law on supporting regional development (2000) set the model of the subtle steering of self-governments' expenditures and that regional contracts substituted the factual decentralization of public finances (Gilowska 2001b: 145). Poor demarcation of competencies between governmental and self-governmental administration in the regions provided yet another platform for the conflict. The unwillingness of the voivods to relinquish their role in the regional development process was its main source (Hausner and Marody 2000: 100). This exacerbated the conflict with the self-governmental administration, in particular in those regions where the leaders had differing political affiliations.

Nonetheless, the creation of the institutional framework allowed regional and local actors to associate and mobilize in a (more or less successful) struggle to remove the above impediments. The municipalities since their creation had undertaken numerous such initiatives, which resulted in the establishment of several organizations as early as autumn 1990. These included the Union of Polish Metropolies[333], the Association of Polish Cities or the National Convention of Territorial Self-

[332] Substantiation of the resolution of the Council of Ministers in the matter of the principles of preparation and implementation of the public administration reform.
[333] Set up in October 1990, in 2006 it included the twelve largest cities: Białystok, Bydgoszcz, Gdańsk, Katowice, Kraków, Lublin, Łódź, Poznań, Rzeszów, Szczecin, Warszawa, and Wrocław. All of them are members of the Eurocities represented in the Committee of the Regions.

governments[334]. Transfer of some of state's powers to the local level has also contributed to the mobilization of NGOs, which had easier access to influencing decision-makers on issues of their concern[335]. As mentioned above, these two types of local entities represented the biggest proponents of further decentralization and creation of the territorial self-governments of counties (poviats) and provinces (voivodships)[336] (Sepiol 2001: 247; Grosse 2003: 9).

In 1999, after the introduction of the voivodships, their representatives joined the mobilization trend. The voivodship marshals were quick to establish their own representative body, the Marshals Council (1999). In 2002 the territorial self-governments set the Association of Poland's Voivodships with the clearly defined objective of "defense of the common interests of the voivodships"[337]. However, the capability of these environments to exercise pressures on the central executive increased only after Poland's accession to the EU[338] (see the next sections).

The socio-political context of Poland's adaptation to the Regional acquis was clearly not a vacuum. However, numerous actors involved in policy-making or potentially benefiting from the regional funds had a variety of expectations related to adaptation to the EU regional acquis and EU funds' absorption. It is thus impossible to define the coherent set of pressures exerted upon the government prior to accession. While the territorial self-governments were interested predominantly in increasing financial flows into their regional budgets, the voivods fought for decision-making powers on the choice of projects, NGOs pressed for increased budgets earmarked for the spheres of their activities, private enterprises postulated simplified access to funding and commercial banks lobbied for the introduction of the credit component into the financing structure, which would complicate the procedures. Meanwhile, all ministries were competing for retaining the maximum amount of finance and power under their own sectoral programmes. These various and often contradictory pressures do not

[334] Established in September 1990. The Act on financing the counties from 10 December 1993 lists, apart from these organizations, the Union of Polish Towns and the Union of Rural Communes of the Republic of Poland as members of the self-governmental side of the Common Commission of the Government and the Territorial Self-government, enacted by the Ordinance of the Council of Ministers of 5 February 2002 on the enactment of the Common Commission of the Territorial Self-Government and Government.
[335] Interview with the Public Relations Director of the Polish Humanitarian Action in April 2006.
[336] V Regional Forum, Warsaw, 4 September 1998.
[337] http://www.zwrp.pl/
[338] While it did not solve the conflict between the marshals and the voivods, which in many voivodships was even exacerbated.

qualify as 'prior opposition' as defined in Chapter I. On the contrary, in theoretical terms the mixture of pressures should neutralize themselves and thus widen a government's win-set in the accession negotiations, making adaptation in the field less challenging. Even more so that none of the groups involved actually opposed adaptation in the regional policy field but rather the opposite.

The EU had little direct impact on the transition in the regional policy until the start of the accession negotiations. Nonetheless, Poland's reforms were not conducted in disconnection from the international standards and know-how. The most important benchmarks and guidance provided the European Charter of Local Self-government, informal recommendations of the European Commission, OECD[339] and the Open Society Institute[340].

All of these sources pointed in the general direction of reforms delineated by the principles of power devolution to the regions, the introduction of self-governance at the sub-national level and territorial decentralization. However, direct linkage between concrete policy solutions and these pressures would be difficult to trace. The authors of Poland's reform claim that decentralization had purely domestic sources. Both the 1990 and 1998 decentralizing reforms were conducted without financial contribution from the EU. The Commission merely observed the changes and modestly criticised Poland for 'superficial' decentralization[341]. During the accession negotiations, however, this position shifted and the EU inclined towards a more centralized system of funds distribution[342], laying itself open to criticism from domestic actors and undermining the leverage of the EU conditionality regime.

2. The EU pre-accession conditionality in the thin policy area

Regional policy has occupied an important position on the Community priority list for adaptation owing to the presence of the administrative capacity issue on the pre-

[339] Mostly in the framework of the SIGMA project, a joint initiative of the OECD Center for Co-operation with non-member economies and the European Union's Phare programme.
[340] Through the publications of the 'Local Government and Public Service Reform Initiative', established in 1997 with the aim to promote democratic and effective local government and public administration, and by advancing policy analysis as a tool for decision-making in public affairs.
[341] Interview with the Government Plenipotentiary for Territorial Reform in May 2003.
[342] Interview with the Director of the Department of Support for the Committee of European Integration (in 2001–2004) in the Office of the Committee of European Integration in September 2008.

accession agenda since the 1985 Madrid summit. However, there has been relatively little intervention by the European institutions into the policy-forming processes in the field prior to 1998. Apart from informal meetings, communications from the Commission and conclusions from the study projects[343], the Commission had not formulated any concrete demands with respect to adaptation[344] until the publication of the Accession Partnerships.

The formal basis for such potential pressures was very weak since thin acquis had not provided any concrete policy blueprint, which could have guided the systemic reforms, such as conducted in Poland until 1999. This is not to say that the Commission did not have any preferences about the principles of the system constructed in Poland. Prior to engaging in more intense contact with Polish authorities (during the accession talks), Commission officials opted for implementation of a decentralized model of Structural Funds distribution[345]. However, upon increasing realization of an insufficient administrative capacity at the regional level, this position started to shift towards a preference for a more centralized system[346], which was indeed instated.

The sources of conditionality in the pre-accession framework

Since the publication of Avis (CEC 1997b) on the candidate countries, EU involvement in the domestic processes and scrutiny of applicants' progress in adaptation has considerably increased. The initial monitoring documents of the European Commission (CEC 1998; CEC 1999) convey cautious optimism about the state of Poland's territorial reform, with appeals to a candidate's government, focusing on the supply of more or better quality information about the progress in adaptation achieved to date. Underlining Poland's good chances for membership, Agenda 2000 summarized that "Poland [...] should be able in the medium term to [...] establish the administrative structure to apply [the acquis]" (CEC1997c: 46). Also in the 1999 Regular Report on Poland's progress towards accession (CEC 1999: 13) the Commission described the

[343] Realized with the participation of Polish and Community regional policy experts in 1995 and 1996 (see Task Force for the Regional Development in Poland 1996; 1997).
[344] Interview with the Director of the Department of Support for the Committee of European Integration (in 2001–2004) in the Office of the Committee of European Integration in September 2008.
[345] Such postulates were also included in the study reports of European and Polish experts. Although some formal changes followed their recommendations (such as setting the structures in charge of regional development within the PM Chancellary), the central postulate for power and fiscal devolution has not been included in the 1998 reform (see Task Force for the Regional Development in Poland 1996).
[346] Ibid.

undertaken administrative reorganization as "impressive" and "fundamental" reform of the state administration, leading to a "genuine policy approach in Poland". This positive tone, however, seems to gradually fade away in the subsequent Commission Reports.

The 1999 Accession Partnership with Poland (CEC 1999a) already listed pertaining problems with adaptation in the field and short and medium-term[347] actions needed to rectify them. The Commission asked Poland's government to prepare the "national policy for economic and social cohesion", clarify the division of competencies between institutions responsible for carrying structural policies, organize efficient inter-ministerial co-ordination and improve the budgetary system according to Structural Funds standards (CEC 1999a: 10). These recommendations followed observation of the Commission from the 1998 Regular Report that Poland's "regional development strategy is still at a conceptual stage" with weak fiscal procedures and inadequate financial instruments for regional intervention (CEC 1998: 34). It corroborated with deficiencies of the regional reform pointed out by the domestic critiques outlined above.

In the context of financial arrangements for funds distribution, early pre-accession documents noted in particular the need for "adequate allocation of financial revenues and of revenue raising powers" to the new administrative structures (CEC 1999: 13). Nonetheless, analysis of subsequent Regular Reports suggests that the position of self-governments in this system was gradually less ascertained. Contrasting with the 1999 Report, more than a year after opening the negotiations in Chapter 21, the 2001 paper (CEC 2001b: 79) explicitly called for "careful consideration" of the role of the regions in funds management in the period up to the end of 2006. This subtle attitudinal change seems to reflect the increasing concerns of the Commission about the administrative capacity of the newly established regional structures to process vast volumes of the regional funding from the EU budget. The 2001 Report expressed it directly by pointing out that "above all, the administrative capacity of the units within the ministries and/or other bodies which will be designated as future managing authorities, [...] needs to be considerably strengthened in order that they will effectively be able to take on the responsibility for the efficiency and correctness of the management and implementation of the Structural Funds" (CEC 2001b: 80). In that way

[347] Medium-term signifies more than a year from publication, but work should have started during 2000.

the document openly suggests that the managing roles should be taken up by the central, rather than sub-national administrative structures.

The European Commission officially refrained from giving specific advice on the division of competencies in the funds' allocation system between different administrative tiers and monitored solely "compliance with the acquis"[348]. It also asserted that "for Structural Funds key issues concerning the distribution of responsibilities remain open" (CEC 2001b: 79). However, while the initial recommendations advocated endowment of the regional authorities with appropriate fiscal tools for the regional policy conduct, the Commission seemed gradually to recognize its misconceptions about Poland's regional reform. The Commission's officials appointed in the Delegation in Warsaw rather openly casted their doubts about the capability of regional authorities to ensure funds absorption. The basis for such concerns was apparently the inconsistent performance of the regions in the context of Phare institution-building projects[349]. These views were also known to the Polish officials, in particular from the Office of the Committee of European Integration (UKIE)[350]. Similarly, academic accounts on adaptation in the regional policy area pointed to the Commission's preference for a centralized funds' distribution model (see e.g. Hausner and Marody 2000: 103; Grosse 2003: 67), in which the Ministry of Economy would have undertaken an ultimate responsibility for the programming and implementation of aid programs. The Commission considered the single structure for funds disbursement more trustworthy, transparent and easier to monitor.

Moreover, the design of the system for distribution of pre-accession assistance, certified by the Commission, confirms its 'centralization' preferences. The pre-accession programmes applicable to Poland, Phare[351], ISPA and SAPARD[352], were managed centrally, practically without involvement of regional authorities. The only

[348] As the interviewed official of the Commission Delegation in Warsaw stressed. Interview with Phare Task Manager in the Commission Delegation in Poland in September 2003.
[349] Ibid.
[350] Interview with the Director of the Department of Support for the Committee of European Integration (in 2001–2004) in the Office of the Committee of European Integration in September 2008; Interview with the Director of the Analytical Unit in the Department of Support for Accession Negotiations in March 2006.
[351] Initiated by Council Regulation (EEC) 3906/89.
[352] Instrument for Structural Policies for Pre-Accession (ISPA) and Special Accession Programme for Agriculture and Rural Development (SAPARD) introduced by Agenda 2000 (CEC 1997c).

exceptions were two regional components of Phare, the Socio-economic Cohesion and Cross-border Co-operation (Phare CBC)[353]. However, also in these last two cases the role of regional authorities, by law responsible for development policy in their territories (1998, Art. 11.2), was limited. They were involved in the programming phase, albeit central administration (UKIE or sectoral ministries) and the Commission (through Steering Committees[354]) overlooked closely even the preparation of the voivodship developmental programmes. The project selection was affirmed by the Ministry of Economy and the European Commission while regional authorities' role in programme implementation was negligible. The voivods or governmental agencies organized *concours* for the projects, monitored programme implementation and discharged funding.

The subsequent versions of the programmes anticipated a gradually progressing centralization of the management functions (with ISPA and SAPARD management centralized from the beginning). The regional institutions had been deprived of the few responsibilities initially within their competencies (Grosse 2003: 73). While in 2000 regional financing institutions could finance small infrastructural projects, from 2001 no such decisions could be taken independently without the involvement of the central administration. Similarly, the competencies related to the human resources schemes were transferred from the regional job centers to the central agency.

Generally, more recent versions of the programme (Phare 2002) anticipated more extensive involvement of the central ministries (Grosse 2003: 72). This has resulted from the pressures of the Commission Delegation in Poland, which responded to the evidence of increasing delays with programme accreditation, implementation and cases of inability of regional structures to develop quality projects. At the same time, centralized procedures for implementation of pre-accession aid have complemented the centralized logics of the public finance system in Poland and even reinforced it. The pre-accession funds management system was used by the central administration in attempts to recentralize regional development policy (Hausner and Marody 2000: 103). Full control of the EU funds management functions constituting its key financial pillar would assert the leading role of the sectoral ministries.

---

[353] Although share of these components was increasing, reaching by 2002 up to 60% of the Phare budget for Poland.

[354] Consultative bodies on Phare programming enacted in each voivodship benefiting from Phare assistance.

The underlining issue in the discussions on the operation of the regional funds in Poland was the administrative capacity necessary to absorb the funding. The 2001 Report noted that "notwithstanding significant progress made in previous years in developing the necessary structures for the implementation of the Structural Funds, developments in [the regional policy] area have largely stalled. Considerable additional efforts are needed to establish operational bodies and to increase administrative capacity for the implementation of the Structural Funds" (CEC 2001b: 79). The Commission concluded that "variable progress" was achieved in imposing programming at the regional level, while no positive developments occurred at the national one (CEC 2001b: 79), which raised concerns about Poland's ability to establish the National Development Plan. The Commission also complained about the lack of a clear idea as to the structure of the future programming documents. Until the last, 2002, Report, published after the start of accession negotiations, Regional policy remained among the policy areas where progress in adaptation was inadequate (CEC 2002: 138).

All of the evidence discussed pointed to the inconsistent behavior of the Commission in the first (pre-negotiations) and second (after Avis) stages of the pre-accession process. The thin acquis could well accommodate both, the claim for decentralization as well as centralization of the funds' management system. The attitudinal shift of the Commission's position was noted by all the important players, policy-makers, academics and territorial self-governments. However, a clear message was not conveyed by any of the formal documents. The concrete demands and the European vision of Poland's regional policy were formulated only in the EU position paper.

Key problems in the accession negotiations about the terms of accession in Chapter 21

The accession negotiations on Chapter 21 'Regional policy and co-ordination of structural instruments' focused on two aspects. Firstly, Poland sought an agreement for the highest possible allocation of funding in the framework of Structural and Cohesion Funds. Secondly, in order to activate the transfers Polish authorities had to demonstrate sufficient administrative capacity to assure absorption. The talks commenced in April

2000 and were finalized in December 2002 (provisionally closed in October 2002). Due to the serious financial implications and need for inter-governmental compromise on budgetary matters, the final closure of the chapter was left to the very end of the negotiation process. Such a decision by the Commission was in line with the undertaken strategy of negotiations (CEC 2000b: 27). The opening of the most difficult or controversial policy chapters was envisaged for the end of the negotiation process (see Annex 7.2), so the time pressure could mitigate the negotiation stance of the applicants for membership.

Table 7.1.: Calendar of negotiations on Chapter 21: Regional Policy

PROMOTER	THE MILESTONES IN NEGOTIATIONS	DATE
PL	Poland's Negotiation Position in the area of Regional policy	23 November 1999
EU	European Union Common Position	22 March 2000
EU/PL	Opening of the negotiations on Chapter 21 (Conference meeting at deputies level)	6 April 2000
PL	Response to the EU questions included in the Common Position	26 May 2000
PL	Reply to the Common Position	6 July 2000
EU	Draft Common Position	23 November 2000
EU	Common Position	1 December 2000
PL	Reply to the Common Position	5 February 2001
EU	Information Note on Chapter 21	30 November 2001
	Technical Consultations on Chapter 21	18 February 2002
EU	Additional questions of the Commission	26 February 2002
PL	Draft objectives and priorities of the NDP for 2004–2006	7 March 2002
PL	Action Plan on Improvement of Administrative Capacity	8 September 2002
EU	European Commission's comments on the Draft Operational Programmes	12 November 2002
EU/PL	Provisional closure of the negotiations on Chapter 21	1 October 2002

As stated above, the subject of accession negotiations, Regional policy acquis, is covered by the framework regulation laying down general provisions on the Structural Funds (EC 1260/1999) and a series of implementing regulations and decisions, which do not require transposition into the national legislation. Nonetheless, the European Union's Guide to the Negotiations (CEC 2004a: 67) listed concrete measures to be adopted upon accession, including setting out legislative framework allowing for implementation of the specific EU provisions, NUTS classification and assuring programming capacity.

On the other hand, negotiations of the financial envelope were intergovernmental in character and not contingent upon the candidates' preparations on the ground. The Commission has restricted the room for maneuver by a few working assumptions (see Mayhew 2002a) outlined in the Berlin financial framework (CONF-

PL 13/00), the main one being the ceiling of assistance at the level of 4% of a country's GDP level (CONF-PL 75/00). The Commission has also proposed an increased share of the Cohesion Fund in the total volume of the structural funding. Furthermore, although the Commission anticipated that the initial rate of absorption, in terms of both payments and commitments may be limited, it did not anticipate any special arrangements for the candidates (Mayhew 2002a: 8).

The analysis of the negotiation documents shows first of all considerable dissonance when it comes to the expectations of the two sides about the subject of talks. While Polish negotiators attempted to focus on the availability of funding and their volume, emphasizing Poland's expectation to "fully benefit from the Structural and Cohesion Funds from the day of accession" (UKIE 2000: 309), the Commission underlined conditionality of aid flows upon the creation of appropriate and capable administrative structures for processing the funds. Eventually, the Commission, by gradual specification of its demands for adaptation in the course of the negotiation process, has imparted the tone of the negotiation process. It reasserted in its 2003 Communication (CEC 2003) that candidate countries could only benefit from project and expenditure eligibility from 1 January 2004 "if all appropriate legislation has been aligned and fully transposed by 31 December 2003. Otherwise the Commission will not be able to approve Community funding upon accession". Thus, the inflow of funding, whichever volumes eventually were agreed upon, was conditional upon the second, administrative capacity aspect.

The European Commission took a leading role in guiding the candidates in their adaptation efforts since thin acquis did not provide concrete prescription on the institutional structures for funds' absorption. The common position (CP) requested specific information on Poland's management system for funds' distribution (CONF-PL 13/00). The Commission was particularly interested in procedures concerning processing of the Structural and Cohesion Funds and division of competencies between governmental tiers. The CP also criticized Poland for insufficient information on the application of the key principles of the EU cohesion policy, partnership, multi-annual programming and additionality. With respect to the efficiency of funds' operations, the Commission requested more information on the "working capacity of Poland's administration", in particular at regional and local level as well as evaluation and

monitoring of the programs' financial management, budgetary procedures and financial control.

On the other hand, the Commission proposed to leave negotiations on a financial envelope until the end of negotiations, so as to ensure coherence between various negotiation chapters with important budgetary implications and to respect the Berlin financial framework (CEC 2001c). In turn, this was the key point of interest for the Polish negotiators. Both in the first position paper (PM Chancellery 1999) and later reply to the common position from July 2000 (PM Chancellery 2000) Poland's government stressed its willingness "to fully adjust the principles of structural policy to EU requirements and to prepare an efficient system of programming, monitoring and financial control of structural instruments by 31 December 2002" (PM Chancellery 1999), so as to benefit from the funds from the day of accession. Poland's government presented estimates of per capita GDP and NUTS division awaiting concrete response with regards to financial appropriations.

The European Commission, however, remained uncertain about the Polish administration's capacity to process the funding, and subsequent versions of the CP reiterated requests for more information on systemic solutions. At the same time, some improvements were noticed, in particular adoption of the NUTS system in the Regulation on introduction of nomenclature of territorial units for statistics (CONF-PL 75/00). The undertaken territorial division was compatible with post-1998 administrative structures and the NUTS III level was the only 'new' tier of regional division.

Table 7.2.: NUTS division in Poland

LEVEL	NUMBER	NOMENCLATURE
NUTS I	1	COUNTRY - POLAND
NUTS II	16	PROVINCES - VOIVODSHIPS
NUTS III	44	SUBREGIONS - MACROREGIONS
NUTS IV	373	COUNTIES - POVIATS
NUTS V	2489	MUNICIPALITIES - GMINAS

Source: Reply to the Common Position of the EU from July 2000 (PM Chancellery 2000).

Poland's negotiators, in turn, presented legal adaptation as a key achievement in terms of realization of the negotiation commitments (PM Chancellery 2000). However,

all policy actions listed in the Polish position paper[355] as well as the key legislation were anticipated rather than already implemented. Similarly, the National Strategy for Regional Development drafted in September 1999 was only 'to be aligned' with the new legal acts adapting Poland's regional assistance to the EU requirement. Furthermore, the government forecasted adoption of the National Development Plan (NDP) "containing strategy and priorities for action of the Funds and the Member State, their specific objectives, the contribution of the Funds and the other financial resources" only by the end of 2001. The compilation of the NDP was indispensable for approval of the Community Support Framework (EC 1260/1999) and thus its adoption was one of the key issues in the negotiations.

Although Poland's position papers were rather detailed in listing institutions and administrative personnel involved in regional policy management, they were deficient when it came to provision of information on concrete procedures and tasks assigned to these structures. In turn, such information was crucial from the Commission's perspective as it defined the real policy content. Thus the Commission reiterated its requests for more exhaustive explanations. Apart from institutional issues, the Commission was mostly concerned about the financial capability of Poland's government to co-finance the interventions but also to assure appropriate multi-annual integration of the national budget expenditures and anticipated public spending in the context of preparation for the full participation in the EMU (CONF-PL 75/00). The Commission's enquiries about the budgetary expenditures on regional interventions, co-financing capacity and estimates of public finance or equivalent structural expenditures for 2000–2006 were rather intrusive. Polish negotiators often seemed to be not prepared to provide such detailed but extensive in scope information.

As they admitted during the technical consultations (PM Chancellery 2002), Poland's public finance system has indeed not guaranteed appropriation of certain amounts in the long term horizon as planned in the CSF and Operational Programmes (according to which the aid was to be disbursed). Implementation of the multi-annual perspective required changes to the structure of the state budget and transfer of the

[355] Such as the creation of the Ministry of Regional Development and Construction endowed with responsibility to coordinate regional policy, of the State Council for Regional Policy as its advisory body and introduction of the clear division of competencies between administrative tiers.

special funds to the territorial self-governments' budgets. The key problem appeared to be the correlation of the EU funds planned as budgetary appropriations for three years with the domestic resources spent in one year. It was not certain that the agreed funds for co-financing would be eventually included in the state budget. Insufficient statistical data also made uncertain the ability to implement the additionality principle. Moreover, as pointed out by the Commission, provision of the appropriate co-financing level required an increase of budgetary resources, particularly controversial in the context of maintaining fiscal discipline.

Since 2001 the focus of negotiators has been shifting from institutional structures to policy programming, namely the drafting of the strategic documents, which provided a framework for funds' disbursement. The National Development Plan (NDP) consisting of the Operational Programmes (OPs) defined the organization of the co-financing system and mapped out the strategy, priorities and areas of interventions under the Structural and Cohesion funds. The Commission in its Information Note to the candidate countries published in November 2001 (CEC 2001c), while urging not to underestimate the challenge in adaptation in this field encouraged the candidates to maximally simplify the structures of the framework documents and limit the number of programming documents to be prepared. Objective 1 countries (like Poland) were advised to prepare a development plan, an integrated regional operational programme and (as far as possible) monofund sectoral operational programmes each covering eligible regions (CEC 2001c). In principle such system assumed central level management but "where an appropriate level of administrative capacity exists, the designated managing authorities may decide to sub-delegate part of implementation of an operational programme to the sub-national level" (CEC 2001c). At this stage, already incurred delays in setting the structures and procedures for funds confined Poland to the maximally simplified funds system.

There were three major problems pertaining during the preparation of Poland's NDP. The key issue was the delay in adoption by the Committee of European integration of the OPs. This occurred due to delays in provision of their contents by the sectoral ministries, which complained about insufficient resources to put up with the schedule. Thus, the deadline for preparation of the first draft documents, initially planned for the end of 2001, was postponed until November 2002 (PM Chancellery

2000). Secondly, the assumptions of the draft programmes were broadly contested during the inter-ministerial consultations. The sectoral ministries and government's agencies competed for playing the roles of the Managing and Implementing Authorities. General underfunding of the public administration presented EU Structural Funds as an occasion to finance operational activities with the technical aid assigned to each of the OPs for its management[356]. Thus, determination of responsibilities remained for a long time unsettled, partially due to political reasons and competition between the structures about the leading role in the programming and management of the funds.

The quality of the programming documents appeared equally problematic. The Commission pointed out that the proposed drafts "do not sufficiently identify performance indicators and quantified objectives" (CEC 2002c: 3). They also suffered from the imprecise demarcation of tasks between administrative tiers, insufficient detail on the content of measures and implementation structures as well as inadequate information about compliance with other Community policies and operations (in particular environment and gender-equal opportunities). Other critical points included insufficiently justified measures, containing a shopping list of projects rather than objective criteria and poor matching between programme objectives and means to achieve them. The Commission pointed to the poor diagnosis of the socio-economic situation in some of the programs[357], which largely failed to provide any coherent analysis. In consequence, the role of these proposals in defining developmental objectives addressing regional disparities was limited (CEC 2002c: 34).

Eventually, the negotiations were provisionally closed on 5 October 2002 and volume of the appropriations from the EU Structural and Cohesion budgets finally agreed upon during the Copenhagen IGC in December 2002. Poland was to receive for the 2004–2006 perspective 7,635.3 billion Euro from the Structural Funds and 3,733.3 billion Euro from the Cohesion Fund budget. This constituted 57,6% and 52,8% of the whole sum for the ten new member countries for the Objective 1 areas and Cohesion Fund respectively (Council of Ministers 2002: 32). Additionally, Poland was allowed to activate the OPs from January 2004 (prior to accession). The NDP (basis for the

[356] Each Operational Programme has a certain budget for 'technical assistance' for the institution in charge of its implementation and management.
[357] For instance the Integrated Regional Development Programme.

Community Support Framework, CSF) submitted to the Commission in January 2003 anticipated, in line with Commission's recommendations, the introduction of six sectoral programs (single fund) and one Integrated Regional Development Programme (double fund), managed by the Ministry of Economy. The Community Support Framework was adopted by the Council of Ministers on 23 December 2003 (and by the College of High Commissioners on 10 December 2003).

The time pressure and asymmetric interests allowed the European Commission to wield its negotiating powers during the accession negotiations in the Regional policy area. Poland's request for eligibility for funding on equal terms with other member countries combined with its weak administrative capacity validated engagement of the Commission in detailed policy-planning after the start of negotiations. The expertise in the topic gradually acquired by the Commission's officials forced them, however, to revise earlier assumptions about the optimal organization of the funds' distribution system in Poland. At the same time, problems with the timely adoption of legal framework and institutional set-up provided additional justification for the Commission's intervention in the policy-making process, even if not embedded into the acquis. Thus, there is evidence for application of extensive pre-accession conditionality in the Regional policy case, in its most classic version, when compliance is rewarded with financial benefits. However, as the last section demonstrates and the IFIs' ample experience with conditionality confirmed, it does not necessarily guarantee a timely and quality adaptation.

3. Social mobilization as the result of implementation of the Regional policy acquis

The specific dynamics of the accession negotiations in the Regional policy field and in particular the declaration about the absence of negotiation problems in the area practically excluded non-governmental actors from participation in the talks. The EU officially did not dictate what kind of policy model should be implemented in Poland, so the self-governments as subjects of such decisions had nothing to oppose. The controversies linked to implementation of the EU demands, for instance on administrative capacity, concerned the division of competencies within the government and most of them were not interesting enough to the public to raise media attention. In

this context the only issue worth noticing was the volume of funding destined to Poland in the framework of the Structural and Cohesion Funds.

Moreover, as Hughes at al. argue, the general paradox of CEECs' adaptation in the Regional policy field lay in the fact that despite "critical importance of regionalization in the CEECs for the EU, and despite the Commission's language about institutionally embedding 'partnership' in regional policy, the participation of sub-national elites in the pre-accession strategy was marginal" (Hughes et al. 2003: 13). Since the beginning of the enlargement process the Commission focused on bilateral negotiations and communicated predominantly with candidates' national governments (Hughes et al. 2003: 13) Similarly, the studies of Polish authors point out that regional self-governments had far insufficient knowledge about the shape of the system of the funds' distribution (Grosse 2004), which impeded their capabilities to cope with future challenges related to the funds' absorption. The haste of legal and institutional preparations practically excluded the social and sub-national partners from participation in the decision-making on the content of the NDP and OPs. The formal requirement to conduct social consultations in the course of programming was fulfilled only formally while non-governmental actors had practically no chance to provide any substantial contribution. The key domestic negotiations took place between the central executive agendas and concerned the roles of particular central level institutions in the funds' management system[358]. In practice the self-governments were excluded from decision-making on the system of Structural and Cohesion Funds distribution in the 2004–2006 budgetary perspective.

The situation of the social and economic partners has, however, diametrically changed after accession. The cohesion policy acquis differs from other studied cases (apart from Fisheries) in that EU legal provisions explicitly demand inclusion of the social and economic partners in the policy-making process. In line with EU regulations (1999) programming, implementation and evaluation of assistance were supposed to be conducted with participation of sub-national, social and economic actors. Thus, creation of the formal platforms for such consultations became one of the conditions for closure

[358] Interview with the Director of the Department of Support for the Committee of European Integration (in 2001–2004) at the Office of the Committee of European Integration, in September 2008; Interview with the Director of the Analytical Unit in the Department of Support for Accession Negotiations in March 2006.

of accession negotiations. These structures could be gradually filled in with the content in a similar way as the formal introduction of municipalities in 1990 led to social mobilization at the local level.

Implementation of the partnership principle in the pre-accession phase

The European Commission criticized the insufficient involvement of the social partners in drafting the programming documents, NDP and OPs prior to their presentation to the EU. The 2001 Regular Report noted the limited progress on application of the partnership principle (CEC 2001b) and the Commission asked for detailed information on the practical implementation of the rule in the course of negotiations (CONF-PL 13/00). At the same time, the Polish government tried to convince the Commission on its resolve to conduct social consultations, which were formally ascertained by the administrative reform from 1999, the constitutional provisions and the Law on the principles of support for regional development (PM Chancellery 2000). The apparent proof of social partners' involvement was the fact that voivodship development strategies "cannot be effected before opinions are provided by as broad as possible a group of representatives of social and economic partners" (PM Chancellery 2000). However, Polish law did not specify a mode of conduct for social consultations and in reality the choice of partners was contingent on a particular government department or regional office.

Despite these declarations, Poland's position paper from 2001 (PM Chancellery 2001) admitted that there was yet no effective mechanism of social consultations but therefore, "special attention was devoted to building private-public partnerships between public authorities and representatives of the business environments and NGOs". In response to the Commission's pressure, until November 2002, the government (mostly the Ministry of Economy), making the "utmost effort to fulfill the partnership principle", conducted more than fifty consultations on NDP/CSF and OPs with around seven thousand participants (Ministerstwo Gospodarki 2002b). The impact of these consultations has been, however, limited, a fact which has been stressed by both the regional environments (Ministerstwo Gospodarki 2002b) and administration

officials[359]. The most problematic issue was the timing of preparation and adoption of the programmic documents imposed by the negotiations calendar. In most cases it left not more than few days for consultations (Grosse 2004). Therefore, a great majority of these 'consultations' represented presentations of the programmic assumptions to the interested actors and 'window dressing' rather than consultations in the true meaning of the word. This situation has considerably changed after accession, in the implementation stage of the policy, when social groups and regional representatives were formally included in works of the Steering and Monitoring Committees[360]. This gave them the legal basis for demanding a say on the way the funds were spent and a basis for extending their powers.

Social mobilization as the result of implementation of the EU cohesion policy rules

The first occasion to practice application of the partnership principle prior to enlargement was the process of preparation of the regional contracts between the central administration and the voivodship self-governments, introduced by the Law on supporting regional development (2000). The procedure was designed as a continuation of the 1998 territorial reform, in principle to create conditions for the self-governments to play a more independent role as the 'regional hosts' (Grosse 2003: 29). As discussed above, inclusion of the regional self-governments was not entirely effective due to the dominance of the central executive departments in the process of financing regional investments and their disregard for regional particularities. Significant sections of the contracts were non-negotiable as they anticipated realization of *a priori* defined goals. Nevertheless, the drafting of the regional development plans was the first exercise of the provincial self-governments in creation of the programming documents.

Although preparation of the NDP and OPs during the accession negotiations provided the next chance for territorial self-governments to participate in programming activities, as mentioned above, this occasion has not been utilized. Thus, from the self-governments perspective, the new era of policy-making commenced with the setting up of the Steering and Monitoring Committees for each OP. They served as formal

[359] Ibid.
[360] However, ordinances regulating their work also came into force in the second half of 2004.

consultation platforms endowed with the responsibility to establish criteria for granting assistance and to select the projects (Steering), and for programme assessment and projects' implementation (Monitoring). The representatives of the social partners, broadly defined in the Law on supporting regional development as "entrepreneurs, employers and their organizations, trade unions, NGOs and academic institutes, which in the scope of their actions have regional development" (2000, Art. 2) possessed the right to participate in the committees.

The Report on implementation of the Integrated Regional Development Programme commissioned by the Ministry of Regional Development[361] revealed that in general, Regional Steering Committees play an important role in the funds' management system. However, they were also stricken with some problems that needed to be addressed. There was an uneven contribution to the meetings by the actors. While the self-governmental actors tended to participate actively in discussions (where also the majority of discussed projects were authored) within the groups, the social and economic players seemed less involved. Inadequate procedural arrangements for the choice of social partners did not ensure their optimal number in the committees. Additionally, a lack of transparent and objective criteria of participants' selection resulted in differing representations in various voivodships and incoherent results of the committees' works throughout the country (MRR 2005a).

Similar results revealed the study on another OP, the Increase of Competitiveness of Enterprises (Sienna 2005). The report additionally pointed to the insufficient preparation by most of the social partners for working on the committees, which often required specialized knowledge. The overall assessment of the committees' activities was positive although the report did not point to any concrete contribution to programme modifications. Both reports note that some members of the committees used them predominantly as a lobbying platform for their particularistic interests. The PKPP Lewiatan, one of the largest business organizations in Poland, was a positive exception.

While the participation of the social and economic actors in the programming of the policy in the 2004–2006 budget, due to the time pressure, was minimal, this

[361] The Steering Committees were enacted based on the Act on the NDP from 20 April 2004 and included marshal, voivod, representative of the Managing Institutions, Ministers in charge, municipal and county self-governments, social and economic partners. Their key task was to give opinions and formulate proposals on the lists of projects eligible for co-financing from the EU funds.

considerably changed in the following 2007–2013 budgetary perspective. In particular the example of the banking environment shows how the formal provisions for social consultations may under the pressure of interested organizations evolve to empower sectoral interest groups.

Although banking sector representatives were not invited to co-operate on the programming of the 2004–2006 perspective, after activation of the programmes, the Polish Banks Association (ZBP) enacted two groups of experts delegated specifically to deal with the EU Structural and Cohesion Funds (ZBP 2006). Their key achievement during the first budgetary perspective was the amendment of the Law on the European Guarantee Fund aiming to streamline the credit action among the enterprises willing to benefit from EU funding. Commercial banks have managed to reassert involvement in programme preparations and setting the access criteria to the funding on the grounds that banks' specialists are best suited to assess the qualities of the projects submitted for financing. Moreover, the banks have secured mandatory financing from the commercial loan as an element from project financing structure (in some programmes).

Encouraged by the positive result of the lobbying activities in 2004–2006, the commercial banks thoroughly prepared for the following budgetary perspective. This time, no programming document was adopted without prior consultation with the banking environment[362]. The key postulate was to extend application of the mandatory credit element to all the OPs and their sections directed to enterprises. This proposal was taken seriously by the decision-makers in the government, and the Ministry of Regional Development even commissioned a study on the concept of implementation of the SME programmes with the credit component managed by the banks as the Managing Institutions (WYG International 2006). However, due to immediate opposition from other social partners, in particular enterprises and self-governments (Convent of Marshals 2006), for which access to funding would be hindered, the government eventually rejected the proposal. Although a number of other proposed solutions was rejected, the commercial banks have managed to ascertain their role as a viable social partner, which needed to be consulted on all vital matters related to the EU funds' distribution system.

[362] Interview with the EU Funds expert from the Polish Banks Association in December 2006.

On the other hand, banking environment, together with other economic interest groups, has lobbied for inclusion in the 2007–2013 perspective the measures providing financing from the EU funds for the 'business representation' for dissemination of information about available funding opportunities. This time, concerted pressures were successful and such programmes were anticipated. Other examples of co-operation between various potential beneficiaries of the EU funds represent the series of conferences initiated by the banking environment, the 'Corporate Forum', 'Self-governments Forum', 'Rural Areas Development Forum' and the 'Academic Forum'.

As the examples of activities of interest groups associating enterprises demonstrate, the EU funds' contribution to social mobilization took place not only through participation in the formal bodies realizing the partnership principle. It has also created a wide range of issues around which various actors and their representations could coalesce. The mere availability of the volume of funds, far exceeding any funding thus far devoted to regional development, created problems requiring common solutions. The regional governments, even if their function in the system was restricted, had an important role in assessing the developments taking place in their territories. The activities of the regional representative bodies confirm such a proposition. The Convent of Marshals, which in 1999–2003 formulated 130 positions on various issues (mostly concerning financial matters related to the income of territorial self-government units and division of competencies between regional administrative tiers), in 2004–2006 presented as many as 230 positions, mostly concerning issues related to EU Structural Funds disbursement[363].

The territorial self-governments have also had tangible successes in exerting pressures on the government. They managed to prevent an amendment of the Law on the rules of supporting regional development, giving more powers to the central authorities by allowing for withhold of the financing for the part of a regional programme assessed as inconsistent with the NDP. Eventually, a compromise solution was struck, assuming that the self-government can finance investments outside the operational programmes (agreed as regional contracts) within the wider regional development strategy (Kuźmicz 2006a). Furthermore, the Convent of Marshals has

[363] http://www.zwrp.pl/

managed to play an active role in the programming of the Structural Funds for the 2007–2013 perspective. Among other issues, the organization managed to prevent the abandonment of the social consultations on agricultural programmes (Axis IV LEADER) and successfully passed the proposal for an amendment of the Law on the initiation of the resources from the state budget.

The partnership principle at the initial stages of implementation of the regional policy acquis was a purely formalistic matter, applied to satisfy the demands of the Commission. The time pressure for adoption of framework documents combined with the reluctant attitude of the sectoral ministries to share the power with other bodies has also hindered its implementation. However, initially façade structures for the social consultations formed the basis for increasing the involvement of social partners in regional policy-making. There is evidence for mobilization of the various social groups aiming to capture the benefits from the EU Funds. A considerable increase in the available funding in the 2007–2013 perspective made these efforts economically profitable, even if just a small fraction of postulates is eventually considered. At the same time, the self-governments seem to gradually assert their systemic role and it can be viably expected that this trend will continue in the future.

4. The effectiveness of EU conditionality in promoting regional policy change

The EU conditionality in the cohesion policy field has not been consistently effective. Community pressure neither assured fulfillment by Poland of its pre-accession commitments nor guaranteed that the candidate attains key regional policy goals. The applicant encountered three main types of problems with adaptation. The first constituted delays in adoption of legal acts and setting institutional structures for funds' processing. Owing to these, there has been relatively little time left for drafting the programming documents, such as NDP or OPs, impairing their quality. Moreover, the time pressure was partially the reason for the conducting of façade-like social consultations or just skipping them, putting into question the implementation of the partnership principle.

Secondly, there have been relevant questions about the absorption capacity, namely whether the Polish government manages to program, transfer and account for

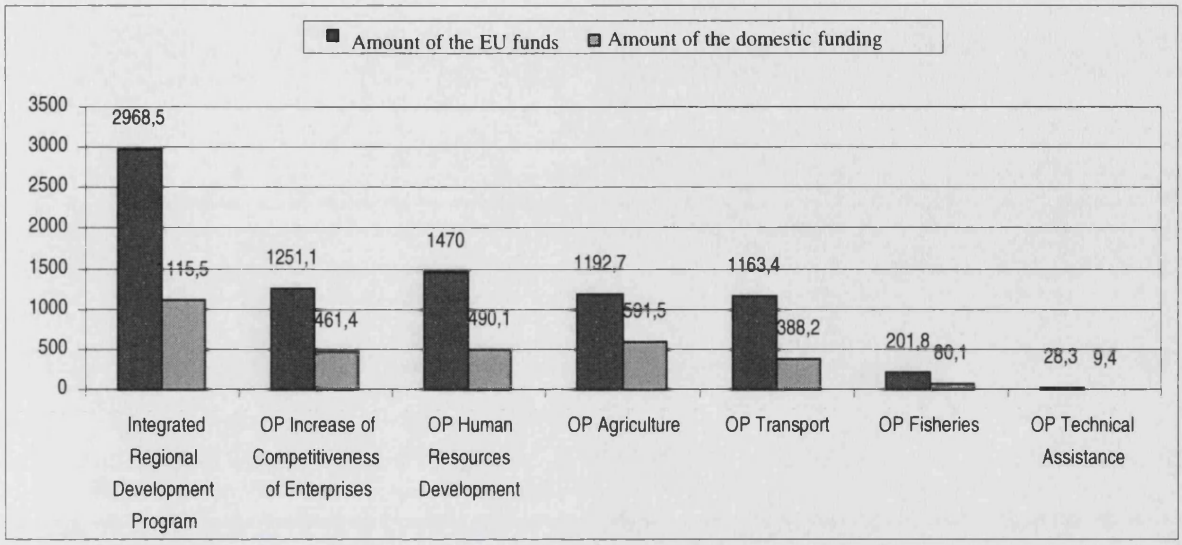
expenses from the EU cohesion policy budget. Although Polish negotiators achieved assent from the Commission to start operating the assistance programmes even before accession, from January 2004 until the end of December the same year no tender for the projects was announced. To a large extent this situation also followed from delays in the implementation of the legal framework and the poor quality of legal provisions, part of which had to be re-designed right after enforcement.

Last, but not least, there have been serious doubts about Poland's capability to use the funds in such a way as to meet the EU regional policy goals, namely redressing regional differences, strengthening unity and ensuring the harmonious development of the Polish economy[364]. Thus, questions rise not only with regard to the administrative absorption capacity but also its structural aspects, namely the contribution of the EU-funded programmes towards solving the structural problems, increasing cohesion between the regions and EU member countries and thus promoting effective European integration (Hausner 2001: 177). The answer to any of these questions is unambiguously positive with the largest doubts pertaining to the third, perhaps the most significant issue. Their critical assessment may be less harsh, however, when one considers that the effects of implementation of the EU regional policy in most of the 'old' EU member countries remain equally unequivocal.

The system of distribution of EU funding in Poland in 2004–2006 has been almost entirely centralized. The CSF was implemented through the Operational Programmes (OPs). The NDP divides the funding from Structural Funds into six single-fund sectoral programmes and one multi-fund (ERDF and ESF) Integrated Regional Development Programme (IRDP)[365]. The centralization of management concerns all stages of the policy-making. The programming is initiated by the Managing Authorities[366], which for all programs are central government ministries (see Annex 7.3).

[364] European Commission, Treaty of Rome, 1957.
[365] In parallel to these, large infrastructural and environmental investments are co-financed from the Cohesion Fund and smaller projects are realized within the framework of the Community Initiatives.
[366] Article 9 of the Council Regulation (EC) 1620/1999.

Graph 7.1: Budgetary appropriations for the operational programs (in bln EUR in current prices)



Source: CSF 2003

The operational functions related to the funds' disbursement are carried out by the government's specialised agencies[367], such as the Polish Agency for Entrepreneurship Development or the Agency for Restructuring and Modernization of Agriculture. Solely in the case of the Integrated Regional Programme, the implementing functions were transferred to the regional authorities, the Marshal offices. However, even in this latter case they have to share the responsibilities with the Voivodship Offices, representatives of the central governments in the regions. The payments are executed by the Ministry of Finance (Paying Authority). According to the Council Regulation ((EC) 1260/1999 Article 9) the member countries may assign responsibilities of the Managing Authorities to various types of bodies, either public or private. In Poland this function is assigned in the case of all Operational Programs to the sectoral ministries.

Delays in adoption of legal framework and setting the institutional structures

Most of Poland's commitments to adjustments to the EU cohesion policy rules comes from the reply to the common position published on 6 July 2000 (PM Chancellery 2000). The key deadlines considered the establishment of an efficient system of programming, monitoring and financial control of structural instruments by

[367] Responding to the sectoral Ministers.

the end of 2001, adjustment of regional statistics by the end of 2002, adoption of the National Strategy for Regional Development and Support Programme by the end of 2000 and completion of works on the National Development Plan by the end of 2001. The administrative structures for fiscal control and certification of EU funds were to be put in place during the first quarter of 2001. Such a tight schedule followed from the time-frame for the process of harmonization and implementation of the Community legislation set for the end of 2002 (UKIE 2000: 309). Due to the slower than expected pace of negotiations, a consequence of international rather than domestic political circumstances, this deadline was soon revised.

However, even the timely implementation of the number of commitments has posed considerable problems. Polish negotiators, after the consultative meeting with the Commission representatives in February 2002 (PM Chancellery 2002), declared that legislative arrangements in view of the provision of co-financing in the multi-annual horizon would be ready by 2002, an institutional system (defining the target structure of the institutions involved) by the beginning of 2003 and the layout of NDP together with the number and type of OPs by the end of February 2002 (Ministry of Economy 2002). Eventually, the NDP was submitted to the Commission at the end of 2002[368] and the Act on the National Development Plan was adopted by the Parliament only on 24 May 2004 (2004), preventing activation of the programmes before accession.

The delay in submission of the Draft NDP to the Commission (in September 2002) underlined the key problem with adaptation in the Regional policy area, that is, the inability to produce quality programmic documents through the policy process reflecting provisions of the Council Regulation (EC) 1260/1999.

Whereas the implementation of the framework legal acts establishing the overall administrative structure and rules for the policy conduct proceeded more or less according to the schedule, the actual enforcement of the EU-financed programs posed a true challenge. To grasp the complexity of the task one needs to consider that there have

[368] It then required thorough revisions by the group of experts. They carried out ex-ante evaluation in accordance with Article 40 and Article 41 of the Council's Regulation (EC) 1260/1999. Its subjects were the draft of the National Development Plan for years 2004–2006 (version dated November of 2002), separate projects of sectoral operational programmes, the Integrated Regional Operational Programme and the Technical Assistance Programme.

been 179 legal acts, ordinances to the Law on the NDP[369] for 2004–2006, which regulated in detail the mode of distribution of the EU structural assistance. The NDP was adopted only in May 2004 and there has been huge political pressure to activate the programmes before the end of the year in order to demonstrate the increasing absorption rate of the funds. Therefore, most of these regulations were enacted during a few months proceeding activation of the programmes.

Following the delays in legal adaptation were delays in the activation of the programmes. The first Operational Programmes were launched in December 2004 but some were still not open before the end of 2005[370]. Similar problems appeared even while launching the pre-accession aid, in particular Phare and SAPARD[371]. Furthermore, the government encountered serious difficulties in the implementation of the IT system for Structural Funds management (SIMIC)[372], which was not been completed on time and did not become fully operational until the end of the 2006 perspective (Kuźmicz and Kostrzewski 2006).

Another consequence of hastily prepared legal acts was the poor quality of adaptation. The rules governing the distribution of money had to be permanently amended. For instance, there were fourteen amendments of documents guiding the distribution of grants in the framework of the OP Increase of Competitiveness of Enterprises (the measure for SMEs) during the first year of operation of the programme. The unstable legal environment presented a serious procedural barrier for the potential beneficiaries of the funding. It constrained their availability since they had to keep up with all the changes and invest considerable administrative resources to prepare applications. The enterprises encountered procedural barriers to the most serious deficiencies of the system of Structural Funds' allocation[373].

The complications with the institutional system and the high number of agents involved in processing the applications have also led to serious prolongation of the application process. The average timing since the moment of submission of application for assistance until the financial payment was nine months during the first year of the funds' operation. In light of these difficulties and growing complaints about the way the

[369] http://isip.sejm.gov.pl/prawo/index.html
[370] Such as the Increase of Competitiveness of Enterprises, measure 1.3
[371] The first re-designed 1998 tranche of Phare was actually activated only in 2000.
[372] Co-financed by Phare projects PL 9904.02, PL 0003.04, PL 2002/000-605.01.03
[373] Report of the Foundation of SMEs (FMiSP 2006 :9)

system operates, but also low levels of absorption in the majority of the programs, the government decided to implement in 2006 the "Renovation programme", aimed at simplifying the procedures for absorption.

The uncertain absorption capacity

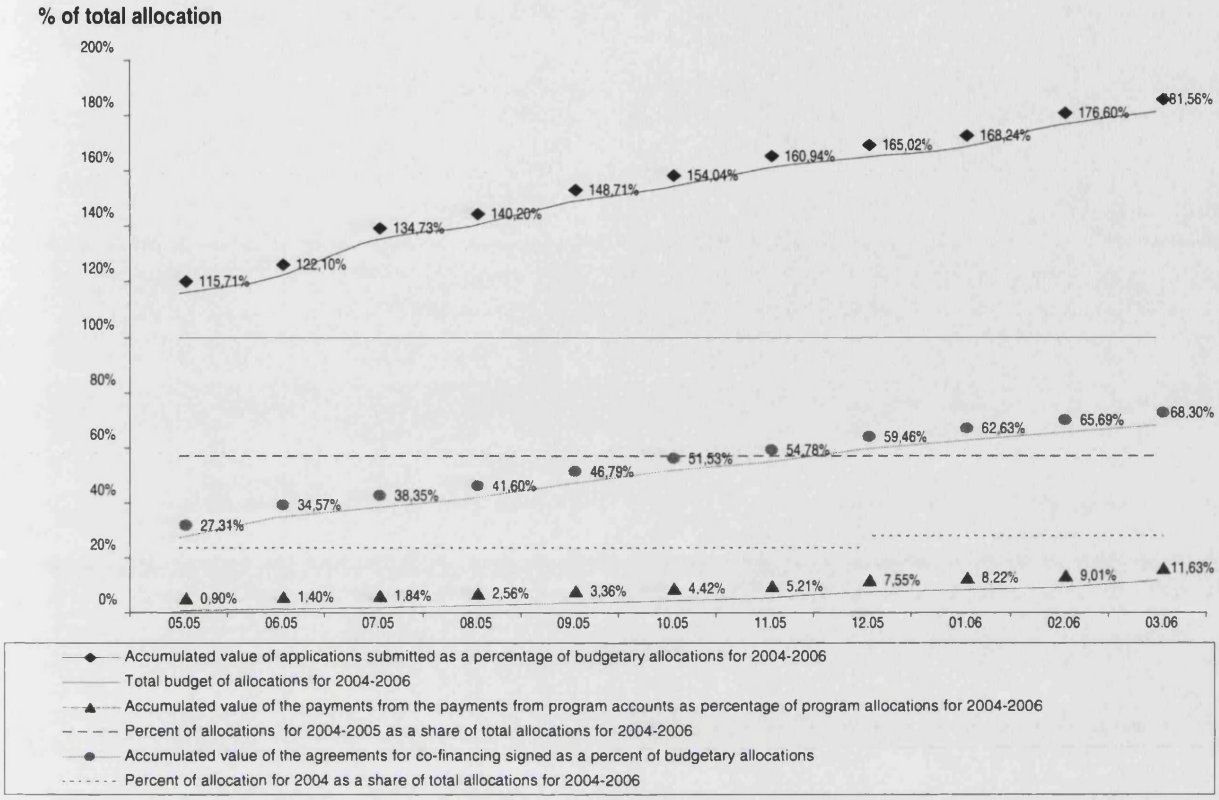
Following formal problems with adaptation, there were no payments from the programme accounts to the final beneficiaries by the end of 2004. By May 2005 the value of the contracts and the actual absorption was still unsatisfactory and varied considerably among particular programs[374]. The average rate of absorption, that is funds actually committed and disbursed, was around 9,3% of the programmes' budgets (Ministry of Economy 2005:51).

Some improvements were noted in the following year, although also in this case progress was uneven in different programs. At the beginning of 2006 the value of financial agreements for projects signed with the final beneficiaries reached 68%[375]. However, the rate of actual payments to the beneficiaries from the programme accounts transferred by the end of March 2006 did not exceed 12% of the allocation for 2004–2006 (close to 1 billion Euro). By March 2006 there were still measures in which no payments at all were executed or where allocation was below 2% of available funding (Ministry of Regional Development 2006). Particularly notable was the minimal progress in assigning projects for transport infrastructure, with better results in the only (to some extent) decentralized programme, the Integrated Regional Development Programme. These results seem to confirm the better ability of the regions to deal with the EU funding. Such reasoning has also been accepted by Poland's government, planning to implement a far more decentralized system of funds' distribution in the following budgetary perspective of 2007–2013.

[374]The operational program Human Resources Development had the best rate in terms of agreements signed (reaching 28 percent of available budget) and the worst results were observable in the operational program Transport, with 0,1 percent of funding assigned to the concrete projects (Ministry of Economy 2005:51)

[375]The highest rate is noted in Community Initiative Equal (95%) and in Integrated Regional Development Program (76%) and in Operational Program Technical Assistance (75%). In other programs the allocation oscillates between 60 and 70% (Ministry of Regional Development 2006).

Graph 7.2.: The rate of funds absorption as a percentage of total budgetary allocation for 2004–2006



Source: Ministry of Regional Development 2006

The pace of absorption has had important consequences. Firstly, failure to contract the funding by the end of the programming period (2006 for the first budgetary perspective that Poland participated in), in accordance with the so-called N+2 principle, signifies the loss of appropriated sums that have not been earmarked for concrete projects. Secondly, an inability to actually absorb the funding from the EU could make Poland a net contributor to the EU budget, a situation difficult to understand for the majority of Polish constituents.

The key problems behind the relatively low level of absorption during the first years of funds operation were linked to the inefficient institutional structures, and secondly, the problems with co-financing. Delays in the adoption of the framework documents and legal acts, in particular the Act on NDP (2004) and Act on public procurement rules (2004) resulted in deferrals in the designation of institutions in charge of the management of funding, but also in insufficient knowledge about the exact responsibilities of these institutions. The lack of legal basis prevented the timely enactment of the Steering and Monitoring Committees at both central and regional

levels. Moreover, late implementation of the basic legal documents created possibilities to make last-minute changes to the programmes.

In line with expectations, the administrative capacity, in particular at regional level, posed considerable problem. The territorial self-governments were not prepared for setting up the structures taking some of the funds' management functions (Grosse 2004), and eventually contributed to the delays in processing the financial flows. The institutional chaos was augmented by the separate sets of institutions and procedures for funds' management, depending on their source. There were three disconnected systems of processing regional funds' flows, those from the national budget (within regional contracts), pre-accession funds and the Structural and Cohesion Funds. In that sense, implementation of the pre-accession assistance, paradoxically, may have been counterproductive to fostering administrative capacity. As the Minister of Regional Development admitted, multiple rules regulating in detail all aspects of the programme management were in line with the interests of the administration officials, as being allowed to get rid of responsibility for decisions taken. The complexity of the institutional and procedural rules was broadly considered as the key problem related to EU funds' absorption (PAP 2005).

Another type of problem with absorption resulted from an absence of procedures and criteria for receiving state co-financing. Although the Act on NDP points to the necessity to provide own co-financing, there was no legal basis for application for such funding from the state budget. Only during the 2004–2006 perspective did the BGK, the state-owned bank, start to prepare financial instruments, which would allow weaker self-governments to apply for funding. A lack of resources for realization of investments by the self-governments prevented those in a disadvantaged economic situation from applying for EU funding (which requires a self-financing component). The poorest regions have not been active in terms of finding their own financing, such as through the emission of bonds of public-private partnerships. The latter was difficult due to the lack of laws on PPP. Insufficient own resources constituted a serious barrier to applications for funding for the self-governments (Sejm RP 2005). The second reason behind the poor absorption level, the co-financing requirement, privileged financially stronger regions in accessing EU funding.

The doubtful contribution to redressing regional differences

The focus on the uncertain rate of absorption has arguably had a negative impact on the quality of solutions on funds distribution and has dominated public discourse about the EU funds in general. This is particularly disturbing in situation when regional differences have been deepening in the transition period, and EU Funds could have provided a trigger for a revamp in the former model of regional policy guided by 'evening-out' the payments to various regions. The EU Structural and Cohesion Funds were to become the basic source of financing Poland's regional policy from the date of accession. The programs co-financed from the EU budget amounted to 95% of the structural policy budget determined in the National Development Plan 2004–2006 (NDP 2004). Thus, the organization of the system of their distribution entirely determines the way in which Poland's regional policy will function.

The algorithm of distribution of funding from the EU among the regions took into consideration first of all the population of the provinces with the most populated areas in privileged positions. The economic or social factors had secondary importance and therefore the EU funds were directed first of all to large agglomerations or the richest cities and counties, where the rate of development even without the external support exceeded the country average (Sejm RP 2005). Similarly, the majority of resources from the Increase of the Competitiveness of Enterprises programme were distributed among large rather than small companies, and most of the funding in the framework of the Integrated Regional Development Programme was accrued to the richest voivodships[376]. Although there are varying scholarly opinions about the most effective model of distribution of financial transfers, with some authors supporting the assistance for the strongest regions as the 'engines of development'[377], this distribution pattern in Poland is not an effect of the intended policy. Rather, the systemic design of the programmes encouraged large companies and financially strong voivodships to compete more successfully for a share in the EU co-financing of their investment projects. This poses questions about the fulfilment of the policy's intended goals.

[376] Own calculations based on the data from Polish Agency for Regional Development and the Ministry of Economy.
[377] For instance, Grzegorz Gorzelak (see interview in Gazeta Wyborcza, Maciejewicz 2006b).

Conclusions

Large financial transfers and the need to adopt the EU principles for their management have triggered the process of major change in regional policy-making in Poland. The regional governments, stripped of funding for investments in the result of the 1998 reform have welcomed the arrival of EU funds, which could potentially fill this vacuum. Although disappointed with the insufficient support of the Commission for decentralization of the programs in the first budgetary perspective, they were actively involved in the implementation stages of the policy with a view of the increased role in the future budgetary perspective. The exercise from the Steering and Monitoring Committees and drafting the regional development programmes is likely to reassure self-governments' role in the future. The establishment of planning authorities at the regional level contributed to the production of demands for democratization of these new structures (Goetz and Hix 2000) and mobilization of social interests.

With respect to the economic impact, it is far too early to conclude decisively about the contribution of the EU funds to Poland's development. The first programmes, due to their hasty implementation and the driving need for securing absorption, reinforced both stronger regions and financially stronger enterprises. In the case of the former, this effect seems to go counter to the general goal of the EU cohesion policy, which aims to redress regional differences. In the case of the latter, it goes against the basic principle of the common market, prevention of market distortion. It remains to be seen whether following programming periods bring a qualitative change in that respect.

The hasty but nonetheless overdue implementation of the EU regulations has arguably undermined the capacity of Poland's public administration to process EU funding in an efficient way. Although massive financial transfers are likely to have a positive overall impact on Poland's economy and the rate of investment, their contribution to redressing regional differences seems also uncertain. In this context, mobilization of the sectoral and regional stakeholders, incorporated into the policy-making process through realization of the partnership principle may appear to be the most significant effect of policy reform. In the longer perspective it is likely to add new quality to the social dialogue and impact upon relations between the central and regional authorities.

However, considering, on the surface, favourable conditions for application of the pre-accession conditionality, the adaptation to the acquis in the Regional policy field has not been successful. Legal delays, inefficient administrative structures, the relatively poor absorption rate and very uncertain policy results leave a series of open questions about the efficiency of regional policy-making in Poland. In the Regional policy case, thin acquis and a lack of strong interests seemed to work to the detriment of the effectiveness of the EU pre-accession conditionality. The lack of a policy blueprint allowed for inconsistent recommendations from the European Commission, applied in the context of an absence of other guidance or coherent domestic pressures for a particular mode of adaptation.

CHAPTER VIII

CONCLUSIONS

The process of enlargement to the East, concluded in 2004 with the accession of ten new countries, involved an unprecedented scope of EU conditionality applied to the prospective members. For the first time in Community history the candidates were expected to adopt the acquis communautaire in full prior to accession. Unlike in the previous enlargements, no comprehensive temporary derogations were anticipated. The general negotiating position of the EU assumed that any transitional measures offered to the applicants would be "exceptional, limited in time and scope, and should be accompanied by a plan with clearly defined stages for the application of the acquis. They must not involve amendments to the rules or policies of the EU, disrupt their proper functioning, or lead to significant distortion of competition" (Conference on Accession 1998).

Combined with the asymmetric bargaining power of the European Union (Grabbe 2002) and the absence of alternative ideological or systemic paradigms (Hughes et al. 2004a), such an approach should have brought a prompt and effective adaptation. And yet, as the findings of this research demonstrate, the results of the grand European project of policy transfer to its new members from Central and Eastern Europe have been mixed. Moreover, the findings from the case studies challenge the conventional static approach to conditionality and demonstrate that application of the external measures may trigger social mobilization, which in turn leads to changes in the political context of application of EU conditionality.

1. Summary of the findings of the case studies

As the close examination of the pre-accession conditionality and adaptation processes in four policy fields, Taxation, Fisheries, Regional policy and Competition,

carried out in this research project demonstrates, the impact of the EU across issue areas has varied. At the same time, in none of the chapters was conditionality fully effective, that is, fulfilling the criteria set out in the introductory chapter. 'Fully effective' would mean the absence of temporary derogations, timely legal transposition[378] and achievement of declared policy results. Admittedly, in some fields the accession negotiations ran relatively smoothly and only minor delays in approximation and implementation of the EU rules occurred. In others, however, had serious adjustment deficits and even cases of overt reneging from the negotiation commitments, at times finalized in the European Court of Justice.

This thesis argues that the combination of two variables, properties of the acquis such as the detail and volume of rules, and prior domestic opposition to the EU-inspired reforms, were critical for the working of EU conditionality and thus predetermined candidates' success in approximation to the European Union. While the former delineates the content of conditions, the latter defines the domestic context in which they have been applied. The results of the analysis conducted within this framework revealed some unexpected contingencies, which may allow for reconciling various scholarly approaches to conditionality.

The analyzed case studies presented various realizations of these two variables, conceptualized as thin/thick acquis and prior opposition to adaptation or its absence (see table 1.1. in Chapter I). While the Taxation and Regional policies represent a thin acquis area, a dense network of Directives and Regulations regulate policy-making in the Fisheries and Competition policies. In consequence, whereas the acquis in the former two chapters leaves substantial leeway for the member countries to decide upon the mode of achievement of policy results, there is considerably less space for national interpretations in the latter two.

The categorization of the negotiation chapters along the absence/presence of domestic prior opposition axis is, however, different. The prospect of adaptation to the EU in Taxation policy and Competition instigated social protests and active opposition from the strong social interests instituted prior to accession. In Regional policy and Fisheries, at least in the wake of the accession negotiations, such opposition either did not exist or was marginal.

[378] Which denoted formalistic fulfilment of the pre-accession commitments.

However, one of the relevant findings in my research is that the domestic socio-political situation in the country subjected to EU conditionality has not remained static. The shifting political context, triggered by the pre-accession processes, has also contributed to changes in interest representation and organization, which impacted upon the quality of adaptation after enlargement. In particular in the Fisheries chapter, increasing awareness of the inevitably high costs for the industry incurred due to adaptation to the EU instigated collective action against accession. A study of the political economy of pre-accession carried out in this thesis confirmed the existence of the mutual influences between collective action and its political contexts (Edmondson 1997). Therefore, EU conditionality should not be perceived as merely a technocratic tool of the policy transfer but, and somewhat ironically, also a politicizing mechanism able to instigate social mobilization.

When it comes to the results of the research in terms of the effectiveness of EU conditionality, the analyzed policy areas present varying degrees of Community success. The table below presents the summary of the findings.

Table 8.1.: Outcomes in terms of effectiveness (normative analysis)

Independent Variables	**Thin acquis**	**Thick acquis**
Prior opposition	Straightforward adaptation, barring for problems during the accession negotiations reflecting capture capacity of existent interest groups. The field in which conditionality appears most effective. **Ch. IV Taxation**	Partial adaptation following extended transitional arrangements granted during the accession negotiations. **Ch. VI Competition/state aid**
No prior opposition	Adaptation happens irregularly/randomly without much coherence. Insufficient administrative capacity additionally impedes adaptation. Conditionality appears partially effective. **Ch. VII Regional policy**	Limited adaptation due to the social mobilization effect. Problems compounded by weak administrative capacity. The field in which conditionality appears least effective. **Ch. V Fisheries**

Poland's adaptation record has proven to be the worst in the area of Fisheries. Difficult accession negotiations in the chapter were, however, concluded without any transition periods and the Polish government made a commitment to adopt and

implement all Common Fisheries Policy regulations prior to enlargement. However, this apparently positive outcome followed serious delays in legal transposition and non-implementation of a few key legal acts. Additionally, the reforms conducted with a view to approximation of the Polish fisheries to the EU triggered considerable social discontent and did not prevent a steady increase in illegal fishing, eventually resulting in overt non-compliance with the acquis. The conflict with the Commission ended with Polish litigation in the ECJ. As a result, the policy outcome has been far from satisfactory. Poland has neither managed to set up a fish market infrastructure, nor adapted the size of catches. It has also secured a poor absorption level of the EU Structural funds for fisheries objectives. The problems with administrative capacity within the executive led to the inefficient management of fish resources and fisheries activities.

The second 'worst' result from the perspective of effectiveness of conditionality was the Regional policy negotiation chapter. This position on the list was rather unexpected considering the, on the surface, favorable context for adaptation, a thin regional acquis communautaire and absence of opposition to the EU-inspired reforms. In addition to these, participation in the regional policy implied large tangible benefits from the EU Cohesion funds accruing to wide social circles, i.e. NGOs, enterprises, public administration at all levels etc. These features, however, have appeared insufficient to secure an equally promising adaptation outcome. Although Poland did not apply for any transition periods and most of the controversial negotiation topics were discussed in the framework of the Financial and budgetary affairs chapter, adaptation proceeded randomly and without much coherence. The key problems concerned delays with the implementation of the legal framework and drawing up the framework documents. The subsequent difficulties in setting the project pipelines resulted in uncertain absorption (to varying degrees in different operational programmes) and questionable policy results. Similarly to the Fisheries chapter, despite the thin regional acquis, adaptation to the EU in the Regional policy field involved a considerable workload on the side of public administration, which has not entirely coped with this challenge.

The results of adaptation in the Competition policy area, encountered from the outset to the most contentious fields, have been in turn a positive surprise.

Although the compromise with the EU was struck after lengthy and difficult negotiations, eventually the Community granted to Poland long transition periods for adjustment of its state aid regime in the Special Economic Zones. The domestic opposition to adaptation contributed to the arrival at a negotiation deal based on temporary derogations in the field, which not only lies at the heart of EU policy-making but also constitutes one of the pillars of the internal market. They allowed Poland's government to appease social actors *ex ante* opposing accession. Although, due to the extended derogations, the competition case may not be depicted as a full success of EU conditionality, still there were less problems with the timely legal transposition (within the agreed limits) than in the two preceding negotiation chapters. The transition periods contributed to forging a consensus between the authorities and initially anti-acquis elites, which prevented anti-EU social mobilization after accession.

In terms of adaptation, Taxation has appeared the least problematic of all four policy areas. Similarly to the Competition policy, approximation of the Polish regime on excise tax on tobacco has been facilitated by a lengthy transition period. Reaching a compromise on the transitional arrangement has been, however, less challenging than in the Competition chapter. Although initially the EU fiercely opposed such derogation, the thin acquis communautaire, on the one hand, and powerful domestic interest groups on the other, provided the context facilitating temporary derogation for approximation in this field. The Community excise tax system, riddled with exemptions and derogations, could not give sufficient formal backing for the Commission's and some member countries' demands. On the other hand, strong domestic pressures allowed the Polish government to stress its inability to deliver on any agreement not involving temporary derogation. Eventually, after the sides agreed on the transition period, adaptation proceeded according to the negotiated (delayed) schedule, reflecting the capture capacity of existing interest groups.

The counter-intuitive finding therefore is that negotiating chapters with the strongest domestic opposition, namely Taxation and Competition policy, produced better results in terms of implementation of the EU rules than those without prior opposition. Among the more successful cases, however, application of EU conditionality in the policy area with a thin acquis (Taxation) was more effective. However, of the two chapters with the worst results in terms of approximation to the

EU, one is characterized by thin (Regional policy) and one by thick acquis (Fisheries). This outcome suggests that a thin/thick acquis variable alone does not have an explanatory value for the effectiveness of conditionality. This finding goes counter to the conclusions of some studies on conditionality which assign the limitations in producing the desired policy outcome to the construction of the acquis (e.g. Hughes et al. 2004a; Grabbe 2006). Hughes et al. (2004a) argued in their examination of adaptation in the regional policy field across CEE that a thin acquis communautaire allowed for greater (incoherent) informal pressures of the Commission, and as a result diminishing EU leverage. By analogy, the study implies that in the areas of thick acquis, EU conditionality should have been more effective. In turn, Grabbe explicitly points out that the impact of the Community is greatest where it has a detailed policy setting as well as clear and certain requirements (Grabbe 2006: 206). The results of my research question such inference and suggest that properties of the acquis alone cannot explain the differentiated impact of the EU.

2. Accession negotiations as a two-level game

The two level-game framework (Putnam 1988) has been used in this thesis to capture the dynamics of the accession negotiations and their results. Putnam's model of international negotiations conceptualizes the entanglement between domestic and international contexts (Putnam 1988) by disaggregating international talks into two parallel games. According to the model, the (implementable) international deal might be struck only when the two negotiating sides reach an agreement within their overlapping 'win-sets'. A broader range of domestically acceptable solutions makes the compromise at international level easier. However, the relative size of the win-sets also affects the distribution of the joint gains from the international bargain. Larger win-sets at the domestic level provoke stronger pressure on the negotiators from the international counterparts. Thus, paradoxically, smaller domestic win-sets give the negotiators bargaining advantage (Putnam 1988: 440) and a country, which is more flexible will not be able to drive the best bargain in the international negotiations. The size of the domestic win-set is predetermined by the domestic opposition to the terms of agreement, and thus domestic political games shape the outcomes of international negotiations. Where such opposition is stronger, the win-set gets smaller, but as Putnam argues, the possible terms of an international deal are more favourable.

As Poland's negotiators openly admitted, the government, during negotiations on membership in the EU, conducted talks simultaneously at the international and domestic levels. The negotiators strived to satisfy domestic pressures for particular solutions, while trying to "minimize adverse consequences of foreign developments" (Putnam 1988: 434). In turn, the domestic interest groups pressured the government to adopt favorable policies, which most often denoted the possibility of delayed adaptation. Interplay between these two games may explain the apparent success of Poland's government in obtaining agreements on temporary derogations in such sensitive areas as, for instance, the Competition policy.

Furthermore, in two cases, where EU conditionality worked more effectively, that is Taxation and Competition policy, there was organized domestic opposition to compliance with EU demands, narrowing down negotiators' win-sets. In both policy fields entrenched interests demanded derogations from the acquis and eventually such transition periods were granted, which confirms the working of the Putnam paradox about domestic weakness contributing to international empowerment.

However, from the two policy chapters, the search for a compromise in the accession negotiations appeared easier in the Taxation policy area. The thin acquis in this policy domain allowed for greater flexibility of the Commission in adapting its pressures to the particular domestic contexts of the candidate countries. This finding goes in line with the claims of Hughes et al. (2004a) about the properties of the acquis structuring EU conditionality. However, my research arrives at different conclusions about the overall impact of a thin acquis on the effectiveness of EU conditionality. Similarly as in the studies on the application of conditionality by the IFIs towards countries benefiting from international financial assistance, greater flexibility has seemed to facilitate rather than obstruct change (IMF 2001a; IMF 2001c). The record of adaptation in Taxation policy, where the acquis itself is riddled with exemptions, despite the presence of powerful opposition to adaptation, has been the most positive from all assessed policy fields. The explanation of such an outcome is assigned to the co-existence of a thin acquis with strong domestic interests. If applied in the domestic context with a firm policy agenda, a thin acquis may accommodate actors' preferences easier than a thick one. The higher density and strictness of the EU rules, in turn, more likely aggravates the conflict with domestic stakeholders, weakening the government's ability to comply with external pressures. This outcome challenges the argument that

the EU may effectively shape public policy in the candidate countries "only where it already had a clear set of rules or an institutional model" (Grabbe 2006: 202). The accession negotiations in the Competition policy chapter, where such a model exists, have been more difficult, with direct intervention by Commission officials in negotiations with domestic vested interests. Nonetheless, the talks also concluded with Poland's success in obtaining the temporary derogations. It later on facilitated compliance with the acquis according to this delayed schedule, positioning the Competition policy high on the 'effectiveness of conditionality' list. In turn, the Common Fisheries Policy, with an equally if not more detailed policy and institutional model, has not been effectively implemented in Poland during the first few years of membership, despite the Polish government's commitment about adaptation undertaken during the accession negotiations. These empirical results do not allow for appraisal of a thick acquis as a generally better tool for EU rules transfer.

At the same time, as the results of the empirical research demonstrate, broad domestic win-sets based on the absence of strong opposition to adaptation in Regional policy and Fisheries have not assured timely adaptation. The lack of a clear reform agenda in the Regional policy field has left the mode of adaptation contingent upon domestic power struggles. Multiple and weak social actors, whose role in the policy-making became augmented through implementation of the partnership principle, have competed for power over the funds' allocation with an overall detrimental effect on adaptation. In Fisheries, in turn, the vested interests' increasing realization of the genuine costs of adaptation contributed to their mobilization, narrowing the government win-set already during the accession negotiations. A thick acquis did not leave room for manoeuvre for particularistic solutions and eventually Poland's negotiators, despite increasing resentment from the entrenched interests, consented on full approximation with the CFP acquis prior to accession. Fishermen organizations, less well-organized and with little economic clout compared to, for instance, business organizations, did not manage to effectively pressure for temporary derogations from the acquis. However, the continuously worsening circumstances of the industry after accession to the EU and mounting social pressures decreased the government's ability to deliver on its EU commitments. Eventually, the chapter presents the worst case from the analyzed areas in terms of effectiveness of EU conditionality. Despite the apparent failure to impact on the terms of accession, the fishermen organizations, which, similarly to the stakeholders

in Regional policy, have been endowed with new roles by the Common Fisheries Policy, have remained empowered after accession.

Both these scenarios also demonstrate the dynamic evolution and potential for strategic use of the win-sets in structuring the negotiations. While Putnam's original concept (Putnam 1988) focuses on the politics of the negotiation process, political-economic accounts need to consider how it affects the policy. The process of accession has changed the logic of behavior of domestic actors not only through the transfer of European norms and practices (Grabbe 2006: 2) but also through changing the institutional setting, structure of the veto points and calculations of the material interests. The social (de)mobilization may have a positive or negative impact on the substance and outcome of a policy, although most often it has instigated social mobilization in the areas where adaptation has been perceived as detrimental to particular social groups. Paradoxically, the transition periods perceived also in this research as signs of failure of the conditionality, have helped to mediate potential social discontent and thus facilitate adaptation.

Conceptualization of the accession negotiations as a two-level game process based on the domestic consensus may explain the paradox of better adaptation in the Competition policy area than in the Fisheries policy. It shows that accounts on the approximation processes in response to the external pressures should take into consideration social mobilization and the contribution of interest groups to the policy-making through the delineation of win-sets as important elements of the puzzle. The empirical studies demonstrate that in this context the transition periods should not be seen so much as an indicator of problems but rather as part of the solution.

3. Social mobilization as a side-effect of EU conditionality

Social mobilization proved to be a relevant 'side-effect' of the application of EU conditionality in the accession countries. In two policy areas, Competition and Taxation, the social interests prior to accession were already organized into strong lobbies opposing the prospect of 'deterioration' of the regulatory framework. These groups played an important role in structuring the negotiations' trajectory and outcome. In two other fields, Regional policy and Fisheries, such prior opposition did not exist,

either due to the multiplicity of relevant actors, their insufficient organization potential and resources, or simply a lack of knowledge about the consequences of upcoming changes. And yet, increasing awareness of the costs of adaptation, as in Fisheries, or accruing tangible benefits, as in the Regional policy, also triggered the activation of social actors. Thus, while the presence of strong domestic interests determined how the domestic context responds to external pressures, these pressures also impacted the domestic scene. In that sense, the implementation of EU conditionality has served as a catalyst of social change and even shifts in the governance systems in those policy areas where there was initially no prior opposition to reforms. In that sense, the EU has indeed became a transformative power in CEE (Grabbe 2006) but the effects of its impact are not obvious or easy to predict.

EU conditionality has instigated social mobilization mostly in those fields where adaptation involved considerable costs for the vested interests. Such an unexpected democratization effect was not accounted for in the static approaches to EU conditionality as a force impacting the trajectory of negotiations and the ability to comply with the acquis. This research demonstrates that the weak effectiveness of EU conditionality might be assigned not only to the external factors, such as the thin acquis, incoherent actions of the European Commission or lack of a policy or institutional model (Hughes et al. 2004a; Grabbe 2006) but also to social processes that the application of the acquis has triggered. The unprecedented influence of the EU on the restructuring of domestic institutions of the candidate countries that some authors stress (Schimmelfennig and Sedelmeier 2004), has been in a number of areas different than expected. In particular, the poor effectiveness of conditionality in the Fisheries and Regional policy may be explained neither by the domestic costs of compliance nor the credibility of EU conditionality. The utility-maximizing actors should have been particularly interested in adaptation to both policies as it implied tangible financial benefits. The weak results of the working of conditionality in these fields also question the effectiveness of the policy of reinforcement by reward (Schimmelfennig et al. 2003). The array of tools at Community disposal has been much richer in the distributory policy areas than in other domains and still it has not secured compliance. The threat of delays in funds disbursement, possibly making Poland the net payer to the EU budget since the first year of accession, did not prevent a serious postponement in the set-up of an institutional framework for EU funds disbursement. One of the problems of the EU

incentives for compliance with the acquis (Schimmelfennig and Sedelmeier 2004) was that they were offered for the governments, while the cost-benefit balance for particular social groups may have been entirely different.

At the same time, in both discussed cases collective action in response to the EU pressures appeared, albeit in different ways, detrimental to adaptation. Fishermen's protests against the adoption of EU catch limits directly impaired the fulfillment of Poland's pre-accession commitments. On the other hand, conflicts between governmental and sub-national administration over leadership in funds' distribution system contributed to delays in the implementation of the legal framework, indispensable for the programmes' operation.

Paradoxically, in both policy areas the involvement of the social actors was also sanctioned by the acquis. While the CFP reform secured the broader involvement of the stakeholders through the Regional Advisory Councils, the social and sub-national actors play role in managing of the EU Cohesion policy through membership in the Monitoring and Steering Committees. Formalization of interests' participation in the policy-making system and easier access to funding considerably strengthened existent groups and encouraged establishment of the new ones.

This phenomenon has already been studies in the accounts analyzing the impact of the political context upon collective action. Some scholars argue (Hyvärinen 1997: 34) that changing political surroundings shapes possibilities for collective action as it influences "the expectational structure" of what is possible for the activists. Examination of the adaptation dynamics of the applicant country illustrates how the shifting political context due to the application of EU conditionality has generated prior interests in those policy areas where they had not existed or were marginal. So, far from conditionality being a technocratic commitment device, it may actually politicize a policy area that was not salient before. This perspective differs from the 'ownership' concept, broadly applied in the studies of the IFIs' conditionality as a remedy to its failures (e.g. Khan and Sharma 2001). The latter is based on the idea that once the public is properly consulted about the government's plans, it will support them.

Nonetheless, possible social mobilization as the result of external pressures additionally vindicates the inclusion of the 'prior opposition' variable in the research design. It also allows better explanation of the link between the pre-accession period and terms of the accession agreement and the anti-EU movements in its domestic

politics after enlargement, which some studies on conditionality have already noted (Grabbe 2004).

4. Areas for further research

This research contributes to the stream of literature on conditionality trying to establish how the EU matters for its candidate countries. The key claim is that external pressures must be matched with the specific domestic context since none of these variables alone can explain the dynamics of adaptation. Although the results of the close tracing of four policies revealed how different matching of the variables may produce various outcomes, there are other factors coming into play.

Notably, both areas with the worst record of adaptation involved significant administrative effort. Inadequate financial, administrative and personnel resources required to perform the assigned roles after enlargement have imperilled legal transposition and policy implementation in both Regional policy and Fisheries. The study demonstrated how incumbent governments were unable to apply policy measures permissible under the acquis that could have alleviated high social costs of adaptation. This concerns in particular Fisheries, where funding of vessels scrapping remained to a large extent unused and was transferred to financing of other objectives (fish processing). Administrative capacity denoting the ability of the government to comply is thus a factor that merits further theoretical attention in conceptualizing the effects of the application of the EU pre-accession conditionality regime. It plays possibly a greater role than it had been assigned in the literature, which can be assessed with the benefit of the hindsight, a few years after enlargement.

The effectiveness of EU conditionality, as presented in this research, has been deeply embedded into the domestic context. Apart from the fiscal costs and benefits from compliance, the so-called social costs matter for the results of adaptation. This study added another layer to the analyses of EU conditionality and demonstrated impact of the domestic variables on effects of the external pressures. It pointed out that external factors are insufficient as explanatory variables of the effectiveness of conditionality. Although thickness of the acquis has a relevance for its working (Hughes et al. 2004; Grabbe 2006) it has insufficient explanatory value in itself. The further research will

need to consider domestic context for conceptualizing EU conditionality, be it social interests, public opinion, administrative capacity etc.

The study also shows that principal-agent framework conventionally used for conceptualization of the IFIs conditionality has serious limitations for explaining broad political processes. While the principal-agent model may successfully explain particular, narrow issues in the international negotiations, such as for instance adaptation to the request about increasing the interest rates in the country benefiting from aid, it cannot account for shifting domestic contexts, which this study demonstrates. This thesis demonstrated that socio-political realities of the country subjected to conditionality are dynamic as actors respond to pressures throughout the process of adaptation, not merely *ex ante* or after it is completed. While the goal of this thesis was to demonstrate that such dynamics exist, further research should focus on the conceptualization of social mobilization in response to external pressure and try to answer questions such as: Under which international conditions do social groups mobilize? Which institutional or political context facilitates or impedes such mobilisation? The investigation should thus focus on conceptualization of the links between the social actors, social mobilization and record of adaptation, driving away from the government-centric perceptions of conditionality. The same exercise as conducted in this research could be carried out in the other countries, which recently joined the European Union, which could bring other theoretical inputs.

On the other hand, this thesis has to a large extent left out the other side of the negotiation table, namely that of the EU. The interplay between the 'domestic interests' on the EU side, the member states' governments, European institutions or even departments, has arguably played a role in structuring EU conditionality. Due to the deliberate domestic focus of this research, the external variable was restricted to the acquis communautaire. While EU conditionality involved an array of both formal and informal pressures by the Commission, member states and even the candidate countries themselves, there is even more space for debate left on the external side of EU conditionality.

Last, but not least, this thesis demonstrated that from the domestic perspective of the applicant country the accession negotiations were foreign policy rather than a matter of domestic politics. The costs of related adaptation reforms were seen as imposed from

outside and thus triggered domestic opposition. Such a view is not obvious from the perspective prevailing in Brussels, which is exemplified by the fact that EU conditionality has been applied in strict, *ex ante* fashion throughout the CEE. This underlines the elusiveness of the European project. The common institutions and in particular the Parliament do not secure the commonality of interests and the accession negotiations have most vividly demonstrated the inter-state character of the integration process. Considering this in the future enlargements may prevent some of the negative repercussions of accession to the EU, such as growth of anti-EU sentiments in the new member countries.

LIST OF TABLES AND GRAPHS

Annex 1.1.: List of the negotiation chapters

No.	POLICY AREA
1.	Free movement of goods
2.	Free movement of persons
3.	Freedom to provide services
4.	Free movement of capital
5.	Company law
6.	**Competition Policy**
7.	Agriculture
8.	**Fisheries**
9.	Transport Policy
10.	**Taxation**
11.	Economic and monetary union
12.	Statistics
13.	Employment and social policy
14.	Energy
15.	Industrial policy
16.	Small and medium-sized enterprises
17.	Science and research
18.	Education, training and youth
19.	Telecommunications and information technologies
20.	Culture and audiovisual policy
21.	**Regional policy and co-ordination of structural instruments**
22.	Environment
23.	Protection of consumer and health
24.	Justice and Home affairs
25.	Customs union
26.	External relations
27.	Common foreign and security policy
28.	Financial control
29.	Financial and budgetary provisions
30.	Institutions

Annex 2.1.: The applicant countries in the fifth enlargement of the EU

"The Luxembourg group"

In December 1997 the Luxembourg European Council agreed to open accession negotiations with:

1. Czech Republic
2. Estonia
3. Hungary
4. Poland
5. Slovenia
6. Cyprus

"The Helsinki group"

In December 1999 Helsinki European Council took a decision to commence the negotiations with remaining candidates:

1. Latvia
2. Lithuania
3. Slovakia
4. Malta
5. Bulgaria
6. Romania

Annex 2.2.: The transition periods negotiated by the CEECs

		Cyprus	Lithuania	Slovenia	Poland
1.	**Free Movement of Goods**	1. Until 31.12.2005 - registration of pharmaceuticals	1. Until 01.01.2007 - registration of pharmaceuticals and veterinary pharmaceutical products (Dir.65/65/EEC, 75/318/EEC, 75/351/EEC, 81/852/EEC).	1. Until 01.01.2007- implementation of laws on registration of pharmaceuticals (Dir.201/83/EEC).	1. Until 31.12.2008 - registration of pharmaceuticals (Dir. 65/65/EEC) - under certain conditions

		Czech Republic	Estonia	Hungary	Latvia	Slovakia	Slovenia	Poland
2.	**Freedom of Movement for Persons**	Up to 7 years, formula 2+3+2	Up to 7 years, formula 2+3+2	Up to 7 years, formula 2+3+2	Up to 7 years, formula 2+3+2	Up to 7 years, formula 2+3+2	Up to 7 years, formula 2+3+2	Up to 7 years, formula 2+3+2

		Estonia	Hungary	Latvia	Lithuania	Slovakia	Slovenia	Poland
3.	**Freedom to provide services**	1. Until 31.12.2007 - implementation of the system of investors' protection (Dir. 94/19/EC); 2. Until 31.12.2007- guarantees for the credit institutions in case of bankruptcy (Dir. 97/9/EC).	1. Until 1.01.2008 - lower guarantees for the Investors' Protection Fund; 2. Until 1.01.2008 - increase of the initial capital (to 1 mln euro) for co-operation banks; 3. Exclusion of EXIMBANK S.A. and MFB S.A. (similarly to similar institutions in the MS) from provisions of the Banking Directive.	1. Until 1.01.2008 - implementation of the system of investors' protection; 2. Until 1.01.2008 - lower guarantees of banks' deposits (Dir. 94/19/EC) 3. Permanent exemption of the co-operative saving and credit unions from the financial directives.	1. Until 31.12.2007 - harmonization of the insurance system (Dir 94/19/EC). 2. Until 31.12.2007 - guarantees for the credit institutions in case of bankruptcy (Dir. 97/9/EC). 3. Permanent exemption for the co-operative saving and credit unions from the	1. Until 31.12.2006 - implementation of the system of investors' protection (Dir. 97/9/EC).	2. Until 31.12.2009 - achieving compliance with the banking directives. 2. Until 31.12.2005 - guarantees of banks' deposits (Dir. 94/19/EC)	1. Until 31.12.2007 - increase of the initial capital (to 1 mln euro) for co-operation banks ; 2. Exclusion of SKOK, BGK from provisions of the Banking Directive (77/780/EEC) and KUKE from Dir.

					provisions of finance directives.			73/239/EEC.

		Cyprus	Czech Republic	Estonia	Hungary	Latvia	Lithuania	Slovakia	Poland
4.	**Free Movement of Capital**	1. 5-year for 'second-houses' purchase by foreigners.	1. 5-year for 'second-houses' purchase by foreigners. 2. 7-year for purchase of forest and agricultural land.	1. 7-year for 'second-houses' purchase by foreigners.	1.Until 1.01.2008 for 'second-houses' purchase by foreigners 2. Until 1.01.2010 - purchase of agricultural land by foreigners.	1. 7- year (with possibility of 3-year extension) – restrictions on purchase of agricultural land by foreigners.	1.7- year (with possibility of 3-year extension) – restrictions on purchase of agricultural land by foreigners.	7- year (with possibility of 3-year extension) – restrictions on purchase of agricultural land by foreigners.	1.5-year for purchase of 'second houses' by the EU citizens. 2. 12-year for purchase of agricultural and forestry land.

		Cyprus	Hungary	Slovakia	Poland
6.	**Competition Policy**	1. Until 31.12.2005 - tax exemptions for the "offshore" companies.	1.Transition period for tax exemptions for foreign investors (for investments prior 1.01.2003): - in non-sensitive sectors 75% of invested capital for investments prior 2002 and 50% for later investments - in sensitive sectors 30% of the capital costs for investments older than 2002 and 20% for investments started after 2000.	1.Until 31.12.2008 - state aid to Volkswagen in Bratislava; 2. Until 31.12.2009 - state aid for US Steel Koszyce.	1.SEZ - Until 2011 and 2010 higher aid ceiling for SMEs 2. SEZ - Increased ceiling for public aid (75%) for large enterprises, which invested in SEZ before 2000 and 50% for those, which invested in SEZ during 2000. The aid is counted from 2001. 3. SEZ – State aid for car industry at 30% of investment costs; 4. Increased level of state aid for investments adapting Poland to requirements of environmental protection (Dir 76/464/EC) 5. Gradual reduction of production capacities and employment in steel industry.

		Czech Republic	Hungary	Latvia	Lithuania	Slovakia	Slovenia	Poland
7.	**Agriculture** **Agriculture**	1.Until 2013 - gradual increase of the direct payments 2. Derogation on achievement of the EU level of direct payments for the potato starch; 3. Until 31.12.2006 - adaptation of 52 plants to the sanitary requirements; 4. Until 31.12.2009 - adaptation to the Dir. 1999/74/EC on minimal standards of hens' cages.	1. Until 31.12.2006 - structural adaptation of 44 slaughter houses (Dir. 64/433). 2. Until 31.12.2009 –adoption of the minimal standards of hens' cages 3. Until 31.12.2007 - production of milk of 2,8% fat content (Dir. 2597/97). 4. Until 31.12.2008 for using the name Riesling-Szilvanyi, (Dir. 3201/90).	1. Until 1.01.2006 - veterinary requirements on milk quality. 2. Until 1.01.2005 - adaptation of milk processing facilities to hygienic standards (11 plants); 3. Until 1.01.2005 - adjustment of the fish processing factories to hygienic standards of the EU (29 plants); 4. Until 1.10.2006 - adaptation of the meat processing plants to EU hygienic standards (77 plants); 5. Until 1.01.2005 - adaptation of animal waste utilization plants; 6. Until 1.01.2009 - fat content in milk; 7.Until 1.01.2006 - using seeds on production farms with certificate (Dir. 2092/91/EEC). 8.Until 1.01.2006 - using non-certified sugar for feeding farm bees (Dir. 2029/91/EEC); 9. 18 months after	1. Until 1.01.2006 – adaptation of meat, dairy and fish processing industry to the EU veterinary standards; 2. Until 31.12.2006 - adaptation of the dairy industry to veterinary standards; 3. Until 31.12.2005 - implementation of the rules on the potato waste utilization (Dir 93/855/EEC). 4. Until 31.12.2011 - differentiation of timing of payments by farmers and other persons to owners of various plant species (Dir 2100/94/EEC). 5. 3-year for implementation of the criteria for milk cows. 6. Until 1.01.2009 f fat content in milk; (Dir 2597/97/EC)	1. Until 31.12.2008 - adaptation of 2 fish processing plants to the sanitary requirements.	1. Until 31.12.2009 - adaptation to the Dir. 1999/74/EC on minimal standards of hens' cages. 2. 5-year on direct payments to oleaginous plants; 3. 1-year on adaptation of milk quotas; 4. 1-year on the bonus for the dairy cows breeders; 5. 1-year on the bonus for sheep and goats breeders; 6. Derogation with respect to regulations on the alcohol level in wine.	1.5-year - setting producers' organizations; 2. 2. Until 31.12.2006 - structural adjustment of 113 dairy and 40 fish processing factories to the EU veterinary requirements. 2.Until 31.12.2007 - structural adjustment of 332 meat processing factories; 3. Until 31.12.2006 - adaptation of the dairy industry to veterinary requirements 4. Until 31.12.2009 - adaptation with regard to the cages for hens;

				accession for using potasium permanganante in organic farms.	7. Until 1.01.2006 - using seeds on production farms with certificate; 8. Until 1.01.2006 for using non-certified sugar for feeding farm bees.			5. Until 31.12.2006 for adaptation to minimal standards of hens' cages. 6. 10-year – restriction on the legally grown types of potatoes.

		Czech Republic	Hungary	Latvia	Lithuania	Slovakia	Poland
9.	**Transport policy**	5-year ("2+2+1" formula) on cabotage (for the EU).	1.3-year - road cabotage (may be extended for another 2 years); 2. 3-year - minimal EU tax for cabotage tracks; 3. 6-year - system of fees and allowances for the trucks with high pressure on the axis. 4. Until 31.12.2006 on access of the EU rail companies to the TERFN (Trans-European Rail Freight Network); 5. Until 31.12.2004 – restrictions in air transport (higher noise emission for some airlines) (Dir. 92/14/EEC).	1. Until 1.01.2007 – lower financial indicators for domestic rail companies (Dir. 98/76/EC). 2. Until 1.01.2006 on registry equipment in road transport (Dir 3821/85/EC).	1. Until 1.01.2007 lower financial indicators for domestic rail companies 2. Until 1.01.2006 registry equipment in road transport; 3. Until 31.12.2004 on restrictions In air transport 4. 5-year ("2+2+1" formula) on cabotage (for the EU).	1. 2-year for cabotage (for the EU).	1.Until 31.12.2010 – maximal standards of trucks (weight and size) (Dir. 96/53/EC); 2. 3-year for cabotage transport (mutual arrangement for Polish and EU transport companies).

. Tax

		Cyprus	Czech Republic	Estonia	Hungary	Latvia	Lithuania	Slovakia	Slovenia	Poland
10.	Taxation Taxation	Until 31.12.2007 - 0% VAT for pharmaceutical; 2. 2. Until 31.12.2007 - 5% VAT for gastronomic services; 3. 1-year exemption from excise tax on mineral oils for cement production (Dir. 92/81/EEC); 4. 1-year on additional excise tax levied on all types of fuels in the local passenger transport; 5. Until 31.12.2007 - VAT exemption from sales of land for construction.	1. Until 31.02.2007 - lower VAT on thermal energy supply; 2. Until 31.12.2007 lower VAT on construction; 4. Permanent derogation from VAT for taxpayers with turnover below 35 000 EURO; 5. Special excise rate on traditional fruit alcoholic drinks.	1. Until 30.06.2007 - lower VAT on heating ; 2. Until 31.12.2009 - lower excise tax on cigarettes; 3Until 31.12.2008 – legal adaptation of income taxes; 4. Permanent derogation from VAT for taxpayers with turnover below 16 000 EUR.	1.Until 31.12.2007 - reduced VAT for combustible materials; 2.Until 31.12.2007 - reduced VAT on gastronomic services; 3. Until 31.12.2008 - lower excise on vodka produced by small private producers; 4. Until 1.01.2008 – lower excise on cigarettes.	1. Until 31.12.2010 - lower excise on cigarettes; 2. Derogation - 0% VAT in passenger sea and air transport; 3. Until 1.01.2005 - reduced VAT for heating; 4. 1-year - reduced VAT for construction wood; 5. Derogation - exclusion of authors and artists from VAT; 6. Permanent derogation from VAT for taxpayers with turnover below 100.000 LVL.	1. Until 31.12.2009 lower excise on cigarettes; 2. Permanent derogation from VAT for taxpayers with turnover below 100.000 LTL.	1. Until 31.12.2008 - reduced VAT on thermal energy; 2. 1-year reduced VAT on electric energy; 3. 1-year - reduced VAT rate on gas; 4. Until 31.12.2007 reduced VAT on construction; 5. Permanent derogation from VAT for taxpayers with turnover below 35 000 EUR; 6. 5-year lower excise on cigarettes; 7. Permanent derogation on adaptation of excise system on alcoholic drinks.	1. Until 31.12.2007 - reduced VAT on gastronomic services; 2. Until 31.12.2007 - reduced VAT on some types of construction; 3. Permanent derogation - 0% VAT on international passenger transport services; 4. Until	1. Until 31.12.2007 – reduced VAT rate in construction sector (7%); 2. 4-year – 3% VAT for means and services related to agricultural production; 3. Until 31.12.2007 - 0% VAT for some books and scientific magazines; 4. Until 31.12.2007 - reduced VAT rate of for gastronomic services; 5. 1-year - lower excise tax on ecological fuels; 6. Until 31.12.2008 - lower excise on cigarettes.

										7. Permanent derogation from VAT for taxpayers with turnover below 10 000 EUR; 8.Derogation - 0% VAT on international passenger transport services.

		Hungary	Latvia	Slovenia	Poland
13.	**Social Policy and Employment**	1.Until 31.12.2005 – content of some substances in cigarettes (90/23/EEC)	1. Until 1.01.2005 - adaptation to the appropriate standards in place of work (Dir.89/654/EEC); 2. Until 1.01.2005 - equipment in monitors (Dir. 90/270/EEC).	1. 3-year - adaptation of legal regulations with respect to minimum safety at work requirements.	1. Until 31.12.2005 - adaptation to the hygienic and safety conditions at work.

		Cyprus	Czech Republic	Estonia	Latvia	Lithuania	Slovenia	Poland
14.	**Energy**	1. Until 31.12. 2007 - obligatory fuel oil stocks (Dir. 68/414/EEC amended by 72/425/EEC)..	1. Until 3.12.2005 - obligatory fuel oil stocks; 2. Until 31.12.2004 on liberalization of the gas market.	1. Until 31.12. 2009 - obligatory fuel oil stocks; 2. Until 31.12.2012 on liberalization of the electric energy market.	1. Until 1.01.2010 - obligatory fuel oil stocks..	1. Until 1.01.2010 - obligatory fuel oil stocks.	1. Until 31.12. 2005 - obligatory fuel oil stocks (Dir. 68/414/EEC, amended by Dir 98/93/EC) .	1. Until 31.12.2008 - obligatory fuel oil stocks.

		Poland
19.	**Telecommunication and Information**	1. Until 31.12.- liberalization of postal services.

	Technologies	

		Cyprus	Czech Republic	Estonia	Hungary	Latvia	Lithuania	Slovakia	Slovenia	Poland
22.	**Environment** **Environment**	1. Derogation on reduction of the sulphur contain in some fossil fuels (Dir. 1999/32/32); 2. Until 31.12.2012 - municipal waste treatment (Dir. 91/271/EEC); 3. Until 31.12.2005 - packaging and recycling of packaging waste (Dir. 94/62/EC);	1.Until 31.12.2005 - recycling packaging; 2. Until 31.12.2010 on waste treatment plants for agglomerations (Dir. 91/271/EEC); 3. Until 31.12. 2007 on emission of air polluting substances by plants in Přerově and Nova Hut'.	1. Until 31.12.2013 – adoption of EU drinking water standards; 2. Until 31.12. 2010 – building the sewage system 3. Until 31.12.2004 or 31.12.2007- construction of controlling systems of emission of gases; 4. Until 16.07.2009 utilization of rests from the transformation of bituminous materials; 5. Until 31.12.2015 on reduction of air polluting substances;	1. Until 31.12.2005 - package recycling; 2. Until 30.06.2005 - utilization of hazardous waste; 3. 6-year on on municipal water waste treatment (Dir.91/272/ EEC); 4. Until 31.12.2004 - air pollution and functioning of large power plants. (Dir. 88/609/EEC) .	1. Until 1.01.2009 - control of organic emissions related to storage and distribution of petrol (Dir. 94/63/EC); 2. Until 1.01.2008 – package recycling; 3. Transition period on landfill sites; 4. Until 31.12.2015 on municipal water waste treatment; 5. Until 31.12.2015 on drinking water quality (Dir. 98/83/EEC); 7. Until 1.01.2006 -	1. Until 31.12.2007 - control of organic emissions related to storage and distributio n of petrol 2. Until 31.12.2009 - on municipal waste water treatment; 3. Until 31.12.2006 -packaging waste; 4. Until 31.12.2015 - large combustio n plants in Wilno, Kowno and power station in Możejki.(Dir	1.Until 31.12.2007 - control of organic emissions related to storage and distribution of petrol; 2. Until 31.12.2006 - utilization of hazardous materials - (Dir. 94/67/EC); 3. Until 31.12.2006 – drinking water quality (Dir. 98/83/EC); 4. Until 31.12.2015 on municipal sewage (different length of transition depending	1.Until 31.12.2007- recycling packaging; 2. Until 31.12.2015 - municipal sewage; 3. Until 31.12.2011 - integrated system of prevention and control of pollution	1. Until 31.12.2008- 31.12.2015 - municipal waste water treatment (depending on the size of the city); 2. Until 31.12.2010 - integrated system of prevention and control of pollution 3. Until 31.12.2007 - recycling packaging ; 4. Until 1.07.2012 -modernization and construction of new landfill sites (Dir. 99/31/EC); 5. Until 31.12.2007 - water pollution (Dir. 76/464/EEC); 6. Until 31.12.2006 reduction of the

	Environment					protection against radiation from medical sources; (Dir. 97/437EURATOM).	2001/80/EC	on the size of the city). 5. Until 31.12.2006 - to water pollution, (Dir. 76/464/EEC) 6. Until 31.12.2007 - water pollution by nitrates from agricultural sources (Dir. 91/676/EEC) 7. Until 31.12.2011 - integrated system of prevention and control of pollution (Dir. 96/61/EC); 8. Until 31.12.2007 - new installations of large combustion plants (Dir. 88/609/EEC 9. Until 30.10.2007 –		sulphur contain in some fossil fuels 7. Until 31.12.2005 - control of organic emissions related to storage and distribution of petrol; 8. Until 1.01.2006 - protection against ion radiation from medical sources 9. Until 31.12.2007 - control of transfer of waste within and outside EU territory (Dir 93/259/EEC); 10. Until 1.01.2008 – 31.12.2017 on reduction of emission of air polluting substances from large combustion plants (different length for different substances).

								emission of air polluting organic substances; 10. Until 31.12.2007 recycling packaging.		

		Hungary
10.	**Customs union**	1. Until 31.12.2007 for reduced customs rate on crude aluminum

		Czech Republic
30.	**Others**	1. 5-year for gradual increases of the base capital and reserves of the EIB.

Annex 2.3.: The actors involved in the accession negotiations

POLAND

1. Political leadership (adopting guiding decisions relating to the negotiation process) - **Prime Minister**, supported by the **Minister of the Foreign Affairs**, the **Secretary of the Committee for European Integration** and **Government Plenipotentiary for Poland's Accession Negotiations.**
2. Preparation of the position papers - **the Negotiation Team**
3. Recommendation of the position papers to the Council of Ministers – **the Committee for European Integration.**
4. Approval of the position papers – **the Council of Ministers**

➢ **Chief Negotiator**

Appointed by the Decree of the Polish Council of Ministers of 24 March 1998[1], in the rank of Secretary of State in the Chancellery of the Prime Minister[2].

The tasks:

- conceptual preparation and co-ordination of the negotiation process,
- preparation of the Accession Treaty,
- negotiating of the Treaty on behalf of the government of Poland.

➢ **Negotiation Team:**

The tasks:
Formulation and implementation of the negotiation strategy.

The Negotiation Team headed by the Government Plenipotentiary for Poland's Accession Negotiations with the European Union (Chief Negotiator). The Chief Negotiator's deputy is a Secretary of State in the Ministry of Foreign Affairs.[3]

[1] Official Journal (Dz.U.) No 39, 26 March 1998
[2] Jan Kulakowski and Jan Truszczynski subsequently held the position.

The Negotiation Team consist of 12 negotiators in the ranks of the Secretaries and Under-secretaries of State (put forward by the ministers but appointed personally by the Prime Minister) representing subsequent ministries; the Representative of the President of the Office for Competition and Consumer Protection (in the rank of vice-president); the Government Plenipotentiary for the Family Affairs; the Representative of the Republic of Poland to the European Union, the Secretary of the Team; the Representative of the Chancellery of the Prime Minister; Under-secretary of State in the Ministry of Health and the Ministry of Education.

- **The Inter-Ministerial Team for the Preparation of Accession Negotiations with the European Union (hereinafter referred to as Inter-Ministerial Team)[4]**

The head – the Prime Minister
The deputy head – the Government Plenipotentiary for Poland's Accession Negotiations

Task Sub-groups (within the Inter-ministerial Team structure) prepare the documentation and proposals of negotiation positions presented to the Negotiating Team. Comprised from representatives of the individual ministries representing ministerial positions at the Sub-groups' forums (around 40 Sub-groups).

- **Committee for European Integration[5]**

.

Tasks:

- programming and coordinating the policy of Poland's integration with the EU;
- resolution of issues relating to the process of Poland's integration with the EU;

[3] Until March 1999 the position of the Deputy Chief Negotiator was held by the secretary of state in the Office of the Committee for European Integration.
[4] Advisory body to the Prime Minister (appointed under Prime Ministerial Ordinance No. 53 of 16 July 1998).
[5] Established under the Law of 8 August 1996.

- presenting to the Council of Ministers the programs of legal and economic adjustments to the EU and reporting on their implementation to the Council of Ministers;
- drafting legal acts underlying those actions;
- approving the proposals referring to allocation of the EU grants;
- presenting to the Council of Ministers reports on the implementation of program adapting Polish economy and legal system to the EU standards;
- recommendation of adoption of the position papers to the Council of Ministers.

Chaired by the Prime Minister

Comprises of:
Chairman (Prime Minister), Secretary, Ministers of Foreign Affairs, Internal Affairs and Administration, Economy, Finance, Labor and Social Policy, Agriculture and Rural Development, and Justice.

The Chairman can additionally appoint three experts whose experience and performed actions may have an impact on the implementation of tasks relating to the process of European integration. The Committee meetings may also be attended by the President of the National Bank of Poland and the President of the Government Center for Strategic Studies as well as other invited ministers and MPs.

The Secretary of the Committee for European Integration is the Head of the Office of the Committee for European Integration (Jacek Saryusz Wolski performed this function in 2000-2001).

- **Office of the Committee for European Integration (UKIE)**[6]

Tasks:
Administrative support for the Committee for European Integration.

[6] Established under the Law of 8 August 1996.

The Office also took over tasks, which had previously lied within the competence of the former Office of the Government Plenipotentiary for European Integration and Foreign Assistance (functioning from 26 January 1991 until 15 October 1996).

The Accession Negotiations Department within the OCEI has been designed to serve directly the Chief Negotiator.

Table 1: Member of the Negotiation Team for Poland's Accession Negotiations to the European Union

		Jerzy Buzek Government	Leszek Miller Government
	Head of Negotiation Team	Jan KUŁAKOWSKI,	**Jan TRUSZCZYŃSKI** Under-Secretary of State in the Ministry of the Foreign Affairs
1.	Free movement of goods	Teresa MAŁECKA, Under-Secretary of State in the Ministry of the Economy	**Marek WEJTKO**, Under-Secretary of State in the Ministry of Economy
2.	Free movement of persons	Irena BORUTA, Under-Secretary of State in the Ministry of Labor and Social Policy	**Krystyna TOKARSKA-BIERNACIK,** Under-Secretary of State in the Ministry of Labor and Social Policy
3.	Free movement of services	Teresa MAŁECKA, Under-Secretary of State in the Ministry of the Economy	**Marek WEJTKO**, Under-Secretary of State in the Ministry of Economy **Ryszard MICHALSKI**, Under-Secretary of State in the Ministry of Finance
4.	Free movement of capital	Krzysztof NERS, Under-Secretary of State in the Ministry of Finance	**Ryszard MICHALSKI,** Under-Secretary of State in the Ministry of Finance
5.	Company law	Jarosław PIETRAS, Secretary of the Negotiation Team, Secretary of State in the Office of the Committee for European Integration	Jarosław PIETRAS, Secretary of the Negotiation Team, Secretary of State in the Office of the Committee for European Integration **Marek WEJTKO**, Under-Secretary of State in the Ministry of Economy
6.	Competition policy	Elżbieta MODZELEWSKA-WĄCHAL, Vice-President of the Office for the Protection of Competition and Consumers Protection	**Ewa KUBIS,** Vice-President of the Office for the Protection of Competition and Consumers Protection **Marek WEJTKO**, Under-Secretary of State in the Ministry of Economy
7.	Agriculture	Jerzy PLEWA, Under-Secretary of State in the Ministry of Agriculture and Rural Development	Jerzy PLEWA, Under-Secretary of State in the Ministry of Agriculture and Rural Development **Jerzy PILARSKI**, Secretary of State in the Ministry of Agriculture and Rural Development
8.	Fisheries	Leszek DYBIEC, Counselor to the Minister in the Ministry of Agriculture and Rural Development	**Jerzy PILARSKI**, Secretary of State in the Ministry of Agriculture and Rural Development
9.	Transport	Andrzej GRZELAKOWSKI, Under-Secretary of State in the Ministry of Transport and Marine Economy	**Sergiusz NAJAR,** Under-Secretary of State in the Ministry of Transport and Marine

			Economy
10.	Taxation	Krzysztof NERS, Under-Secretary of State in the Ministry of Finance	**Ryszard MICHALSKI**, Under-Secretary of State in the Ministry of Finance
11.	Economic and Monetary Union	Krzysztof NERS, Under-Secretary of State in the Ministry of Finance	**Ryszard MICHALSKI,** Under-Secretary of State in the Ministry of Finance
12.	Statistics	Jarosław PIETRAS, Secretary of the Negotiation Team, Secretary of State in the Office of the Committee for European Integration	Jarosław PIETRAS, Secretary of the Negotiation Team, Secretary of State in the Office of the Committee for European Integration
13.	Social policy and employment	Irena BORUTA, Under-Secretary of State in the Ministry of Labor and Social Maria SMERECZYŃSKA, Government Plenipotentiary for the Family Affairs, Secretary of State in the Chancellery of the Prime Minister	**Krystyna TOKARSKA-BIERNACIK,** Under-Secretary of State in the Ministry of Labor and Social Policy
14.	Energy	Teresa MAŁECKA, Under-Secretary of State in the Ministry of the Economy	**Marek WEJTKO**, Under-Secretary of State in the Ministry of Economy
15.	Industrial policy	Teresa MAŁECKA, Under-Secretary of State in the Ministry of the Economy	**Marek WEJTKO**, Under-Secretary of State in the Ministry of Economy
16.	Small and Medium Enterprises	Teresa MAŁECKA, Under-Secretary of State in the Ministry of the Economy	**Marek WEJTKO**, Under-Secretary of State in the Ministry of Economy
17.	Research and Development	Wilibald WINKLER, Under-Secretary of State in the Ministry of National Education	Wilibald WINKLER, Under-Secretary of State in the Ministry of National Education
18.	Education and youth	Wilibald WINKLER, Under-Secretary of State in the Ministry of National Education	Wilibald WINKLER, Under-Secretary of State in the Ministry of National Education
19.	Telecommunication and information technologies	Marek RUSIN, Under-Secretary of State in the Ministry of Telecommunications	Marek RUSIN, Under-Secretary of State in the Ministry of Telecommunications
20.	Culture and audiovisual policy	Marek RUSIN, Under-Secretary of State in the Ministry of Telecommunications	Marek RUSIN, Under-Secretary of State in the Ministry of Telecommunications
21.	Regional Policy and Co-ordination of Structural Instruments	Jerzy PLEWA, Under-Secretary of State in the Ministry of Agriculture and Rural Development Marek POTRYKOWSKI, Director of the Department of Regional and Spatial Policy in the Government Centre for Strategic Studies and Director of the Department of Programming Regional Policy in the Ministry of Regional Development and Housing	Jerzy PLEWA, Under-Secretary of State in the Ministry of Agriculture and Rural Development **Marek WEJTKO**, Under-Secretary of State in the Ministry of Economy
22.	Environment	Janusz RADZIEJOWSKI, Under-Secretary of State in the Ministry of Environment	Janusz RADZIEJOWSKI, Under-Secretary of State in the Ministry of Environment
23.	Consumers and health protection	Elżbieta MODZELEWSKA-WĄCHAL, Vice-President of the Office for the Protection of Competition and Consumers Protection, Andrzej RYŚ, Under-Secretary of	**Marek WEJTKO**, Under-Secretary of State in the Ministry of Economy

		State in the Ministry of Health	
24.	Justice and Home Affairs	Janusz NIEDZIELA, Secretary of State in the Ministry of Justice, Piotr STACHAŃCZYK, Under-Secretary of State in the Ministry of Internal Affairs and Administration	**Zenon KOSINIAK-KAMYSZ**, Under-Secretary of State in the Ministry of Internal Affairs and Administration
25.	Customs union	Krzysztof NERS, Under-Secretary of State in the Ministry of Finance	**Ryszard MICHALSKI**, Under-Secretary of State in the Ministry of Finance
26.	External relations	Teresa MAŁECKA, Under-Secretary of State in the Ministry of the Economy	**Marek WEJTKO**, Under-Secretary of State in the Ministry of Economy
27.	Common Foreign and Security Policy	Andrzej ANANICZ, Deputy Head of the Negotiation Team, Secretary of State in the Ministry of Foreign Affairs	Andrzej ANANICZ, Deputy Head of the Negotiation Team, Secretary of State in the Ministry of Foreign Affairs
28.	Financial control	Krzysztof NERS, Under-Secretary of State in the Ministry of Finance	**Ryszard MICHALSKI,** Under-Secretary of State in the Ministry of Finance
29.	Financial and Budgetary provisions	Krzysztof NERS, Under-Secretary of State in the Ministry of Finance	**Ryszard MICHALSKI**, Under-Secretary of State in the Ministry of Finance
30.	Institutions	Andrzej ANANICZ, Deputy Head of the Negotiation Team, Secretary of State in the Ministry of Foreign Affairs	Andrzej ANANICZ, Deputy Head of the Negotiation Team, Secretary of State in the Ministry of Foreign Affairs
31.	Other	Jarosław PIETRAS, Secretary of the Negotiation Team, Secretary of State in the Office of the Committee for European Integration	Jarosław PIETRAS, Secretary of the Negotiation Team, Secretary of State in the Office of the Committee for European Integration
		Jan TRUSZCZYŃSKI, Ambassador, Head of the Representation of the Republic of Poland to the European Union	**Marek GRELA,** Ambassador, Head of the Representation of the Republic of Poland to the European Union

THE EUROPEAN UNION

The key role in preparation and conduct of negotiations within the European Commission played the Enlargement Directorate-General (DG ELARG) comprising from the units of the former Directorate-General 1A and the Task Force for the Accession Negotiations (TFAN)[7], formerly a separate unit in the structures of the European Commission.

Key persons:

[7] TFAN is an administrative unit established within the European Commission and responsible for support for the accession negotiations with the Luxembourg Group in 1998-1999. Nicolaus G. Van der Pas, in charge of the Swedish negotiations, held the post of the Head of the Group. During the structural reforms of the European Commission in November 1999 Task Force was absorbed into a new administrative body in charge of handling the enlargement, the Enlargement Directorate-General.

Günter Verheugen - the Commissioner in charge of enlargement,
Eneko Illaramendi Landáburu - General Director of DG Enlargement
Francoise Gaudenzi - directly responsible for the negotiations with Poland - the Head of Directorate A.

In cooperation with other DGs (special units for enlargement), DG ELARG carried out the preparation of the Draft Common Position (DCP). After internal consultations, DCP discussed within the Enlargement Group in the Council of the European Union and in the COREPER.
The positions had to be adopted by unanimity in the Council. After amendments presented to the candidates as the Common Positions of the European Union (see UKIE 2000a).

Annex 3.1.: The post-communist governments in Poland

1. **Tadeusz Mazowiecki government** - 24 August 1989 – 25 November 1990 (coalition between the Solidarity, United Peasants Party – ZSL, Democratic Alliance – SD, the Communist Party - PZPR)
2. **Jan Krzysztof Bielecki government** - 12 January 1991 – 5 December 1991 (Liberal Democratic Congress – KLD, United Christian-National Party – ZChN, Democratic Alliance – SD)
3. **Jan Olszewski government** – 23 December 1991 – 5 June 1992 (coalition between the United Christian-National Party – ZChN, 'Center' Agreement – PC)
4. **Waldemar Pawlak government** – 5 June 1992 – 7 July 1992 (the government was not established)
5. **Hanna Suchocka government** – 11 July 1992 – 18 October 1993 (coalition between the Democratic Alliance – UD, United Christian-National Party – ZChN, Polish Peasants' Party - Peasants Agreement – PSL, Liberal Democratic Congress - KLD, Christian Peasants Party - SLCh)
6. **Waldemar Pawlak government** – 26 October 1993 – 1 March 1995 (coalition between the Left Democratic Alliance and the Peasants Party, Non-party Block for Reforms' Support - BBWR)
7. **Józef Oleksy government** – 7 March 1995 – 26 January 1996 (coalition between the Left Democratic Alliance- SLD and the Peasants Party - PSL)
8. **Włodzimierz Cimoszewicz government** – 7 February 1996 – 31 October 1997 (coalition between the Left Democratic Alliance - SLD and the Peasants Party - PSL)
9. **Jerzy Buzek government** – 31 October 1997 – 19 October 2001 (coalition between the Election Action Solidarity – AWS and the Liberty Union – UW)
10. **Leszek Miller government** – 19 October 2001 – 2 May 2004 (coalition between the Left Democratic Alliance - SLD, Workers' Union – UP and the Peasants Party – PSL)
11. **Marek Belka government** – 2 May 2004 – 19 May 2004 (coalition between the Left Democratic Alliance – SLD and the Workers' Union - UP)
12. **Second government of Marek Belka** – 11 June 2004 – 19 October 2005 (Left Democratic Alliance - SLD government)
13. **Kazimierz Marcinkiewicz government** – 31 October 2005 – 10 July 2005 (Law and Justice – PiS government)

14. **Jarosław Kaczyński government** – 14 July 2006 – 5 November 2007 (Law and Justice - PiS, Self-Defense Party, League of the Polish Families - LPR)
15. **Donald Tusk government** – 16 November 2007 – (coalition between the Civic Platform - PO and the Peasants Party - PSL).

Annex 4.1.: The acquis communautaire in the Taxation area[1]

I. VAT
I.1 Community legislation applicable to all Member States

77/388/EEC: Sixth Council Directive of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes – Common system of value added tax: uniform basis of assessment

Amendments:

1) 80/368/EEC: Eleventh Council Directive of 26 March 1980 on the harmonization of the laws of the Member States relating to turnover taxes – exclusion of the French overseas departments from the scope of Directive 77/388/EEC

2) 83/181/EEC: Council Directive of 28 March 1983 determining the scope of Article 14(1) (d) of Directive 77/388/EEC as regards exemption from value added tax on the final importation of certain goods

3) 84/386/EEC: Tenth Council Directive of 31 July 1984 on the harmonization of the laws of the Member States relating to turnover taxes, amending Directive 77/388/EEC – Application of value added tax to the hiring out of movable tangible property

4) 85/346/EEC: Council Directive of 8 July 1985 amending Directive 83/181/EEC determining the scope of Article 14 (1)(d) of Directive 77/388/EEC as regards exemption from value added tax on the final importation of certain goods

5) 88/331/EEC: Council Directive of 13 June 1988 amending Directive 83/181/EEC determining the scope of Article 14 (1) (d) of Directive 77/388/EEC as regards exemption from value-added tax on the final importation of certain goods

6) 89/219/EEC: Commission Directive of 7 March 1989 amending Council Directive 83/181/EEC determining the scope of Article 14 (1) (d) of Directive 77/388/EEC as regards exemption from value added tax on the final importation of certain goods, to take account of the introduction of the combined nomenclature

7) 89/465/EEC: Eighteenth Council Directive of 18 July 1989 on the harmonization of the laws of the Member States relating to turnover taxes - Abolition of certain derogations provided for in Article 28 (3) of the Sixth Directive 77/388/EEC

8) 91/680/EEC: Council Directive of 16 December 1991 supplementing the common system of value added tax and amending Directive 77/388/EEC with a view to the abolition of fiscal frontiers

9) 92/77/EEC: Council Directive 92/77/EEC of 19 October 1992 supplementing the common system of value added tax and amending Directive 77/388/EEC (approximation of VAT rates)

[1] Source: On the basis of the Screening A-list Chapter 10 Taxation

10) 92/111/EEC: Council Directive of 14 December 1992 amending Directive 77/388/EEC and introducing simplification measures with regard to value added tax

11) 94/5/EC: Council Directive of 14 February 1994 supplementing the common system of value added tax and amending Directive 77/388/EEC – special arrangements applicable to second-hand goods, works of art, collectors' items and antiques

12) 95/7/EC: Council Directive of 10 April 1995 amending Directive 77/338/EEC and introducing new simplification measures with regard to value added tax – scope of certain exemptions and practical arrangements for implementing them

13) 96/42/EC: Council Directive of 25 June 1996 amending Directive 77/338/EEC on the common system of value added tax

14) 96/95/EC: Council Directive of 20 December 1996 amending, with regard to the level of the standard rate of value added tax, Directive 77/338/EEC on the common system of value added tax

15) 98/80/EC: Council Directive of 12 October 1998 supplementing the common system of value added tax and amending Directive 77/338/EEC – Special scheme for investment gold

67/227/EEC: First Council Directive of 11 April 1967 on the harmonization of legislation of Member States concerning turnover taxes

68/221/EEC: Council Directive of 30 April 1968 on a common method for calculating the average rates provided for in Article 97 of the Treaty

79/1072/EEC: Eighth Council Directive of 6 December 1979 on the harmonization of the laws of the Member States relating to turnover taxes - Arrangements for the refund of value added tax to taxable persons not established in the territory of the country

86/560/EEC: Thirteenth Council Directive of 17 November 1986 on the harmonization of the laws of the Member States relating to turnover taxes – Arrangements for the refund of value added tax to taxable persons not established in Community territory

16) 98/527/EC: Commission Decision of 24 July 1998 on the treatment for national accounts purposes of VAT fraud (the discrepancies between theoretical VAT receipts and actual VAT receipts)

I.2 Community legislation applicable to specific Member States or which have over time ceased to have effect

98/198/EC: Council Decision of 9 March 1998 authorizing the United Kingdom to extend application of a measure derogating from Article 6 and 17 of the Sixth Council Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes

98/161/EC: Council Decision of 16 February 1998 authorizing the Kingdom of the Netherlands to apply a measure derogating from Article 2 and 28a (1) of the Sixth Council Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes

398/23/EC: Council Decision of 19 December 1997 authorizing the United Kingdom to extend application of a measure derogating from Article 28e (1) of the Sixth Council Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes

98/20/EC: Council Decision of 19 December 1997 authorizing the Kingdom of the Netherlands to extend the application of a measure derogating from Article 21 of the Sixth Council Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes

97/511/EC : Council Decision of 24 July 1997 authorizing the Federal Republic of Germany to conclude with the Czech Republic an Agreement containing measures derogating from Articles 2 and 3 of the Sixth Directive (77/388/EEC) on the harmonization of the laws of the Member States relating to turnover taxes

97/510/EC: Council Decision of 24 July 1997 authorizing Ireland to apply a measure derogating from Article 21 of the Sixth Directive (77/388/EEC) on the harmonization of the laws of the Member States relating to turnover taxes

97/375/EC: Council Decision of 9 June 1997 authorizing the United Kingdom to apply an optional measure derogating from Article 17 of the sixth Directive (77/388/EEC) on the harmonization of the Laws of the Member States relating to turnover taxes

97/214/EC : Council Decision of 17 March 1997 authorizing the United Kingdom of Great Britain and Northern Ireland to apply a measure derogating from Article 9 of the Sixth Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes

97/213/EC: Council Decision of 17 March 1997 authorizing the Kingdom of Sweden to apply a measure derogating from Article 9 of the Sixth Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes

97/212/EC: Council Decision of 17 March 1997 authorizing the Republic of Finland to apply a measure derogating from Article 9 of the Sixth Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes

97/211/EC: Council Decision of 17 March 1997 authorizing the Portuguese Republic to apply a measure derogating from Article 9 of the Sixth Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes

97/210/EC: Council Decision of 17 March 1997 authorizing the Republic of Austria to apply a measure derogating from Article 9 of the Sixth Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes

97/209/EC: Council Decision of 17 March 1997 authorizing the Kingdom of the Netherlands to apply a measure derogating from Article 9 of the Sixth Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes

97/208/EC: Council Decision of 17 March 1997 authorizing the Grand Duchy of Luxembourg to apply a measure derogating from Article 9 of the Sixth Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes

97/207/EC: Council Decision of 17 March 1997 authorizing the Italian Republic to apply a measure derogating from Article 9 of the Sixth Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes

97/206/EC: Council Decision of 17 March 1997 authorizing Ireland to apply a measure derogating from Article 9 of the Sixth Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes

97/205/EC: Council Decision of 17 March 1997 authorizing the French Republic to apply a measure derogating from Article 9 of the Sixth Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes

97/204/EC: Council Decision of 17 March 1997 authorizing the Kingdom of Spain to apply a measure derogating from Article 9 of the Sixth Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes

97/203/EC: Council Decision of 17 March 1997 authorizing the Hellenic Republic to apply a measure derogating from Article 9 of the Sixth Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes

97/202/EC: Council Decision of 17 March 1997 authorizing the Federal Republic of Germany to apply a measure derogating from Article 9 of the Sixth Directive 7/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes

97/201/EC: Council Decision of 17 March 1997 authorizing the Kingdom of Denmark to apply a measure derogating from Article 9 of the Sixth Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes

97/200/EC: Council Decision of 17 March 1997 authorizing the Kingdom of Belgium to apply a measure derogating from Article 9 of the Sixth Directive

77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes

97/189/EC: Council Decision of 17 March 1997 authorizing the Federal Republic of Germany and the French Republic to apply a measure derogating from Article 3 of the Sixth Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes

97/188/EC: Council Decision of 17 March 1997 authorizing the Federal Republic of Germany to conclude with the Czech Republic two agreements containing measures derogating from Articles 2 and 3 of the Sixth Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes

96/432/EC: Council Decision of 8 July 1996 authorizing the Netherlands to apply a measure derogating from Article 11 of Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes (Sixth VAT Directive)

96/402/EC: Council Decision of 25 June 1996 authorizing the Federal Republic of Germany to conclude an agreement with the Republic of Poland containing measures derogating from Articles 2 and 3 of Council Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes

95/435/EC: Council Decision of 23 October 1995 authorizing the Federal Republic of Germany to conclude an agreement with the Republic of Poland containing measures derogating from Articles 2 and 3 of the Sixth Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes

95/252/EC: Council Decision of 29 June 1995 authorizing the United Kingdom to apply a measure derogating from Articles 6 and 17 of the Sixth Council Directive (77/388/EEC) on the harmonization of the laws of the Member States relating to turnover taxes

95/115/EC : Council Decision of 30 March 1995 authorizing the Federal Republic of Germany to conclude with the Republic of Poland an agreement containing measures derogating from Articles 2 and 3 of the Sixth Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes

95/114/EC: Council Decision of 30 March 1995 authorizing the Federal Republic of Germany and the Grand Duchy of Luxembourg to apply a measure derogating from Article 3 of the Sixth Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes

94/76/EC: Council Directive of 22 December 1994 amending Directive 77/388/EEC by the introduction of transitional measures applicable, in the context of the enlargement of the European Union on 1 January 1995, as regards value added tax

93/609/EC : Council Decision of 22 November 1993 authorizing the United Kingdom to apply a particular measure in accordance with Article 22 (12) (a) of the Sixth Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes

93/110/EEC : Council Decision of 15 February 1993 authorizing the French Republic to extend the application of a measure derogating from Article 2 of the sixth Directive (77/388/EEC) on the harmonization of the laws of the Member States relating to turnover taxes

93/109/EEC : Council Decision of 15 February 1993 authorizing the French Republic to extend the application of a measure derogating from Article 17 (2) of the sixth Directive

(77/388/EEC) on the harmonization of the laws of the Member States relating to turnover taxes

92/621/EEC: Council Decision of 21 December 1992 authorizing the United Kingdom to apply a particular measure in accordance with Article 22 (12) (b) of Directive 77/388/EEC

92/620/EEC: Council Decision of 21 December 1992 authorizing the Kingdom of the Netherlands to apply particular measures in accordance with Article 22 (12) (a) and (b) of Directive 77/388/EEC

92/619/EEC : Council Decision of 21 December 1992 authorizing the Grand Duchy of Luxembourg to apply particular measures in accordance with Article 22 (12) (a) and (b) of Directive 77/388/EEC

92/618/EEC: Council Decision of 21 December 1992 authorizing the Italian Republic to apply a particular measure in accordance with Article 22 (12) (a) of Directive 77/388/EEC

92/617/EEC: Council Decision of 21 December 1992 authorizing Ireland to apply particular measures in accordance with Article 22 (12) (a) and (b) of Directive 77/388/EEC

92/616/EEC: Council Decision of 21 December 1992 authorizing the Kingdom of Spain to apply a particular measure in accordance with Article 22 (12) (a) of Directive 77/388/EEC

92/615/EEC : Council Decision of 21 December 1992 authorizing the Kingdom of Denmark to apply particular measures in accordance with Article 22 (12) (a) and (b) of Directive 77/388/EEC

92/614/EEC: Council Decision of 21 December 1992 authorizing the Federal Republic of Germany to apply a particular measure in accordance with Article 22 (12) (b) of Directive 77/388/EEC

92/544/EEC : Council Decision of 23 November 1992 authorizing the French Republic to apply measures derogating from Article 17 and Article 22 (3), (4) and (5) of the Sixth Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes

92/543/EEC: Council Decision of 23 November 1992 authorizing the Federal Republic of Germany to apply a measures derogating from Article 2 (1), read in conjunction with Article 13 B (d) (1) and (2), of the Sixth Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes

90/640/EEC: Council Decision of 3 December 1990 authorizing the Federal Republic of Germany to grant an exemption from Articles 14 and 15 of the Sixth Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes for Soviet armed forces stationed on the territory of the Federal Republic of Germany

89/683/EEC : Council Decision of 21 December 1989 authorizing the French Republic to apply a measure derogation from Article 2 of the Sixth Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes

89/534/EEC : Council Decision of 24 May 1989 authorizing the United Kingdom to apply, in respect of certain supplies to unregistered resellers, a measure derogating from Article 11 A (1) (a) of the Sixth Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes

89/488/EEC : Council Decision of 28 July 1989 authorizing the French Republic to apply a measure derogating from Article 17 (2) of the Sixth Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes
89/487/EEC : Council Decision of 28 July 1989 authorizing the French Republic to apply a measure derogating from the second subparagraph of Article 17 (6) of the Sixth Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes

89/466/EEC: Council Decision of 18 July 1989 authorizing the United Kingdom to apply a measure derogating from Article 11 (A) (1) (b) of the Sixth Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes

88/498/EEC: Council Decision of 19 July 1988 authorizing the Kingdom of the Netherlands to apply a measure derogating from Article 21 (1) (a) of the Sixth Council Directive (77/388/EEC) of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes

86/247/EEC: Twenty-first Council Directive of 16 June 1986 on the harmonization of the laws of the Member States relating to turnover taxes – Deferment of the introduction of the common system of value-added tax in the Hellenic Republic

86/356/EEC: Council Decision of 21 July 1986 authorizing the United Kingdom to apply flat-rate measures in respect of the non-deductible value added tax charged on fuel expenditure in company cars

85/361/EEC: Twentieth Council Directive of 16 July 1985 on the harmonization of the laws of the Member States relating to turnover taxes - Common system of value added tax: derogation's in connection with the special aids granted to certain farmers to compensate for the dismantlement of monetary compensatory amounts applying to certain agricultural products

84/87/EEC: Council Decision of 6 February 1984 authorizing the Italian Republic to derogate until 31 December 1983 from the value added tax arrangements in the context of aid to earthquake victims in southern Italy

84/468/EEC : Council Decision of 10 September 1984 application of Article 27 of the Sixth VAT Directive of 17 May 1977 on value added tax – authorization of a measure derogation from the Directive in the context of a draft agreement between the Federal Republic of Germany and the Netherlands.

84/469/EEC : Council Decision of 15 April 1984 Application of Article 27 of the Sixth VAT Directive of 17 May 19977 on value added tax - authorization of a derogation requested by the United Kingdom, with a view to avoiding certain types of fraud or tax evasion.

83/648/EEC: Fifteenth Council Directive of 19 December 1983 on the harmonization of the laws of the Member States relating to turnover taxes – deferment of the introduction of the common system of value added tax in the Hellenic Republic

83/333/EEC: Council Decision of 18 March 1983 application of Article 27 of the Sixth VAT Council Directive of 17 May 1977 on value added tax – Authorization of a derogation under a draft agreement between the Federal Republic of Germany and Luxembourg

78/583/EEC: Ninth Council Directive of 26 June 1978 on the harmonization of the laws of the Member States relating to turnover taxes

72/250/CEE: Cinquième directive du Conseil, du 4 juillet 1972, en matière d'harmonisation des legislations des états membres relatives aux taxes sur le chiffre d'affaires. Introduction de la taxe sur la valeur ajoutée en Italie

71/401/EEC: Fourth Council Directive of 20 December 1971 on the harmonization of the laws of the Member States relating to turnover taxes – Introduction of value added tax in Italy

69/463/EEC: Third Council Directive of 9 December 1969 on the harmonization of legislation of Member States concerning turnover taxes – introduction of value added tax in Member States

II. Excise duties

II.1. Community legislation applicable to all Member States

79/32/EEC Second Council Directive of 18 December 1978 on taxes other than turnover tax, which affect the consumption of manufactured tobacco

92/12/EEC Council Directive 92/12/EEC of 25 February 1992 on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products as amended by
1) Directive 92/108/EEC
2) Directive 94/74/EC
3) Directive 96/99/EC

92/79/EEC Council Directive of 19 October 1992 on the approximation of taxes on cigarettes

92/80/EEC Council Directive of 19 October 1992 on the approximation of taxes on manufactured tobacco other than cigarettes

92/81/EEC Council Directive of 19 October 1992 on the harmonization of the structures of excise duties on mineral oils as amended by
1) Council Directive 92/108/EEC and
2) Council Directive 94/74/EEC

92/82/EEC Council Directive of 19 October 1992 on the approximation of rates of excise duties on mineral oils as amended by Council Directive 94/74/EEC

92/83/EEC Council Directive of 19 October 1992 on the harmonization of the structures of excise duties on alcohol and alcoholic beverages

92/84/EEC Council Directive of 19 October 1992 on the approximation of the rates of excise duty on alcohol and alcoholic beverages

92/2719/EEC Commission Regulation of 11 September 1992 on the accompanying administrative document for the movement of goods under duty-suspension arrangements of products subject to excise duty as amended by Regulation 93/2225/EEC

92/3649/EEC Commission Regulation of 17 December 1992 on a simplified accompanying document for the intra-Community movement of products subject to excise duty which have been released for consumption in Ms of dispatch

93/3199/EEC Commission Regulation of 22 November 1993 on the mutual recognition of procedures for the complete denaturing of alcohol for the purposes of exemption from excise duty, amended by Commission Regulation 95/2546/ EC and by Commission Regulation
98/2559/EC

95/59/EC: Council Directive of 27 November 1995 on taxes other than turnover taxes which affect the consumption of manufactured tobacco

95/60/EC: Council Directive of 27 November 1995 on fiscal marking of gas oils and kerosene

96/31/EC Commission Regulation of 10 January 1996 on the excise duty exemption certificate

II.2 Community legislation applicable to specific Member States or which have over time ceased to have effect

98/617/EC Commission Decision of 21 October 1999 denying authority to Italy to refuse grant of exemption to certain products exempt from excise duty under Council Directive 92/83/EC on the harmonization of the structures of the excise duties on alcohol and alcoholic beverages (notified under document number Commission 1998) 3154)

98/275/EC Council Decision of 21 April 1998 authorizing the Kingdom of the Netherlands to apply to certain mineral oils when used for specific purposes reductions

in or exemptions form excise duty, in accordance with the procedure provided for in Article 8(4) of Directive 92/81/EEC

98/274/EC Council Decision of 21 April 1998 authorizing the Kingdom of Denmark to apply or to continue to apply reductions in or exemptions from excise duties on certain mineral oils used for specific purposes, in accordance with the procedure provided for in Article 8(4) of Directive 92/81/EEC

397Y1122 (01) Resolution of the ECSC Consultative Committee on the proposal submitted by the Commission for a Council Directive restructuring the community framework for the taxation of energy products

Council Decision of 30 June 1997 authorizing Member States to apply and to continue to apply to certain mineral oils, when used for specific purposes, existing reduced rates of excise duty or exemptions from excise duty, in accordance with the procedure provided for in Directive 92/81/EEC

III. Mutual assistance and administrative co-operation

76/308/EEC Council Directive of 15 March 1976 on mutual assistance for the recovery of claims resulting from operations forming part of the system of financing the European Agricultural Guidance and Guarantee Fund, and of the agricultural levies and customs duties amended by
1) Directive 79/1071/EEC and
2) Directive 92/1081/EEC

77/794/EEC Commission Directive of 4 November 1977 laying down detailed rules for implementing certain provisions of Directive 76/308/EEC on mutual assistance for the recovery of claims resulting from operations forming part of the system of financing the European Agricultural Guidance and Guarantee Fund, and of agricultural levies and customs duties amended by
1) Directive 85/4791/EEC
2) Directive 86/489/EEC

77/799/EEC: Council Directive of 19 December 1977 concerning mutual assistance by the competent authorities of the Member States in the field of direct taxation

79/1070/EEC Council Directive of 6.12.79 amending Directive 77/799/EECAs repealed by Directive 92/12/EEC of 25.2.92

92/218/EEC Council Regulation (EEC) No 218/92 of 27 January 1992 on administrative co-operation in the field of indirect taxation (VAT)

98/888/EC European Parliament and Council Decision of 30 March 1998 establishing a programme of Community action to ameliorate the indirect taxation systems of the internal market (Fiscalis programme)

98/467/EC Commission Decision of 2 July 1998 establishing certain implementing provisions for European Parliament and Council Decision No 98/888/EC establishing a

programme of Community action to improve the indirect taxation systems of the internal market (Fiscalis programme)

98/532/EC Commission Decision of 8 July 1998 concerning certain measures necessary for carrying out activities related to communication and information exchange systems and to linguistic training tools under the Fiscalis programme (European Parliament and Council Decision No 98/888/EC establishing a programme of Community action to improve the indirect taxation systems of the internal market)

IV. 1 Travellers' allowances and other exemptions

69/169/EEC: Council Directive of 28 May 1969 on the harmonization of provisions laid down by law, regulation or administrative action relating to exemption from turnover tax and excise duty on imports in international travel. Amended by:

1) Council Directive 72/230/EEC
2) Council Directive 78/1032/EEC
3) Council Directive 78/1033/EEC
4) Council Directive 81/933/EEC
5) Council Directive 82/443/EEC
6) Council Directive 84/231/EEC
7) Council Directive 85/348/EEC
8) Council Directive 88/664/EEC
9) Council Directive 89/194/EEC
10) Council Directive 89/220/EEC
11) Council Directive 91/191/EEC
12) Council Directive 91/673/EEC
13) Council Directive 91/680/EEC
14) Council Directive 92/12/EEC
15) Council Directive 92/111/EEC
16) Council Directive 94/4/EC

78/1035/EEC: Council Directive of 19 December 1978 on the exemption from taxes of imports of small consignments of goods of a non-commercial character from third countries as amended by:
1) Council Directive 81/933/EEC and latest
2) Council Directive 85/576/EEC

83/181/EEC: Council Directive of 28 March 1983 determining the scope of Article 14 (1) (d) of Directive 77/388/EEC as regards exemption from value added tax on the final importation of certain goods as amended by:
1) Council Directive 85/346/EEC
2) Council Directive 88/331/EEC
3) Commission Directive 89/219/EEC
4) Commission Directive 91/680/ EEC
5) Commission Directive 92/111/ EEC

83/182/EEC: Council Directive of 28 March 1983 on tax exemptions within the Community for certain means of transport temporarily imported into one Member State from another as amended by Commission Directive 91/680/EEC

83/183/EEC: Council Directive of 28 March 1983 on tax exemptions applicable to permanent imports from a Member State of the personal property of individuals as last amended by
1) Dir. 89/604/EEC
2) Commission Directive 91/680/EEC
3) Commission Directive 92/12/EEC

IV.2 Community legislation applicable to specific Member States or which have over time ceased to have effect

98/94/EC: Council Directive of 14 December 1998 amending Directive 94/4/EC and extending the temporary derogation applicable to Germany and Austria

94/75/EC: Council Directive of 22 December 1994 amending Directive 94/4/EC and introducing temporary derogation measures applicable to Austria and to Germany

91/191/EEC: Council Directive of 27 March 1991 amending Directive 69/169/EEC on tax-paid allowances in intra - Community travel and as regards a derogation granted to the Kingdom of Denmark and to Ireland relating to the rules governing travelers' allowances on imports

87/198/EEC: Council Directive of 16 March 1987 amending Directive 69/169/EEC as regards a derogation granted to the Kingdom of Denmark relating to the rules governing turnover tax and excise duty on imports in international travel

83/651/EEC: Council Directive of 22 December 1983 prolonging the derogation accorded to Ireland relating to the rules governing turnover tax and excise duty applicable in international travel

83/2/EEC: Council Directive of 30 December 1982 on a derogation accorded to Denmark relating to the rules governing turnover tax and excise duty applicable in international travel

77/800/EEC: Council Directive of 19 December 1977 on a derogation accorded to the Kingdom of Denmark relating to the rules governing turnover tax and excise duty applicable in international travel

77/82/EEC: Council Directive of 18 January 1977 on a derogation accorded to the Kingdom of Denmark relating to the rules governing turnover tax and excise duty applicable in international travel

76/134/EEC: Council Directive of 20 January 1976 on a derogation accorded to the Kingdom of Denmark relating to the rules governing turnover tax and excise duty applicable in international travel

V. Direct Taxation

69/335/EEC: Council Directive of 17 July 1969 concerning indirect taxes on the raising of capital

390/434/EEC: Council Directive of 23 July 1990 on the common system of taxation applicable to mergers, divisions, transfers of assets and exchanges of shares concerning companies of different Member States

90/435/EEC: Council Directive of 23 July 1990 on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States

90/436/EEC: Convention n the elimination of double taxation in connection with the adjustment of profits of associated enterprises

Annex 4.2.: Accession negotiations on Chapter 10: Taxation

Table 1: Poland's postulates in the accession negotiations in the field of Taxation

Position Paper of 19 October 1999	**Supplement to the Position Paper of 6 February 2001**	**Amendment of the Position Paper of 29 March 2001**	**Amendment of the Position Paper 28 December 2001**	**Transition periods granted**
VAT:				
Art. 12 p. 3 Sixth Council Directive on the harmonization of the laws of the Member States relating to turnover taxes **(Gastronomic services – lower - 7% VAT)** in the period of **5 years** after accession, that is until 31 December 2007				until 31 December 2007 for reduced VAT rate of 7% for **restaurant services**
Art. 12 p. 3 Sixth Council Directive on the harmonization of the laws of the Member States relating to turnover taxes **(0% VAT on some categories of books and scientific magazines)** in the period **5 years**, until 31 December 2007		Poland retreats from the request of 5-year transition period for implementation **Art. 12 p.3 of the Sixth Council Directive** – 0% VAT rate on some categories of books and scientific magazines. Instead, Poland requests **5-year 3% VAT for some books and magazines**	Poland reiterates request for the transition period **until 31 December 2007** on application of depreciated to **0% rate of VAT on books and scientific magazines.**	until 31 December 2007 for application of 0% VAT for **some books and scientific magazines**
Art. 17 of Sixth Council Directive on the harmonization of the laws of the Member States relating to turnover taxes – **derogation** about exclusion of right to deduct tax for passenger cars of 500 kg capacity and services related to renting or lease of these cars.				
Art. 2-6 of the Sixth Council Directive on the harmonization				permanent derogation on **exemption threshold** small end

of the laws of the Member States relating to turnover taxes – **derogation** on 10 000 EUR turnover limit for exemption from VAT				medium sized enterprises not exceeding equivalent in national currency 10 000 EUR of annual turnover – discharge from VAT.
Excise taxes:				
Art. 2 of Council Dir. 92/79/EEC on the approximation of taxes on **cigarettes** (Minimal level of excise for cigarettes, **Excise level lower than 57% of the maximal retail price**) for **5 years**, until 31 December 2007	Poland reserves the right to apply for transition period with respect to implementation of: **Council Dir. 99/81/EC amending Directive 92/79/EEC** on approximation of taxes on cigarettes, **Directive 92/80/EEC** on the approximation of taxes on manufactured tobacco other than cigarettes and **Directive 95/59/EEC** on taxes other than turnover taxes which affect the consumption of manufactured tobacco. In that way Poland confirms its reservations expressed in the first Position Paper with regard to the minimum 57% excise tax level	Poland retreats from 5-year transition period in application Council Directive 99/81/EC (lower than 57% of the retail price turnover tax on cigarettes) and applies for 3-year transition period in this matter.	Poland applies for 3-year transition period (from the date of technical readiness for accession that is until 31.12.2005) with respect to implementation of **Art. 2 of the Council Directive 92/79/EEC** on minimal excise tax level of 57% of the maximal retail price of cigarettes. In respect of the project of the **Council Directive amending Directive 92/79/EEC, Directive 92/80/EEC and Directive 95/59/EC** under preparation, Poland reserves the right to change its negotiation position and apply for the transition period until 31 December 2008 with respect to requirement of minimal excise tax level of 64 EUR for each 1000 cigarettes (if the Directive becomes part of the acquis communautaire).	**until 31 December 2008 for <u>lower excise tax share in the retail prices of cigarettes</u> (with commitment to gradually raise the excise tax level from 2002 onwards);**
Art. 8 p. 4 of the Council Dir. 92/81/EEC on the harmonization of the structures of excise duties on mineral oils (**reductions on excise for**		Poland retreats from 5 year transition period (reductions on excise for ecological fuels) with respect to application of the Art. 8 p.4 of the Directive		1-year technical transition period for reduced VAT rate for **<u>ecological fuel</u>** *(admissible on the basis of the Art. 8.4 of the Council Directive 92/81/EEC)*

ecological fuels) for **5 years**, until 31 December 2007.		92/81/EEC and applies for reductions on excise on ecological fuel during 1 year technical transition period.		
Art. 8 p. 1 l. b of Council Dir. 92/81/EEC on the harmonization of the structures of excise duties on mineral oils – **derogation** about the possibility to tax air fuels (with possibility of tax return).				
				until 31 December 2007 for reduced VAT of 7% in construction sector for supply of new flats, **construction and renovation services**;
				4-year transition period for extra reduced VAT level of 3% for means for **agricultural production, agricultural products and services**

Annex 5.1.: The acquis communautaire in the Fisheries area

1	393D0619 / OJ L 297 02.12.93 p.25 / 93/619/EC: Commission Decision of 19 November 1993 relating to the institution of a Scientific, Technical and Economic Committee for Fisheries
2	396R0788 / OJ L 108 01.05.96 p.1 / Council Regulation (EC) No 788/96 of 22 April 1996 on the submission by Member States of statistics on aquaculture production

3	386R2930 / OJ L 274 25.09.86 p.1 / Council Regulation (EEC) No 2930/86 of 22 September 1986 defining characteristics for fishing vessels
4	387R3252 / OJ L 314 04.11.87 p.17 / Council Regulation (EEC) No 3252/87 of 19 October 1987 on the coordination and promotion of research in the fisheries sector
5	392D0598 / OJ L 401 31.12.92 p.63 / 92/598/EEC: Commission Decision of 21 December 1992 on a multiannual guidance programme for the fishing fleet of Portugal for the period 1993 to 1996 pursuant to Council Regulation (EEC) No 4028/86 (Only the Portuguese text is authentic)
6	393R2018 / OJ L 186 28.07.93 p.1 / Council Regulation (EEC) No 2018/93 of 30 June 1993 on the submission of catch and activity statistics by Member States fishing in the Northwest Atlantic
7	393R2080 / OJ L 193 31.07.93 p.1 / Council Regulation (EEC) No 2080/93 of 20 July 1993 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards the financial instrument of fisheries guidance
8	393R2847 / OJ L 261 20.10.93 p.1 / Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy
9	393R3699 / OJ L 346 31.12.93 p.1 / Council Regulation (EC) No 3699/93 of 21 December 1993 laying down the criteria and arrangements regarding Community structural assistance in the fisheries and aquaculture sector and the processing and marketing of its products
10	394D0929 / OJ L 364 31.12.94 p.51 / 94/929/EC: Commission Decision of 22 December 1994 on the adoption of the Community programme for structural assistance in the fisheries and aquaculture sector and the processing and marketing of its products in Germany (Objective 5a outside Objective 1 regions - the period 1994 to 1999)
11	394D0930 / OJ L 364 31.12.94 p.54 / 94/930/EC: Commission Decision of 22 December 1994 on the adoption of the Community programme for structural assistance in the fisheries and aquaculture sector and the processing and marketing of its products in Spain (Objective 5a outside Objective 1 regions - the period 1994 to 1999) (Only the Spanish text is authentic)
12	394R0109 / OJ L 019 22.01.94 p.5 / Commission Regulation (EC) No 109/94 of 19 January 1994 concerning the fishing vessel register of the Community
13	394R0897 / OJ L 104 23.04.94 p.18 / Commission Regulation (EC) No 897/94 of 22 April 1994 laying down detailed rules for the application of Council Regulation (EEC) No 2847/93 as regards pilot projects relating to continuous position monitoring of Community fishing vessels

14	394R1275 / OJ L 140 03.06.94 p.1 / Council Regulation (EC) No 1275/94 of 30 May 1994 on adjustments to the arrangements in the fisheries chapters of the Act of Accession of Spain and Portugal
15	395D0084 / OJ L 067 25.03.95 p.33 / 95/84/EC: Commission Decision of 20 March 1995 concerning the implementation of the Annex to Council Regulation (EEC) No 2930/86 defining the characteristics of fishing vessels
16	395R1796 / OJ L 174 26.07.95 p.11 / Commission Regulation (EC) No 1796/95 of 25 July 1995 laying down detailed rules for the implementation of assistance granted by the Financial Instrument for Fisheries Guidance (FIFG) for schemes defined by Regulation (EC) No 3699/93
17	395R2636 / OJ L 271 14.11.95 p.8 / Commission Regulation (EC) No 2636/95 of 13 November 1995 laying down conditions for the grant of specific recognition and financial aid to producers' organisations in the fisheries sector in order to improve the quality of their products
18	397D0292(01) / OJ L 121 13.05.97 p.20 / 97/292/EC: Council Decision of 28 April 1997 on a specific measure to encourage Italian fishermen to diversify out of certain fishing activities
19	397D0413 / OJ L 175 03.07.97 p.27 / 97/413/EC: Council Decision of 26 June 1997 concerning the objectives and detailed rules for restructuring the Community fisheries sector for the period from 1 January 1997 to 31 December 2001 with a view to achieving a balance on a sustainable basis between resources and their exploitation
20	397R1292 / OJ L 176 04.07.97 p.21 / Commission Regulation (EC) No 1292/97 of 3 July 1997 laying down, pursuant to Article 10 (2) of Council Regulation (EEC) No 2847/93 establishing a control system applicable to the common fisheries policy, notification deadlines for fishing vessels flying the flag of, or registered in, certain third countries
21	398D0119 / OJ L 039 12.02.98 p.1 / 98/119/EC: Commission Decision of 16 December 1997 approving the multiannual guidance programme for the fishing fleet of France for the period from 1 January 1997 to 31 December 2001
22	398D0120 / OJ L 039 12.02.98 p.9 / 98/120/EC: Commission Decision of 16 December 1997 approving the multiannual guidance programme for the fishing fleet of Belgium for the period from 1 January 1997 to 31 December 2001
23	398D0121 / OJ L 039 12.02.98 p.15 / 98/121/EC: Commission Decision of 16 December 1997 approving the multiannual guidance programme for the fishing fleet of the Netherlands for the period from 1 January 1997 to 31 December 2001
24	398D0122 / OJ L 039 12.02.98 p.21 / 98/122/EC: Commission Decision of 16 December 1997 approving the multiannual guidance programme for the fishing fleet of Germany for the period from 1 January 1997 to 31 December 2001
25	398D0123 / OJ L 039 12.02.98 p.27 / 98/123/EC: Commission Decision of 16 December 1997 approving the multiannual guidance programme for the fishing fleet of Italy for the period from 1 January 1997 to 31 December 2001
26	398D0124 / OJ L 039 12.02.98 p.34 / 98/124/EC: Commission Decision of 16 December 1997 approving the multiannual guidance programme for the fishing fleet of the United Kingdom for the period from 1 January 1997 to 31 December 2001
27	398D0125 / OJ L 039 12.02.98 p.41 / 98/125/EC: Commission Decision of 16 December 1997 approving the multiannual guidance programme for the fishing fleet of Ireland for the period from 1 January 1997 to 31 December 2001

28	398D0126 / OJ L 039 12.02.98 p.47 / 98/126/EC: Commission Decision of 16 December 1997 approving the multiannual guidance programme for the fishing fleet of Denmark for the period from 1 January 1997 to 31 December 2001
29	398D0127 / OJ L 039 12.02.98 p.53 / 98/127/EC: Commission Decision of 16 December 1997 approving the multiannual guidance programme for the fishing fleet of Greece for the period from 1 January 1997 to 31 December 2001
30	398D0128 / OJ L 039 12.02.98 p.59 / 98/128/EC: Commission Decision of 16 December 1997 approving the multiannual guidance programme for the fishing fleet of Spain for the period from 1 January 1997 to 31 December 2001
31	398D0129 / OJ L 039 12.02.98 p.65 / 98/129/EC: Commission Decision of 16 December 1997 approving the multiannual guidance programme for the fishing fleet of Portugal for the period from 1 January 1997 to 31 December 2001
32	398D0130 / OJ L 039 12.02.98 p.73 / 98/130/EC: Commission Decision of 16 December 1997 approving the multiannual guidance programme for the fishing fleet of Finland for the period from 1 January 1997 to 31 December 2001
33	398D0131 / OJ L 039 12.02.98 p.79 / 98/131/EC: Commission Decision of 16 December 1997 approving the multiannual guidance programme for the fishing fleet of Sweden for the period from 1 January 1997 to 31 December 2001

34	374R1985 / OJ L 207 29.07.74 p.30 / Regulation (EEC) No 1985/74 of the Commission of 25 July 1974 laying down detailed rules of application for the fixing of reference prices and free-at-frontier prices for carp
35	376R0105 / OJ L 020 28.01.76 p.39 / Council Regulation (EEC) No 105/76 of 19 January 1976 on the recognition of producers' organizations in the fishing industry
36	382R1772 / OJ L 197 06.07.82 p.1 / Council Regulation (EEC) No 1772/82 of 29 June 1982 laying down general rules concerning the extension of certain rules adopted by producers' organizations in the fisheries sector
37	382R3140 / OJ L 331 26.11.82 p.7 / Council Regulation (EEC) No 3140/82 of 22 November 1982 on granting and financing aid granted by Member States to producers' organizations in the fishery products sector
38	382R3190 / OJ L 338 30.11.82 p.11 / Commission Regulation (EEC) No 3190/82 of 29 November 1982 laying down detailed rules for the extension of certain rules adopted by producers' organisations in the fisheries sector to non-members
39	382R3510 / OJ L 368 28.12.82 p.27 / Commission Regulation (EEC) No 3510/82 of 23 December 1982 fixing the conversion factors applicable to tuna
40	383R1452 / OJ L 149 07.06.83 p.5 / Commission Regulation (EEC) No 1452/83 of 6 June 1983 defining the administrative expenses of producers' organizations in the fishery products sector
41	383R1501 / OJ L 152 10.06.83 p.22 / Commission Regulation (EEC) No 1501/83 of 9 June 1983 on the disposal of certain fishery products which have been the subject of measures to stabilize the market

42	384R0671 / OJ L 073 16.03.84 p.28 / Commission Regulation (EEC) No 671/84 of 15 March 1984 on applications for the financing of aids granted by Member States to producers' organizations in the fishery products sector
43	384R3611 / OJ L 333 21.12.84 p.41 / Commission Regulation (EEC) No 3611/84 of 20 December 1984 fixing the conversion factors for frozen squid
44	385R3703 / OJ L 351 28.12.85 p.63 / Commission Regulation (EEC) No 3703/85 of 23 December 1985 laying down detailed rules for applying the common marketing standards for certain fresh or chilled fish
45	388R4176 / OJ L 367 31.12.88 p.63 / Commission Regulation (EEC) No 4176/88 of 28 December 1988 laying down detailed rules of application for the granting of flat-rate aid for certain fisheries products
46	389R2136 / OJ L 212 22.07.89 p.79 / Council Regulation (EEC) No 2136/89 of 21 June 1989 laying down common marketing standards for preserved sardines
47	390R3599 / OJ L 350 14.12.90 p.50 / Commission Regulation (EEC) No 3599/90 of 13 December 1990 remedying the prejudice caused by the halting of fishing for common sole by vessels flying the flag of a Member State in 1989
48	390R3600 / OJ L 350 14.12.90 p.52 / Commission Regulation (EEC) No 3600/90 of 13 December 1990 remedying the prejudice caused by the halting of fishing for cod by vessels flying the flag of a Member State in 1989
49	391R3863 / OJ L 363 31.12.91 p.1 / Commission Regulation (EEC) No 3863/91 of 16 December 1991 determining a minimum marketing size for crabs applicable in certain coastal areas of the United Kingdom
50	392R1536 / OJ L 163 17.06.92 p.1 / Council Regulation (EEC) No 1536/92 of 9 June 1992 laying down common marketing standards for preserved tuna and bonito
51	392R3759 / OJ L 388 31.12.92 p.1 / Council Regulation (EEC) No 3759/92 of 17 December 1992 on the common organization of the market in fishery and aquaculture products
52	392R3901 / OJ L 392 31.12.92 p.29 / Commission Regulation (EEC) No 3901/92 of 23 December 1992 introducing detailed rules for granting carryover aid on certain fishery products
53	392R3902 / OJ L 392 31.12.92 p.35 / Commission Regulation (EEC) No 3902/92 of 23 December 1992 setting detailed rules for granting financial compensation on certain fishery products
54	393R1658 / OJ L 158 30.06.93 p.9 / Council Regulation (EEC) No 1658/93 of 24 June 1993 setting up a specific measure in favour of cephalopod producers permanently based in the Canary Islands
55	393R2038 / OJ L 185 28.07.93 p.7 / Commission Regulation (EEC) No 2038/93 of 27 July 1993 laying down rules for implementing Council Regulation (EEC) No 1658/93 setting up a specific measure in favour of cephalopod producers permanently based in the Canary Islands
56	393R2210 / OJ L 197 06.08.93 p.8 / Commission Regulation (EEC) No 2210/93 of 26 July 1993 on the communication of information for the purposes of the common organization of the market in fishery and aquaculture products
57	393R3516 / OJ L 320 22.12.93 p.10 / Commission Regulation (EC) No 3516/93 of 20 December 1993 establishing the operative events for the conversion rates to be applied when calculating certain amounts provided for by the mechanisms of the common organization of the market in fishery and aquaculture products

58	393R3690 / OJ L 341 31.12.93 p.93 / Council Regulation (EC) No 3690/93 of 20 December 1993 establishing a Community system laying down rules for the minimum information to be contained in fishing licences
59	394R0858 / OJ L 099 19.04.94 p.1 / Council Regulation (EC) No 858/94 of 12 April 1994 introducing a system for the statistical monitoring of trade in bluefin tuna (Thunnus thynnus) within the Community
60	394R1093 / OJ L 121 12.05.94 p.3 / Council Regulation (EC) No 1093/94 of 6 May 1994 setting the terms under which fishing vessels of a third country may land directly and market their catches at Community ports
61	394R1690 / OJ L 179 13.07.94 p.4 / Commission Regulation (EC) No 1690/94 of 12 July 1994 laying down detailed rules for the implementation of Council Regulation (EEC) No 3759/92 as regards the granting of private storage aid for certain fishery products
62	394R2211 / OJ L 238 13.09.94 p.1 / Commission Regulation (EC) No 2211/94 of 12 September 1994 laying down detailed rules for the implementation of Council Regulation (EEC) No 3759/92 as regards the notification of the prices of imported fishery products
63	394R2939 / OJ L 310 03.12.94 p.12 / Commission Regulation (EC) No 2939/94 of 2 December 1994 laying down detailed rules for the application of Council Regulation (EEC) No 105/76 on the recognition of producers' organizations in the fishing industry
64	394R3237 / OJ L 338 28.12.94 p.20 / Commission Regulation (EC) No 3237/94 of 21 December 1994 laying down detailed rules for the application of the arrangements for access to waters as defined in the Act of Accession of Norway, Austria, Finland and Sweden
65	395R2337 / OJ L 236 05.10.95 p.2 / Council Regulation (EC) No 2337/95 of 2 October 1995 establishing a system of compensation for the additional costs incurred in the marketing of certain fishery products from the Azores, Madeira, the Canary Islands and the French department of Guiana as a result of their very remote location
66	395R2918 / OJ L 305 19.12.95 p.54 / Commission Regulation (EC) No 2918/95 of 18 December 1995 laying down detailed rules for the application of Council Regulation (EC) No 2337/95 establishing a system of compensation for the additional costs incurred in the marketing of certain fishery products from the Azores, Madeira, the Canary Islands and the French department of Guiana as a result of their very remote location
67	396R0347 / OJ L 049 28.02.96 p.7 / Commission Regulation (EC) No 347/96 of 27 February 1996 establishing a system of rapid reporting of the release of salmon for free circulation in the European Community (Text with EEA relevance)
68	396R0523 / OJ L 077 27.03.96 p.12 / Commission Regulation (EC) No 523/96 of 26 March 1996 adjusting the maximum annual fishing effort for certain fisheries
69	396R2272 / OJ L 308 29.11.96 p.1 / Council Regulation (EC) No 2272/96 of 22 November 1996 fixing the guide prices for the fishery products listed in Annex I (A), (D) and (E) of Regulation (EEC) No 3759/92 for the 1997 fishing year
70	396R2273 / OJ L 308 29.11.96 p.4 / Council Regulation (EC) No 2273/96 of 22 November 1996 fixing the guide prices for the fishery products listed in Annex II to Regulation (EEC) No 3759/92 for the 1997 fishing year
71	396R2274 / OJ L 308 29.11.96 p.6 / Council Regulation (EC) No 2274/96 of 22 November 1996 fixing the Community producer price for tuna intended for the industrial manufacture of products falling within CN code 1604 for the 1997 fishing year

72	396R2406 / OJ L 334 23.12.96 p.1 / Council Regulation (EC) No 2406/96 of 26 November 1996 laying down common marketing standards for certain fishery products
73	396R2427 / OJ L 331 20.12.96 p.4 / Commission Regulation (EC) No 2427/96 of 17 December 1996 fixing, for the 1997 fishing year, the withdrawal and selling prices for fishery products listed in Annex I (A), (D) and (E) of Council Regulation (EEC) No 3759/92 (Text with EEA relevance)
74	396R2429 / OJ L 331 20.12.96 p.16 / Commission Regulation (EC) No 2429/96 of 17 December 1996 fixing the amount of the carry-over aid for certain fishery products for the 1997 fishing year (Text with EEA relevance)
75	396R2430 / OJ L 331 20.12.96 p.18 / Commission Regulation (EC) No 2430/96 of 17 December 1996 fixing the amount of the flat-rate premium for certain fishery products during the 1997 fishing year
76	396R2431 / OJ L 331 20.12.96 p.19 / Commission Regulation (EC) No 2431/96 of 17 December 1996 fixing the reference prices for fishery products for the 1997 fishing year
77	397R0712 / OJ L 106 24.04.97 p.3 / Council Regulation (EC) No 712/97 of 22 April 1997 setting up a specific measure in favour of cephalopod producers permanently based in the Canary Islands
78	397R0887 / OJ L 126 17.05.97 p.9 / Commission Regulation (EC) No 887/97 of 16 May 1997 setting detailed rules to apply Council Regulation (EC) No 712/97 setting up a specific measure in favour of cephalopod producers permanently based in the Canary Islands
79	397R2445 / OJ L 340 11.12.97 p.3 / Council Regulation (EC) No 2445/97 of 8 December 1997 fixing, for the 1998 fishing year, the guide prices for the fishery products listed in Annex I (A), (D) and (E) of Regulation (EEC) No 3759/92
80	397R2446 / OJ L 340 11.12.97 p.6 / Council Regulation (EC) No 2446/97 of 8 December 1997 fixing, for the 1998 fishing year, the guide prices for the fishery products listed in Annex II to Regulation (EEC) No 3759/92
81	397R2447 / OJ L 340 11.12.97 p.8 / Council Regulation (EC) No 2447/97 of 8 December 1997 fixing, for the 1998 fishing year, the Community producer price for tuna intended for the industrial manufacture of products falling with CN Code 1604
82	397R2572 / OJ L 350 20.12.97 p.36 / Commission Regulation (EC) No 2572/97 of 15 December 1997 fixing, for the 1998 fishing year, the withdrawal and selling prices for fishery products listed in Annex I (A), (D) and (E) of Council Regulation (EEC) No 3759/92
83	397R2573 / OJ L 350 20.12.97 p.46 / Commission Regulation (EC) No 2573/97 of 15 December 1997 fixing the reference prices for fishery products for the 1998 fishing year
84	397R2574 / OJ L 350 20.12.97 p.55 / Commission Regulation (EC) No 2574/97 of 15 December 1997 fixing the amount of the carry-over aid for certain fishery products for the 1998 fishing year)
85	397R2575 / OJ L 350 20.12.97 p.57 / Commission Regulation (EC) No 2575/97 of 15 December 1997 fixing the amount of the flat-rate premium for certain fishery products during the 1998 fishing year
86	397R2576 / OJ L 350 20.12.97 p.58 / Commission Regulation (EC) No 2576/97 of 15 December 1997 fixing the standard values to be used in calculating the financial compensation and the advance pertaining thereto in respect of fishery products withdrawn from the market during the 1998 fishing year

87	398R0142 / OJ L 017 22.01.98 p.8 / Commission Regulation (EC) No 142/98 of 21 January 1998 laying down detailed rules for granting the compensatory allowance for tuna intended for the processing industry

88	387R0055 / OJ L 008 10.01.87 p.1 / Commission Regulation (EEC) No 55/87 of 30 December 1986 establishing the list of vessels exceeding eight metres length overall permitted to use beam trawls within certain coastal areas of the Community
89	387R0493 / OJ L 050 19.02.87 p.13 / Commission Regulation (EEC) No 493/87 of 18 February 1987 establishing detailed rules for remedying the prejudice caused on the halting of certain fisheries
90	387R1381 / OJ L 132 21.05.87 p.9 / Commission Regulation (EEC) No 1381/87 of 20 May 1987 establishing detailed rules concerning the marking and documentation of fishing vessels
91	387R1382 / OJ L 132 21.05.87 p.11 / Commission Regulation (EEC) No 1382/87 of 20 May 1987 establishing detailed rules concerning the inspection of fishing vessels
92	389D0631 / OJ L 364 14.12.89 p.64 / 89/631/EEC: Council Decision of 27 November 1989 on a Community financial contribution towards expenditure incurred by Member States for the purpose of ensuring compliance with the Community system for the conservation and management of fishery resources
93	391R3499 / OJ L 331 03.12.91 p.1 / Council Regulation (EEC) No 3499/91 of 28 November 1991 providing a Community framework for studies and pilot projects relating to the conservation and management of fishery resources in the Mediterranean
94	392R3760 / OJ L 389 31.12.92 p.1 / Council Regulation (EEC) No 3760/92 of 20 December 1992 establishing a Community system for fisheries and aquaculture
95	393R3680 / OJ L 341 31.12.93 p.42 / Council Regulation (EC) No 3680/93 of 20 December 1993 laying down certain conservation and management measures for fishery resources in the Regulatory Area as defined in the Convention on Future Multilateral Cooperation in the North West Atlantic Fisheries
96	394R1626 / OJ L 171 06.07.94 p.1 / Council Regulation (EC) No 1626/94 of 27 June 1994 laying down certain technical measures for the conservation of fishery resources in the Mediterranean
97	394R1627 / OJ L 171 06.07.94 p.7 / Council Regulation (EC) No 1627/94 of 27 June 1994 laying down general provisions concerning special fishing permits
98	394R3317 / OJ L 350 31.12.94 p.13 / Council Regulation (EC) No 3317/94 of 22 December 1994 laying down general provisions concerning the authorization of fishing in the waters of a third country under a fisheries agreement
99	395D0527 / OJ L 301 14.12.95 p.30 / 95/527/EC: Council Decision of 8 December 1995 on a Community financial contribution towards certain expenditure incurred by the Member States implementing the monitoring and control systems applicable to the common fisheries policy
100	395R0685 / OJ L 071 31.03.95 p.5 / Council Regulation (EC) No 685/95 of 27 March 1995 on the management of the fishing effort relating to certain Community fishing areas and resources

101	395R2597 / OJ L 270 13.11.95 p.1 / Council Regulation (EC) No 2597/95 of 23 October 1995 on the submission of nominal catch statistics by Member States fishing in certain areas other than those of the North Atlantic
102	395R2943 / OJ L 308 21.12.95 p.15 / Commission Regulation (EC) No 2943/95 of 20 December 1995 setting out detailed rules for applying Council Regulation (EC) No 1627/94 laying down general provisions concerning special fishing permits
103	395R3069 / OJ L 329 30.12.95 p.5 / Council Regulation (EC) No 3069/95 of 21 December 1995 establishing a European Community observer scheme applicable to Community fishing vessels operating in the Regulatory Area of the Northwest Atlantic Fisheries Organization (NAFO)
104	395R3070 / OJ L 329 30.12.95 p.11 / Council Regulation (EC) No 3070/95 of 21 December 1995 on the establishment of a pilot project on satellite tracking in the NAFO Regulatory Area
105	396D0286 / OJ L 106 30.04.96 p.37 / 96/286/EC: Commission Decision of 11 April 1996 laying down detailed rules for the application of Council Decision No 95/527/EC on a Community financial contribution towards certain expenditure incurred by the Member States in implementing the monitoring and control systems applicable to the common fisheries policy
106	396D0299 / OJ L 114 08.05.96 p.35 / 96/299/EC: Commission Decision of 17 April 1996 on the eligibility of expenditure to be incurred by certain Member States in 1996 for the purpose of introducing monitoring and control systems applicable to the common fisheries policy
107	396D0358 / OJ L 138 11.06.96 p.21 / 96/358/EC: Commission Decision of 30 May 1996 on the eligibility of expenditure planned for 1996 by certain Member States for the training of national officials connected with control activities applicable to the common fisheries policy
108	396R0414 / OJ L 059 08.03.96 p.1 / Council Regulation (EC) No 414/96 of 4 March 1996 laying down certain monitoring measures applicable to fishing activities carried out in the waters of the Baltic Sea, the Belts and the Sound
109	397D0297 / OJ L 122 14.05.97 p.24 / 97/297/EC: Commission Decision of 28 April 1997 on the eligibility of expenditure to be incurred by certain Member States in 1997 for the purpose of introducing monitoring and control systems applicable to the common fisheries policy
110	397R0391 / OJ L 066 06.03.97 p.49 / Council Regulation (EC) No 391/97 of 20 December 1996 laying down, for 1997, certain measures for the conservation and management of fishery resources applicable to vessels flying the flag of Norway
111	397R0393 / OJ L 066 06.03.97 p.61 / Council Regulation (EC) No 393/97 of 20 December 1996 laying down, for 1997, certain measures for the conservation and management of fishery resources applicable to vessels flying the flag of the Faroe Islands
112	397R0397 / OJ L 066 06.03.97 p.76 / Council Regulation (EC) No 397/97 of 20 December 1996 laying down for 1997 certain measures for the conservation and management of fishery resources applicable to vessels flying the flag of Estonia
113	397R0399 / OJ L 066 06.03.97 p.85 / Council Regulation (EC) No 399/97 of 20 December 1996 laying down for 1997 certain measures for the conservation and management of fishery resources applicable to vessels flying the flag of the Latvia
114	397R0401 / OJ L 066 06.03.97 p.94 / Council Regulation (EC) No 401/97 of 20 December 1996 laying down, for 1997, certain measures for the conservation and management of fishery resources applicable to vessels flying the flag of the Lithuania

115	397R0403 / OJ L 066 06.03.97 p.103 / Council Regulation (EC) No 403/97 of 20 December 1996 laying down for 1997 certain measures for the conservation and management of fishery resources applicable to vessels flying the flag of Poland
116	397R0405 / OJ L 066 06.03.97 p.112 / Council Regulation (EC) No 405/97 of 20 December 1996 laying down for 1997 certain measures for the conservation and management of fishery resources applicable in vessels flying the flag of certain non- member countries in the 200-nautical-mile zone off the coast of the French department of Guiana
117	397R0406 / OJ L 066 06.03.97 p.119 / Council Regulation (EC) No 406/97 of 20 December 1996 laying down for 1997 certain conservation and management measures for fishery resources in the Regulatory Area as defined in the Convention on Future Multilateral Cooperation in the North-West Atlantic Fisheries
118	397R0407 / OJ L 066 06.03.97 p.133 / Council Regulation (EC) No 407/97 of 20 December 1996 laying down for 1997 certain conservation and management measures for fishery resources in the Convention Area as defined in the Convention on future Multilateral Cooperation in North-East Atlantic Fisheries
119	397R0894 / OJ L 132 23.05.97 p.1 / Council Regulation (EC) No 894/97 of 29 April 1997 laying down certain technical measures for the conservation of fishery resources
120	397R0954 / OJ L 139 30.05.97 p.3 / Council Regulation (EC) No 954/97 of 27 May 1997 laying down, for 1997, certain measures for the conservation and management of fishery resources applicable to vessels flying the flag of the Russian Federation
121	398D0002 / OJ L 001 03.01.98 p.8 / 98/2/EC: Council Decision of 18 December 1997 fixing the amount of the Community financial contribution for 1997 to expenditure incurred by the Swedish authorities for the release of smolt
122	398R0046 / OJ L 012 19.01.98 p.50 / Council Regulation (EC) No 46/98 of 19 December 1997 laying down, for 1998, certain measures for the conservation and management of fishery resources applicable to vessels flying the flag of Norway
123	398R0048 / OJ L 012 19.01.98 p.62 / Council Regulation (EC) No 48/98 of 19 December 1997 laying down, for 1998, certain measures for the conservation and management of fishery resources applicable to vessels flying the flag of the Faroe Islands
124	398R0054 / OJ L 012 19.01.98 p.86 / Council Regulation (EC) No 54/98 of 19 December 1997 laying down for 1998 certain measures for the conservation and management of fishery resources applicable to vessels flying the flag of Latvia
125	398R0056 / OJ L 012 19.01.98 p.95 / Council Regulation (EC) No 56/98 of 19 December 1997 laying down, for 1998, certain measures for the conservation and management of fishery resources applicable to vessels flying the flag of Lithuania
126	398R0058 / OJ L 012 19.01.98 p.104 / Council Regulation (EC) No 58/98 of 19 December 1997 laying down for 1998 certain measures for the conservation and management of fishery resources applicable to vessels flying the flag of Poland
127	398R0060 / OJ L 012 19.01.98 p.113 / Council Regulation (EC) No 60/98 of 19 December 1997 laying down, for 1998, certain measures for the conservation and management of fishery resources applicable to vessels flying the flag of the Russian Federation
128	398R0062 / OJ L 012 19.01.98 p.121 / Council Regulation (EC) No 62/98 of 19 December 1997 laying down for 1998 certain conservation and management measures for fishery resources in the Regulatory Area as defined in the Convention on Future Multilateral Cooperation in the North West Atlantic Fisheries

129	398R0063 / OJ L 012 19.01.98 p.136 / Council Regulation (EC) No 63/98 of 19 December 1997 laying down for 1998 certain conservation and management measures for fishery resources in the Convention Area as defined in the Convention on future Multilateral Cooperation in North-East Atlantic Fisheries
130	398R0064 / OJ L 012 19.01.98 p.138 / Council Regulation (EC) No 64/98 of 19 December 1997 laying down for 1998 certain measures for the conservation and management of fishery resources applicable in vessels flying the flag of certain non- member countries in the 200-nautical-mile zone off the coast of the French department of Guiana

131	293A1231(10) / OJ L 346 31.12.93 p.20 / Agreement in the form of an exchange of letters between the European Economic Community and the Republic of Iceland concerning fisheries
132	293A1231(11) / OJ L 346 31.12.93 p.26 / Agreement in the form of an exchange of letters between the European Economic Community and the Kingdom of Norway relating to the Agreement on fisheries between the European Economic Community and the Kingdom of Norway
133	383D0653 / OJ L 371 31.12.83 p.39 / 83/653/EEC: Council Decision of 20 December 1983 on the allocation of the possibilities for catching herring in the North Sea as from 1 January 1984
134	383R2166 / OJ L 206 30.07.83 p.71 / Commission Regulation (EEC) No 2166/83 of 29 July 1983 establishing a licensing system for certain fisheries in an area north of Scotland (Shetland area)
135	383R2807 / OJ L 276 10.10.83 p.1 / Commission Regulation (EEC) No 2807/83 of 22 September 1983 laying down detailed rules for recording information on Member States' catches of fish
136	386R1866 / OJ L 162 18.06.86 p.1 / Council Regulation (EEC) No 1866/86 of 12 June 1986 laying down certain technical measures for the conservation of fishery resources in the waters of the Baltic Sea, the Belts and the Sound
137	387D0277 / OJ L 135 23.05.87 p.29 / 87/277/EEC: Council Decision of 18 May 1987 on the allocation of the catch possibilities for cod in the Spitsbergen and Bear Island area and in Division 3M as defined in the NAFO Convention
138	387R0954 / OJ L 090 02.04.87 p.27 / Commission Regulation (EEC) No 954/87 of 1 April 1987 on sampling of catches for the purpose of determining the percentage of target species and protected species when fishing with small-meshed nets
139	395R0515 / OJ L 053 09.03.95 p.10 / Commission Regulation (EC) No 515/95 of 7 March 1995 concerning the stopping of fishing for mackerel by vessels flying the flag of the United Kingdom
140	395R0516 / OJ L 053 09.03.95 p.11 / Commission Regulation (EC) No 516/95 of 7 March 1995 concerning the stopping of fishing for saithe by vessels flying the flag of the United Kingdom
141	395R0737 / OJ L 073 01.04.95 p.66 / Commission Regulation (EC) No 737/95 of 30 March 1995 concerning the stopping of fishing for Greenland halibut by vessels flying the flag of a Member State
142	395R0891 / OJ L 092 25.04.95 p.1 / Commission Regulation (EC) No 891/95 of 21 April 1995 concerning the stopping of fishing for salmon by vessels flying the flag of Finland

143	395R2027 / OJ L 199 24.08.95 p.1 / Council Regulation (EC) No 2027/95 of 15 June 1995 establishing a system for the management of fishing effort relating to certain Community fishing areas and resources
144	396R0847 / OJ L 115 09.05.96 p.3 / Council Regulation (EC) No 847/96 of 6 May 1996 introducing additional conditions for year-to-year management of TACs and quotas
145	397R0390 / OJ L 066 06.03.97 p.1 / Council Regulation (EC) No 390/97 of 20 December 1996 fixing, for certain fish stocks and groups of fish stocks, the total allowable catches for 1997 and certain conditions under which they may be fished
146	397R0392 / OJ L 066 06.03.97 p.57 / Council Regulation (EC) No 392/97 of 20 December 1996 allocating, for 1997, certain catch quotas between Member States for vessels fishing in the Norwegian exclusive economic zone and the fishing zone around Jan Mayen
147	397R0394 / OJ L 066 06.03.97 p.69 / Council Regulation (EC) No 394/97 of 20 December 1996 allocating, for 1997, certain catch quotas between Member States for vessels fishing in Faroese waters
148	397R0395 / OJ L 066 06.03.97 p.71 / Council Regulation (EC) No 395/97 of 20 December 1996 allocating, for 1997, Community catch quotas in Greenland waters
149	397R0396 / OJ L 066 06.03.97 p.74 / Council Regulation (EC) No 396/97 of 20 December 1996 allocating, for 1997, catch quotas between Member States for vessels fishing in Icelandic waters
150	397R0398 / OJ L 066 06.03.97 p.83 / Council Regulation (EC) No 398/97 of 20 December 1996 allocating for 1997 catch quotas between Member States for vessels fishing in Estonian waters
151	397R0400 / OJ L 066 06.03.97 p.92 / Council Regulation (EC) No 400/97 of 20 December 1996 allocating, for 1997, catch quotas between Member States for vessels fishing in Latvian waters
152	397R0402 / OJ L 066 06.03.97 p.101 / Council Regulation (EC) No 402/97 of 20 December 1996 allocating, for 1997, catch quotas between Member States for vessels fishing in Lithuanian waters
153	397R0404 / OJ L 066 06.03.97 p.110 / Council Regulation (EC) No 404/97 of 20 December 1996 allocating, for 1997, catch quotas between Member States for vessels fishing in Polish waters
154	397R0582 / OJ L 087 02.04.97 p.14 / Commission Regulation (EC) No 582/97 of 1 April 1997 concerning the stopping of fishing for salmon by vessels flying the flag of Sweden
155	397R0779 / OJ L 113 30.04.97 p.1 / Council Regulation (EC) No 779/97 of 24 April 1997 introducing arrangements for the management of fishing effort in the Baltic Sea
156	397R0953 / OJ L 139 30.05.97 p.1 / Council Regulation (EC) No 953/97 of 27 May 1997 allocating, for 1997, catch quotas between Member States for vessels fishing in the zone of the Russian Federation
157	397R1059 / OJ L 154 12.06.97 p.26 / Commission Regulation (EC) No 1059/97 of 11 June 1997 adjusting the maximum annual fishing effort for certain fisheries
158	397R2268 / OJ L 313 15.11.97 p.1 / Commission Regulation (EC) No 2268/97 of 14 November 1997 adjusting the maximum annual fishing effort for certain fisheries

159	397R2493 / OJ L 343 13.12.97 p.14 / Commission Regulation (EC) No 2493/97 of 12 December 1997 adjusting the maximum annual fishing effort for certain fisheries
160	397R2503 / OJ L 345 16.12.97 p.23 / Commission Regulation (EC) No 2503/97 of 15 December 1997 adjusting the maximum annual fishing effort for certain fisheries
161	398R0045 / OJ L 012 19.01.98 p.1 / Council Regulation (EC) No 45/98 of 19 December 1997 fixing, for certain fish stocks and groups of fish stocks, the total allowable catches for 1998 and certain conditions under which they may be fished
162	398R0047 / OJ L 012 19.01.98 p.58 / Council Regulation (EC) No 47/98 of 19 December 1997 allocating, for 1998, certain catch quotas between Member States for vessels fishing in the Norwegian exclusive economic zone and the fishing zone around Jan Mayen
163	398R0049 / OJ L 012 19.01.98 p.70 / Council Regulation (EC) No 49/98 of 19 December 1997 allocating, for 1998, certain catch quotas between Member States for vessels fishing in Faroese waters
164	398R0050 / OJ L 012 19.01.98 p.72 / Council Regulation (EC) No 50/98 of 19 December 1997 allocating, for 1998, Community catch quotas in Greenland waters
165	398R0051 / OJ L 012 19.01.98 p.75 / Council Regulation (EC) No 51/98 of 19 December 1997 allocating, for 1998, catch quotas between Member States for vessels fishing in Icelandic waters
166	398R0052 / OJ L 012 19.01.98 p.77 / Council Regulation (EC) No 52/98 of 19 December 1997 laying down for 1998 certain measures for the conservation and management of fishery resources applicable to vessels flying the flag of Estonia
167	398R0053 / OJ L 012 19.01.98 p.84 / Council Regulation (EC) No 53/98 of 19 December 1997 allocating for 1998 catch quotas between Member States for vessels fishing in Estonian waters
168	398R0055 / OJ L 012 19.01.98 p.93 / Council Regulation (EC) No 55/98 of 19 December 1997 allocating, for 1998, catch quotas between Member States for vessels fishing in Latvian waters
169	398R0057 / OJ L 012 19.01.98 p.102 / Council Regulation (EC) No 57/98 of 19 December 1997 allocating, for 1998, catch quotas between Member States for vessels fishing in Lithuanian waters
170	398R0059 / OJ L 012 19.01.98 p.111 / Council Regulation (EC) No 59/98 of 19 December 1997 allocating, for 1998, catch quotas between Member States for vessels fishing in Polish waters
171	398R0061 / OJ L 012 19.01.98 p.119 / Council Regulation (EC) No 61/98 of 19 December 1997 allocating, for 1998, catch quotas between Member States for vessels fishing in the zone of the Russian Federation
172	398R0065 / OJ L 012 19.01.98 p.145 / Council Regulation (EC) No 65/98 of 19 December 1997 fixing, for certain stocks of highly migratory fish, the total allowable catches for 1998, their distribution in quotas to Member States and certain conditions under which they may be fished
173	398R0088 / OJ L 009 15.01.98 p.1 / Council Regulation (EC) No 88/98 of 18 December 1997 laying down certain technical measures for the conservation of fishery resources in the waters of the Baltic Sea, the Belts and the Sound

174	377R2115 / OJ L 247 28.09.77 p.2 / Council Regulation (EEC) No 2115/77 of 27 September 1977 prohibiting the direct fishing and landing of herring for industrial purposes other than human consumption
175	384R2108 / OJ L 194 24.07.84 p.22 / Commission Regulation (EEC) No 2108/84 of 23 July 1984 laying down detailed rules for determining the mesh size of fishing nets
176	384R3440 / OJ L 318 07.12.84 p.23 / Commission Regulation (EEC) No 3440/84 of 6 December 1984 on the attachment of devices to trawls, Danish seines and similar nets
177	385R1899 / OJ L 179 11.07.85 p.2 / Council Regulation (EEC) No 1899/85 of 8 July 1985 establishing a minimum mesh size for nets used when fishing for capelin in that part of the zone of the Convention on future multilateral cooperation in the north-east Atlantic fisheries which extends beyond the maritime waters falling within the fisheries jurisdiction of Contracting Parties to the Convention
178	385R3531 / OJ L 336 14.12.85 p.20 / Commission Regulation (EEC) No 3531/85 of 12 December 1985 laying down certain technical and control measures relating to the fishing activities of vessels flying the flag of Spain in the waters of the other Member States, except Portugal
179	385R3561 / OJ L 339 18.12.85 p.29 / Commission Regulation (EEC) No 3561/85 of 17 December 1985 concerning information about inspections of fishing activities carried out by national control authorities
180	385R3715 / OJ L 360 31.12.85 p.1 / Commission Regulation (EEC) No 3715/85 of 27 December 1985 laying down certain technical and control measures relating to the fishing activities of vessels flying the flag of Portugal in the waters of the other Member States except Spain
181	385R3716 / OJ L 360 31.12.85 p.7 / Commission Regulation (EEC) No 3716/85 of 27 December 1985 laying down certain technical and control measures relating to the fishing activities in Spanish waters of vessels flying the flag of another Member State except Portugal
182	385R3717 / OJ L 360 31.12.85 p.14 / Commission Regulation (EEC) No 3717/85 of 27 December 1985 laying down certain technical and control measures relating to the fishing activities in Spanish waters of vessels flying the flag of Portugal
183	385R3718 / OJ L 360 31.12.85 p.20 / Commission Regulation (EEC) No 3718/85 of 27 December 1985 laying down certain technical and control measures relating to the fishing activities in Portuguese waters of vessels flying the flag of Spain
184	385R3719 / OJ L 360 31.12.85 p.26 / Commission Regulation (EEC) No 3719/85 of 27 December 1985 laying down certain technical measures and control measures relating to the fishing activities in Portuguese waters of vessels flying the flag of another Member State except Spain
185	385R3781 / OJ L 363 31.12.85 p.26 / Council Regulation (EEC) No 3781/85 of 31 December 1985 laying down the measures to be taken in respect of operators who do not comply with certain provisions relating to fishing contained in the Act of Accession of Spain and Portugal
186	387R1638 / OJ L 153 13.06.87 p.7 / Council Regulation (EEC) No 1638/87 of 9 June 1987 fixing the minimum mesh size for pelagic trawls used in fishing for blue whiting in that part of the area covered by the Convention on Future Multilateral Cooperation in the North-East Atlantic Fisheries which extends beyond the maritime waters falling within the fisheries jurisdiction of Contracting Parties to the Convention

187	387R2241 / OJ L 207 29.07.87 p.1 / Council Regulation (EEC) No 2241/87 of 23 July 1987 establishing certain control measures for fishing activities
188	388D0307 / OJ L 136 02.06.88 p.14 / 88/307/EEC: Commission Decision of 2 May 1988 on the eligibility of expenditure for the development of monitoring and supervision facilities necessary for applying the Community arrangements for the conservation of fishery resources (Only the Spanish, Danish, English, French, Dutch and Portuguese texts are authentic)
189	390R3554 / OJ L 346 11.12.90 p.11 / Commission Regulation (EEC) No 3554/90 of 10 December 1990 adopting provisions for the establishment of the list of vessels exceeding eight metres length overall which are permitted to fish for sole within certain areas of the Community using beam trawls of an aggregate length exceeding nine metres
190	392R0189 / OJ L 021 30.01.92 p.4 / Council Regulation (EEC) No 189/92 of 27 January 1992 adopting provisions for the application of certain control measures adopted by the Northwest Atlantic Fisheries Organization
191	394D0502 / OJ L 202 05.08.94 p.28 / 94/502/EC: Commission Decision of 27 July 1994 on the eligibility of expenditure to be incurred by Belgium, Denmark, Germany, Greece, Spain, France, Ireland, the Netherlands and the United Kingdom on the implementation of pilot projects involving the use of continuous position monitoring systems for fishing vessels (Only the Spanish, Danish, German, Greek, English, French and Dutch texts are authentic)
192	394D0645 / OJ L 249 24.09.94 p.20 / 94/645/EC: Commission Decision of 19 September 1994 on the eligibility of expenditure to be incurred by Italy on the implementation of pilot projects involving the use of continuous position monitoring systems for fishing vessels (Only the Italian text is authentic)
193	395R3071 / OJ L 329 30.12.95 p.14 / Council Regulation (EC) No 3071/95 of 22 December 1995 amending, for the 19th time, Regulation (EEC) No 3094/86 laying down certain technical measures for the conservation of fishery resources
194	396R2113 / OJ L 283 05.11.96 p.1 / Council Regulation (EC) No 2113/96 of 25 October 1996 laying down certain conservation and control measures applicable to fishing activities in the Antarctic
195	396R2332 / OJ L 317 06.12.96 p.3 / Commission Regulation (EC) No 2332/96 of 3 December 1996 establishing, for 1997, the list of vessels exceeding eight metres length overall and permitted to fish for sole within certain areas of the Community using beam trawls whose aggregate length exceeds nine metres
196	398R0044 / OJ L 005 09.01.98 p.24 / Commission Regulation (EC) No 44/98 of 8 January 1998 establishing, for 1998, the list of vessels exceeding eight metres length overall permitted to fish for sole in certain Community areas using beam trawls whose aggregate length exceeds nine metres
197	398R0066 / OJ L 006 10.01.98 p.1 / Council Regulation (EC) No 66/98 of 18 December 1997 laying down certain conservation and control measures applicable to fishing activities in the Antarctic and repealing Regulation (EC) No 2113/96

198	390D0554 / OJ L 314 14.11.90 p.13 / 90/554/EEC: Commission Decision of 14 February 1990 on the Spanish draft ministerial order on logistic support for the fishing fleet in 198
199	395D0195 / OJ L 126 09.06.95 p.32 / 95/195/EC: Commission Decision of 14 February 1995 concerning aid granted by the Region of Sardinia (Italy) in the fisheries sector (temporary withdrawal of vessels) (Only the Italian text is authentic) (Text with EEA relevance)

200	396R2374 / OJ L 325 14.12.96 p.1 / Commission Regulation (EC) No 2374/96 of 13 December 1996 on applications for financing of the aid granted by the Member States to producers' organizations in the fisheries sector in order to improve the quality and marketing of their products

201	277A0315(01) / OJ L 226 29.08.80 p.12 / Agreement on fisheries between the European Economic Community, of the one part, and the Government of Denmark and the Home Government of the Faroe Islands, of the other part
202	278A1024(01) / OJ L 378 30.12.78 p.2 / Convention on future Multilateral Cooperation in the North-West Atlantic fisheries
203	279A0615(02) / OJ L 226 29.08.80 p.17 / Agreement between the Government of the Republic of Senegal and the European Economic Community on fishing off the Coast of Senegal
204	280A0227(05) / OJ L 226 29.08.80 p.48 / Agreement on fisheries between the European Economic Community and the Kingdom of Norway
205	280A1118(01) / OJ L 227 12.08.81 p.22 / Convention on future multilateral cooperation in North- East Atlantic fisheries
206	282A0302(01) / OJ L 378 31.12.82 p.25 / Convention for the Conservation of Salmon in the North Atlantic Ocean
207	283A0427(01) / OJ L 111 27.04.83 p.2 / Agreement between the European Economic Community and the Government of the Revolutionary People's Republic of Guinea on fishing off the Guinean Coast
208	283A0826(02) / OJ L 237 26.08.83 p.5 / Convention on fishing and conservation of the living resources in the Baltic Sea and the Belts
209	283A0826(03) / OJ L 237 26.08.83 p.9 / Protocol to the Conference of the representatives of the States Parties to the Convention on fishing and conservation of living resources in the Baltic Sea and the Belts (Warsaw, 9 to 11 November 1983)
210	284A0225(01) / OJ L 054 25.02.84 p.2 / Agreement between the European Economic Community and the Government of the Democratic Republic of Sao Tomé and Principe on fishing off Sao Tomé and Principe - Protocol between the European Economic Community and the Government of the Democratic Republic of Sao Tomé and Principe
211	284A0716(01) / OJ L 188 16.07.84 p.2 / Agreement between the European Economic Community and the Government of the Republic of Equatorial Guinea on fishing off the coast of Equatorial Guinea - Protocol between the European Economic Community and the Government of the Republic of Equatorial Guinea
212	285A0201(01) / OJ L 029 01.02.85 p.9 / Agreement on fisheries between the European Economic Community, on the one hand, and the Government of Denmark and the local Government of Greenland, on the other
213	285A0507(01) / OJ L 122 07.05.85 p.2 / Agreement in the form of an exchange of letters between the European Economic Community, on the one hand, and the Government of Denmark and the Home Government of the Faroe Islands, on the other hand, concerning salmon fishing in Faroese waters

214	286A0318(01) / OJ L 073 18.03.86 p.26 / Agreement between the European Economic Community and the Government of the Democratic Republic of Madagascar on fishing off Madagascar
215	286A0618(01) / OJ L 162 18.06.86 p.34 / International Convention for the Conservation of Atlantic Tunas
216	286A0618(02) / OJ L 162 18.06.86 p.39 / Final Act of the Conference of Plenipotentiaries of the States Parties to the International Convention for the Conservation of Atlantic Tunas
217	286A0618(03) / OJ L 162 18.06.86 p.41 / Protocol attached to the Final Act of the Conference of Plenipotentiaries of the States Parties to the International Convention for the Conservation of Atlantic Tunas
218	286A1122(09) / OJ L 328 22.11.86 p.77 / Agreements in the form of an Exchange of Letters between the European Economic Community and the Kingdom of Norway concerning agriculture and fisheries
219	286A1122(11) / OJ L 328 22.11.86 p.99 / Agreements in the form of Exchanges of Letters between the European Economic Community and the Swiss Confederation concerning agriculture and fisheries
220	287A0410(04) / OJ L 098 10.04.87 p.11 / Agreement in the form of an Exchange of Letters concerning the provisional application of the Agreement between the European Economic Community and the Government of the People's Republic of Mozambique on fishing off the coast of Mozambique, initialled in Brussels on 11 December 1986, for the period starting 1 January 1987
221	287A0410(05) / OJ L 098 10.04.87 p.12 / Agreement between the European Economic Community and the Government of the People's Republic of Mozambique on fisheries relations
222	287A0606(01) / OJ L 146 06.06.87 p.3 / Agreement between the European Economic Community and the Government of the Republic of the Gambia on fishing off the Gambia
223	289A0610(01) / OJ L 159 10.06.89 p.2 / Agreement between the European Economic Community and the Government of Mauritius on fishing in Mauritian waters
224	290A0515(01) / OJ L 125 15.05.90 p.28 / Agreement between the European Economic Community and the Republic of Sierra Leone on fishing off Sierra Leone
225	290A0515(02) / OJ L 125 15.05.90 p.36 / Protocol on the fishing rights and financial contribution provided for in the Agreement between the European Economic Community and the Republic of Sierra Leone on fishing off Sierra Leone
226	290A0809(01) / OJ L 212 09.08.90 p.3 / Agreement between the European Economic Community and the Republic of Cape Verde on fishing off the coast of Cape Verde
227	290A1231(03) / OJ L 379 31.12.90 p.3 / Agreement between the European Economic Community and the Republic of Cote d'Ivoire on fishing off the coast of Cote d'Ivoire
228	290A1231(06) / OJ L 379 31.12.90 p.25 / Agreement between the European Economic Community and the United Republic of Tanzania on fishing off Tanzania
229	290A1231(07) / OJ L 379 31.12.90 p.32 / Protocol setting out the fishing opportunities and financial payments provided for under the Agreement between the European Economic Community and the United Republic of Tanzania on fishing off Tanzania

230	293A0309(01) / OJ L 056 09.03.93 p.2 / Agreement on fisheries relations between the European Economic Community and the Republic of Estonia
231	293A0309(02) / OJ L 056 09.03.93 p.6 / Agreement on fisheries relations between the European Economic Community and the Republic of Latvia
232	293A0309(03) / OJ L 056 09.03.93 p.10 / Agreement on fisheries relations between the European Economic Community and the Republic of Lithuania
233	293A0702(01) / OJ L 161 02.07.93 p.2 / Agreement on fisheries and the marine environment between the European Economic Community and the Republic of Iceland
234	293A1204(01) / OJ L 299 04.12.93 p.2 / Agreement on fisheries between the European Economic Community and the Government of the Commonwealth of Dominicia - Protocol between the European Economic Community and the Government of the Commonwealth of Dominica on conditions relating to reciprocal access for fishing vessels of both Parties
235	293A1220(01) / OJ L 318 20.12.93 p.2 / Agreement on relations in the sea fisheries sector between the European Economic Community and the Argentine Republic - Protocol I establishing the fishing opportunities and financial compensation provided for in the Agreement on relations in the sea fisheries sector between the Argentine Republic and the European Economic Community
236	293A1231(09) / OJ L 340 31.12.93 p.3 / Agreement in the form of exchanges of letters between the European Community and the Government of Canada concerning fisheries relations
237	294A1231(01) / OJ L 351 31.12.94 p.2 / Third protocol laying down the conditions relating to fishing provided for in the Agreement on fisheries between the European Economic Community, on the one hand, and the Government of Denmark and the local Government of Greenland, on the other
238	294A1231(02) / OJ L 351 31.12.94 p.16 / Agreement in the form of an Exchange of Letters concerning the amendment to the Agreement on fisheries between the European Economic Community, on the one hand, and the Government of Denmark and the local Government of Greenland, on the other
239	295A1005(01) / OJ L 236 05.10.95 p.25 / Agreement for the establishment of the Indian Ocean Tuna Commission
240	295A1124(01) / OJ L 282 24.11.95 p.22 / Agreement in the form of an Exchange of Letters concerning the provisional application of the Protocol defining, for the period 21 May 1995 to 20 May 1998, the fishing opportunities and the financial contribution provided for by the Agreement between the European Economic Community and the Government of the Republic of Madagascar on fishing off Madagascar
241	296A0127(02) / OJ L 021 27.01.96 p.70 / Amendment to Article VII of the Convention on fishing and conservation of the living resources in the Baltic Sea and the Belts
242	296A0323(01) / OJ L 075 23.03.96 p.2 / protocol defining, for the period 21 May 1995 to 20 May 1998, the fishing opportunities and the financial contribution provided for by the Agreement between the European Economic Community and the Government of the Republic of Madagascar on fishing off Madagascar

243	296A0629(03) / OJ L 157 29.06.96 p.18 / Agreement in the form of an Exchange of Letters concerning the provisional application of the Protocol defining, for the period from 18 January to 17 January 1999, the fishing oppportunities and financial contribution provided for by the Agreement between the European Economic Community and the Republic of Seychelles on fishing off Seychelles
244	296A0629(04) / OJ L 157 29.06.96 p.19 / protocol defining, for the period from 18 January 1996 to 17 January 1999, the fishing opportunities and financial contribution provided for by the Agreement between the European Economic Community and the Republic of Seychelles on fishing off Seychelles
245	296A0716(01) / OJ L 177 16.07.96 p.26 / Agreement to promote compliance with international conservation and management measures by fishing vessels on the high seas
246	296A1002(01) / OJ L 250 02.10.96 p.16 / Agreement in the form of an Exchange of Letters on the provisional application of the Protocol defining, for the period from 3 May 1996 to 2 May 1999, the fishing opportunities and financial compensation provided for in the agreement between the European Economic Community and the Government of the People's Republic of Angola on fishing off Angola
247	296A1031(01) / OJ L 279 31.10.96 p.32 / Agreement in the form of an Exchange of Letters concerning the provisional application of the protocol establishing the fishing opportunities and the financial contribution provided for in the Agreement between the European Economic Community and the Government of the Democratic Republic of Sao Tomé e Príncipe on fishing off the coast of Sao Tomé e Príncipe for the period 1 June 1996 to 31 May 1999
248	296A1220(01) / OJ L 332 20.12.96 p.2 / Agreement on fisheries relations between the European Community and the Republic of Latvia
249	296A1220(02) / OJ L 332 20.12.96 p.7 / Agreement on fisheries relations between the European Community and the Republic of Lithuania
250	296A1220(03) / OJ L 332 20.12.96 p.11 / PROTOCOL laying down the conditions relating to temporary joint ventures and joint enterprises provided for in the Agreement on fisheries relations between the European Community and the Republic of Lithuania
251	296A1220(04) / OJ L 332 20.12.96 p.17 / Agreement on fisheries relations between the European Community and the Republic of Estonia
252	297A0217(01) / OJ L 046 17.02.97 p.57 / Protocol defining, for the period from 3 May 1996 to 2 May 1999, the fishing opportunities and financial compensation provided for in the Agreement between the European Economic Community and the Government of the People's Republic of Angola on fishing off Angola
253	297A0217(02) / OJ L 046 17.02.97 p.76 / Protocol establishing the fishing opportunities and the financial contribution provided for in the Agreement between the European Community and the Government of the Democratic Republic of Sao Tomé e Príncipe on fishing off the coast of Sao Tomé e Príncipe for the period 1 June 1996 to 31 May 1999
254	297A0527(01) / OJ L 135 27.05.97 p.6 / Agreement in the form of an Exchange of Letters on the provisional application of the Protocol fixing, for the period 1 December 1996 to 30 November 1999, the fishing opportunities and the financial consideration provided for in the Agreement between the European Economic Community and the Government of Mauritius on fishing in Mauritian waters

255	297A1105(01) / OJ L 302 05.11.97 p.3 / Agreement in the form of an Exchange of Letters concerning the provisional application of the Protocol establishing the fishing rights and financial compensation provided for in the Agreement between the European Economic Community and the Government of the Republic of Senegal on fishing off the coast of Senegal for the period from 1 May 1997 to 30 April
256	297A1204(01) / OJ L 332 04.12.97 p.20 / Agreement in the form of an Exchange of Letters concerning the amendment to the Agreement on cooperation in the sea fisheries sector between the European Community and the Islamic Republic of Mauritania initialled in Brussels on 20 June 1996
257	297A1212(02) / OJ L 342 12.12.97 p.4 / Protocol establishing the fishing possibilities and the financial compensation provided for in the agreement between the European Economic Community and the Government of the Republic of Guinea-Bissau on fishing off the coast of Guinea-Bissau for the period 16 June 1997 to 15 June
258	298A0117(02) / OJ L 011 17.01.98 p.33 / Protocol establishing, for the period from 1 July 1997 to 30 June 2000, the fishing rights and financial compensation provided for in the Agreement between the European Economic Community and the Government of the Republic of Equatorial Guinea on fishing off the coast of Equatorial Guinea
259	298A0128(02) / OJ L 021 28.01.98 p.20 / Protocol establishing the fishing rights and financial compensation provided for in the Agreement between the European Economic Community and the Republic of Cape Verde on fishing off the coast of Cape Verde
260	298A0131(02) / OJ L 025 31.01.98 p.85 / Protocol establishing the fishing rights and financial contribution provided for in the Agreement between the European Economic Community and the Republic of Côte d'Ivoire on fishing off the coast of Côte d'Ivoire
261	378R3179 / OJ L 378 30.12.78 p.1 / Council Regulation (EEC) No 3179/78 of 28 December 1978 concerning the conclusion by the European Economic Community of the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries
262	380R2213 / OJ L 226 29.08.80 p.33 / Council Regulation (EEC) No 2213/80 of 27 June 1980 on the conclusion of the Agreement between the Government of the Republic of Guinea Bissau and the European Economic Community on fishing off the coast of Guinea Bissau, and of the two exchanges of letters referring thereto
263	381R0654 / OJ L 069 14.03.81 p.1 / Council Regulation (EEC) No 654/81 of 10 March 1981 amending Regulation (EEC) No 3179/78 concerning the conclusion by the European Economic Community of the Convention on future multilateral cooperation in the Northwest Atlantic Fisheries
264	385R0225 / OJ L 029 01.02.85 p.18 / Council Regulation (EEC) No 225/85 of 29 January 1985 laying down certain specific measures in connection with the special arrangements on fisheries applicable to Greenland
265	388R1956 / OJ L 175 06.07.88 p.1 / Council Regulation (EEC) No 1956/88 of 9 June 1988 adopting provisions for the application of the scheme of joint international inspection adopted by the Northwest Atlantic Fisheries Organization
266	388R2868 / OJ L 257 17.09.88 p.20 / Commission Regulation (EEC) No 2868/88 of 16 September 1988 laying down detailed rules for the application of the Scheme of Joint International Inspection adopted by the Northwest Atlantic Fisheries Organization
267	394D0317 / OJ L 142 07.06.94 p.30 / 94/317/EC: Council Decision of 2 June 1994 authorizing the Kingdom of Spain to extend until 7 March 1995 the Agreement on mutual fishery relations with the Republic of South Africa

268	394D0318 / OJ L 142 07.06.94 p.31 / 94/318/EC: Council Decision of 2 June 1994 authorizing the Portuguese Republic to extend until 7 March 1995 the Agreement on mutual fishery relations with the Republic of South Africa
269	394R3359 / OJ L 356 31.12.94 p.3 / Council Regulation (EC) No 3359/94 of 22 December 1994 declaring that Council Regulation (EC) No 2905/94 establishing detailed rules for the application of the trade monitoring system for certain fishery products coming from Norway has lapsed
270	397R2615 / OJ L 353 24.12.97 p.7 / Council Regulation (EC) No 2615/97 of 18 December 1997 on the conclusion of the Protocol establishing the fishing possibilities and the financial compensation provided for in the Agreement between the European Economic Community and the Government of the Republic of Guinea-Bissau on fishing off the coast of Guinea-Bissau for the period 16 June 1997 to 15 June

ADDENDUM TO SCREENING A LIST OF CHAPTER 8, FISHERIES

271	397R0150\ OJ L030 31.01.1997 p.1 \ Council Regulation (EC) No. 150\97 of 12 December 1996 on the conclusion of an Agreement on Co-operation in the sea fisheries sector between the European Community and the Kingdom of Morocco and laying down provisions for its implementation
272	297A0131\OJ L030 31.01.97 p.5\ Agreement on co-operation in the sea fisheries sector between the European Community and the Kingdom of Morocco
273	295A1219 / OJ No. L030 p.30, 1997/01/31 Protocol setting out fishing opportunities and the financial compensation and financial contributions.

Source: Screening list A \08PL

Annex 6.1.: Acquis communautaire in Chapter 6: Competition Policy

Table 1: Key legal provisions of the acquis communautaire in Chapter 21

1	354S0024 / OJ 009 11.05.54 p.345 / ECSC High Authority: Decision No 24-54 of 6 May 1954 laying down in implementation of Article 66 (1) of the Treaty a regulation on what constitutes control of an undertaking
2	354S0026 / OJ 009 11.05.54 p.350 / ECSC High Authority: Decision No 26-54 of 6 May 1954 laying down in implementation of Article 66 (4) of the Treaty a regulation concerning information to be furnished
3	362R0017 / OJ 013 21.02.62 p.204 / EEC Council: Regulation No 17: First Regulation implementing Articles 85 and 86 of the Treaty
4	362R0026 / OJ 030 20.04.62 p.993 / EEC Council: Regulation No 26 applying certain rules of competition to production of and trade in agricultural products
5	362R0141 / OJ 124 28.11.62 p.2751 / EEC: Regulation No 141 of the Council exempting transport from the application of Council Regulation No 17
6	363R0099 / OJ 127 20.08.63 p.2268 / Regulation No 99/63/EEC of the Commission of 25 July 1963 on the hearings provided for in Article 19 (1) and (2) of Council Regulation No 17
7	365R0019 / OJ 036 06.03.65 p.533 / Regulation No 19/65/EEC of 2 March of the Council on application of Article 85 (3) of the Treaty to certain categories of agreements and concerted practices
8	367S0025 / OJ 154 14.07.67 p.11 / ECSC High Authority: Decision No 25-67 of 22 June 1967 laying down in implementation of Article 66 (3) of the Treaty a regulation concerning exemption from prior authorisation
9	368R1017 / OJ L 175 23.07.68 p.1 / Regulation (EEC) No 1017/68 of the Council of 19 July 1968 applying rules of competition to transport by rail, road and inland waterway
10	369R1629 / OJ L 209 21.08.69 p.1 / Regulation (EEC) No 1629/69 of the Commission of 8 August 1969 on the form, content and other detail of complaints pursuant to Article 10, applications pursuant to Article 12 and notifications pursuant to Article 14 (1) of Council Regulation (EEC) No 1017/68 of 19 July 1968
11	369R1630 / OJ L 209 21.08.69 p.11 / Regulation (EEC) No 1630/69 of the Commission of 8 August 1969 on the hearings provided for in Article 26 (1) and (2) of Council Regulation (EEC) No 1017/68 of 19 July 1968
12	371R2821 / OJ L 285 29.12.71 p.46 / Regulation (EEC) No 2821/71 of the Council of 20 December 1971 on application of Article 85 (3) of the Treaty to categories of agreements, decisions and concerted practices
13	374R2988 / OJ L 319 29.11.74 p.1 / Regulation (EEC) No 2988/74 of the Council of 26 November 1974 concerning limitation periods in proceedings and the enforcement of sanctions under the rules of the European Economic Community relating to transport and competition
14	378S0715 / OJ L 094 08.04.78 p.22 / Commission Decision No 715/78/ECSC of 6 April 1978 concerning limitation periods in proceedings and the enforcement of sanctions under the Treaty establishing the European Coal and Steel Community
15	380L0723 / OJ L 195 29.07.80 p.35 / 80/723/EEC: Commission Directive of 25 June 1980 on the transparency of financial relations between Member States and public undertakings

16	383R1983 / OJ L 173 30.06.83 p.1 / Commission Regulation (EEC) No 1983/83 of 22 June 1983 on the application of Article 85 (3) of the Treaty to categories of exclusive distribution agreements
17	383R1984 / OJ L 173 30.06.83 p.5 / Commission Regulation (EEC) No 1984/83 of 22 June 1983 on the application of Article 85 (3) of the Treaty to categories of exclusive purchasing agreements
18	384S0379 / OJ L 046 16.02.84 p.23 / Commission Decision No 379/84/ECSC of 15 February 1984 defining the powers of officials and agents of the Commission instructed to carry out the checks provided for in the ECSC Treaty and decisions taken in application thereof
19	385R0417 / OJ L 053 22.02.85 p.1 / Commission Regulation (EEC) No 417/85 of 19 December 1984 on the application of Article 85 (3) of the Treaty to categories of specialization agreements
20	385R0418 / OJ L 053 22.02.85 p.5 / Commission Regulation (EEC) No 418/85 of 19 December 1984 on the application of Article 85 (3) of the Treaty to categories of research and development agreements
21	386R4056 / OJ L 378 31.12.86 p.4 / Council Regulation (EEC) No 4056/86 of 22 December 1986 laying down detailed rules for the application of Articles 85 and 86 of the Treaty to maritime transport
22	387R3975 / OJ L 374 31.12.87 p.1 / Council Regulation (EEC) No 3975/87 of 14 December 1987 laying down the procedure for the application of the rules on competition to undertakings in the air transport sector
23	387R3976 / OJ L 374 31.12.87 p.9 / Council Regulation (EEC) No 3976/87 of 14 December 1987 on the application of Article 85 (3) of the Treaty to certain categories of agreements and concerted practices in the air transport sector
24	*388L0301 / OJ L 131 27.05.88 p.73 / 88/301/EEC: Commission Directive of 16 May 1988 on competition in the markets in telecommunications terminal equipment*
25	388R4087 / OJ L 359 28.12.88 p.46 / Commission Regulation (EEC) No 4087/88 of 30 November 1988 on the application of Article 85 (3) of the Treaty to categories of franchise agreements
26	388R4260 / OJ L 376 31.12.88 p.1 / Commission Regulation (EEC) No 4260/88 of 16 December 1988 on the communications, complaints and applications and the hearings provided for in Council Regulation (EEC) No 4056/86 laying down detailed rules for the application of Articles 85 and 86 of the Treaty to maritime transport
27	388R4261 / OJ L 376 31.12.88 p.10 / Commission Regulation (EEC) No 4261/88 of 16 December 1988 on the complaints, applications and hearings provided for in Council Regulation (EEC) No 3975/87 laying down the procedure for the application of the rules on competition to undertakings in the air transport sector
28	389R4064 / OJ L 395 30.12.89 p.1 / Council Regulation (EEC) No 4064/89 of 21 December 1989 on the control of concentrations between undertakings
29	*390L0388 / OJ L 192 24.07.90 p.10 / 90/388/EEC: Commission Directive of 28 June 1990 on competition in the markets for telecommunications services
30 (A55)	390L0684 / OJ L 380 31.12.90 p.27 / 90/684/EEC: Council Directive of 21 December 1990 on aid to shipbuilding
31	391R1534 / OJ L 143 07.06.91 p.1 / Council Regulation (EEC) No 1534/91 of 31 May 1991 on

	the application of Article 85 (3) of the Treaty to certain categories of agreements, decisions and concerted practices in the insurance sector
32	392R0479 / OJ L 055 29.02.92 p.3 / Council Regulation (EEC) No 479/92 of 25 February 1992 on the application of Article 85 (3) of the Treaty to certain categories of agreements, decisions and concerted practices between liner shipping companies (consortia)
33	392R3932 / OJ L 398 31.12.92 p.7 / Commission Regulation (EEC) No 3932/92 of 21 December 1992 on the application of Article 85 (3) of the Treaty to certain categories of agreements, decisions and concerted practices in the insurance sector
34	393R1617 / OJ L 155 26.06.93 p.18 / Commission Regulation (EEC) No 1617/93 of 25 June 1993 on the application of Article 85 (3) of the Treaty to certain categories of agreements and concerted practices concerning joint planning and coordination of schedules, joint operations, consultations on passenger and cargo tariffs on scheduled air services and slot allocation at airports
35	393R3652 / OJ L 333 31.12.93 p.37 / Commission Regulation (EC) No 3652/93 of 22 December 1993 on the application of Article 85 (3) of the Treaty to certain categories of agreements between undertakings relating to computerized reservation systems for air transport services
36	394D0810 / OJ L 330 21.12.94 p.67 / 94/810/ECSC, EC: Commission Decision of 12 December 1994 on the terms of reference of hearing officers in competition procedures before the Commission (Text with EEA relevance)
37	*394L0046 / OJ L 268 19.10.94 p.15 / Commission Directive 94/46/EC of 13 October 1994 amending Directive 88/301/EEC and Directive 90/388/EEC in particular with regard to satellite communications*
38	394R3385 / OJ L 377 31.12.94 p.28 / Commission Regulation (EC) No 3385/94 of 21 December 1994 on the form, content and other details of applications and notifications provided for in Council Regulation No 17 (Text with EEA relevance)
39	*395L0051 / OJ L256 p. 49, 1995/10/26 / Commission Directive 95/51/EC of 18 October 1995 amending Directive 90/388/EEC with regard to the abolition of the restrictions on the use of cable television networks for the provision of already liberalized telecommunications services *
40	395R0870 / OJ L 089 21.04.95 p.7 / Commission Regulation (EC) No 870/95 of 20 April 1995 on the application of Article 85 (3) of the Treaty to certain categories of agreements, decisions and concerted practices between liner shipping companies (consortia) pursuant to Council Regulation (EEC) No 479/92
41	395R1475 / OJ L 145 29.06.95 p.25 / Commission Regulation (EC) No 1475/95 of 28 June 1995 on the application of Article 85 (3) of the Treaty to certain categories of motor vehicle distribution and servicing agreements
42	395R3094 / OJ L 332 30.12.95 p.1 / Council Regulation (EC) No 3094/95 of 22 December 1995 on aid to shipbuilding
43	*396L0002 / OJ L 020 26.01.96 p.59 / 96/2/EC: Commission Directive of 16 January 1996 amending Directive 90/388/EEC with regard to mobile and personal communications*
44	*396L0019 / OJ L074 p. 13, 1996/03/22 / Commission Directive 96/19/EC of 13 March 1996 amending Directive 90/388/EEC with regard to the implementation of full competition in telecommunications markets *
45	396R0240 / OJ L 031 09.02.96 p.2 / Commission Regulation (EC) No 240/96 of 31 January 1996 on the application of Article 85 (3) of the Treaty to certain categories of technology transfer agreements (Text with EEA relevance)

46	396R1523 / OJ L190 31/7/96, p.11 / Commission Regulation (EC) No 1523/96 of 24 July 1996 amending 16/17/93 on the application of Article 85 (3) of the Treaty to certain categories of agreements and concerted practices concerning joint planning and coordination of schedules, joint operations, consultations on passenger and cargo tariffs on scheduled air services and slot allocation at airports
47	396S2496 / OJ L 338 28.12.96 p.42 / Commission Decision No 2496/96/ECSC of 18 December 1996 establishing Community rules for State aid to the steel industry (Text with EEA relevance)
48	*397D0114 / OJ L 041 12.02.97 p.8 / Commission Decision of 27 November 1996 concerning the additional implementation periods requested by Ireland for the implementation of Commission Directives 90/388/EEC and 96/2/EC as regards full competition in the telecommunications markets (Only the English text is authentic) (Text with EEA relevance)*
49	*397D0310 / OJ L 133 24.05.97 p.19 / 97/310/EC: Commission Decision of 12 February 1997 concerning the granting of additional implementation periods to Portugal for the implementation of Commission Directives 90/388/EEC and 96/2/EC as regards full competition in the telecommunications markets (Only the Portuguese text is authentic) (Text with EEA relevance)*
50	397D0568 / OJ L 234 26.08.97 p.7 / 97/568/EC: Commission Decision of 14 May 1997 on the granting of additional implementation periods to Luxembourg for the implementation of Directive 90/388/EEC as regards full competition in the telecommunications markets (Only the French text is authentic) (Text with EEA relevance)
51	397D0603 / OJ L 243 05.09.97 p.48 / 97/603/EC: Commission Decision of 10 June 1997 concerning the granting of additional implementation periods to Spain for the implementation of Commission Directive 90/388/EEC as regards full competition in the telecommunications markets (Only the Spanish text is authentic) (Text with EEA relevance)
52	397R1013 / OJ L 148 06.06.97 p.1 / Council Regulation (EC) No 1013/97 of 2 June 1997 on aid to certain shipyards under restructuring
53	398R0447 / OJ L61 2/3/98, p. 1 / Commission Regulation (EC) No 447/98 of 1 March 1998 on the notifications, time limits and hearings provided for in Council Regulation (EEC) No 4064/89 on the control of concentrations between undertakings (including annex concerning form CO relating to the notification of a concentration pursuant to Regulation (EEC) No 4064/89 and Guidance Notes I-III)
54 (B63)	597PC0396 Proposal for a Conucil Regulation (EC) on the application of Articles 92 and 93 of the EC Treaty to certain categories of horizontal aid, OJ C 262,28.8.1997, p.6.
55 (A30)	98/L202/01 Council Regulation (EC) No 1540/98 establishing new rules on aid to shipbuilding

Source: Based on the screening list A from 21 October 1998

Table 2: Additional provisions to be implemented in the framework of Chapter 21

1	384Y0413 (1) Commission Notice concerning Commission Regulations (EEC) No 1983/83 and (EEC) No 1984/83, OJ C 101, 13.4.1984, p. 2 (as amended by Commission Notice 92/C 121/02, OJ C 121, 13.5. 1992, p. 2).
2	362X1224 (01) Notice on exclusive dealing contracts with commercial agents, OJ 139, 24.12.1962, p. 2921/62.
3	368Y0729 (01) Notice concerning agreements, decisions and concerted practices in the field of cooperation between entreprises, OJ C 75, 29.7.1968, p. 3; corrected by OJ C 84, 28.8.1968, p. 14.

4	379Y0103 (01) Notice concerning its assessment of certain subcontracting agreements in relation to Article 85(1) of the EEC Treaty, OJ C 1, 3.1.1979, p. 2.
5	• Notice concerning imports into the Community of Japanese goods falling within the scope of the Rome Treaty, OJ C 111, 21.10.1972, p. 13.
6	397Y1209 (02) Notice on agreements of minor importance which do not fall under Article 85(1) of the EC Treaty, OJ C 372, 9.12.1997.
7	93/C39/05 Notice on cooperation between national courts and the Commission in applying Articles 85 and 86 of the EEC Treaty, OJ C 39, 13.2.1993, p. 6.
8	93/C43/02 Notice concerning the assessment of cooperative joint ventures pursuant to Article 85 of the EEC Treaty, OJ C 43, 16.2.1993, p. 2.
9	95/C251/03 Notice on the application of the EC competition rules to cross-border credit transfers, OJ C 251, 27.9.1995, p. 3.
10	96/C207/04 Notice on the non-imposition or reduction of fines in cartel cases, OJ C 207, 18.7.1996, p. 4.
11	397Y1015 (01) Notice on cooperation between national competition authorities and the Commission in handling cases falling within the scope of Articles 85 or 86 of the EC Treaty, OJ C 313, 15.10.97, p. 3
12	97/C23/03 Notice on internal rules of procedure for processing requests for access to the file in cases pursuant to Articles 85 and 86 of the EC Treaty, Articles 65 and 66 of the ECSC Treaty and Council Regulation No 4064/89, OJ C 23, 23.1.1997, p. 3.
13	398Y0114 (01) Guidelines on the method of setting fines imposed pursuant to Article 15(2) of Regulation No 17 and Article 65(5) of the ECSC Treaty, OJ C 9, 14.1.1998.
14	397Y1209 (01) Notice on the definition of the relevant market for the purposes of Community competition law, OJ C 372, 9.12.1997, p. 5.
15	397Y0930 (01) Commission Communication on clarification of Commission recommendations on the application of competition rules to new transport infrastructure projects, OJ C 298, 30.9.1997.
16	Notes on Council Regulation (EEC) 4064/89, published in Merger control law in the European Union, Brussels - Luxembourg, 1995.
17	94/C385/01 Commission Notice on the concept of full-function joint ventures under Council Regulation (EEC) No 4064/89 of 21 December 1989 on the control of concentrations between undertakings, OJ C 66, 2.3.1998, p. 1.
18	94/C385/02 Commission Notice on the notion of a concentration under Council Regulation (EEC) No 4064/89 of 21 December 1989 on the control of concentrations between undertakings, OJ C 66, 2.3.1998, p. 5.
19	94/C385/03 Commission Notice on the notion of undertakings concerned under Council Regulation (EEC) No 4064/89 of 21 December 1989 on the control of concentrations between undertakings, OJ C 66, 2.3.1998, p. 14.
20	94/C385/04 Commission Notice on calculation of turnover under Council Regulation (EEC) No 4064/89 of 21 December 1989 on the control of concentrations between undertakings, OJ C 66, 2.3.1998, p. 25.
21	90/C203/05 Commission Notice regarding restrictions ancillary to concentrations, OJ C 203, 14.8.1990, p. 5.
22	Commission letter to Member States of 2 May 1997 concerning the amendment of the notification thresholds for aid for EUREKA projects
23	396Y0217(01) Community framework for State Aid for Research and Development, OJ C 45, 17.2.1996 (including three annexes : Annex I - Definition of the stages of R&D for the purposes of Article 92 of the EC Treaty; Annex II - Eligible R&D costs for the purpose of calculating the aid intensity; Annex II -

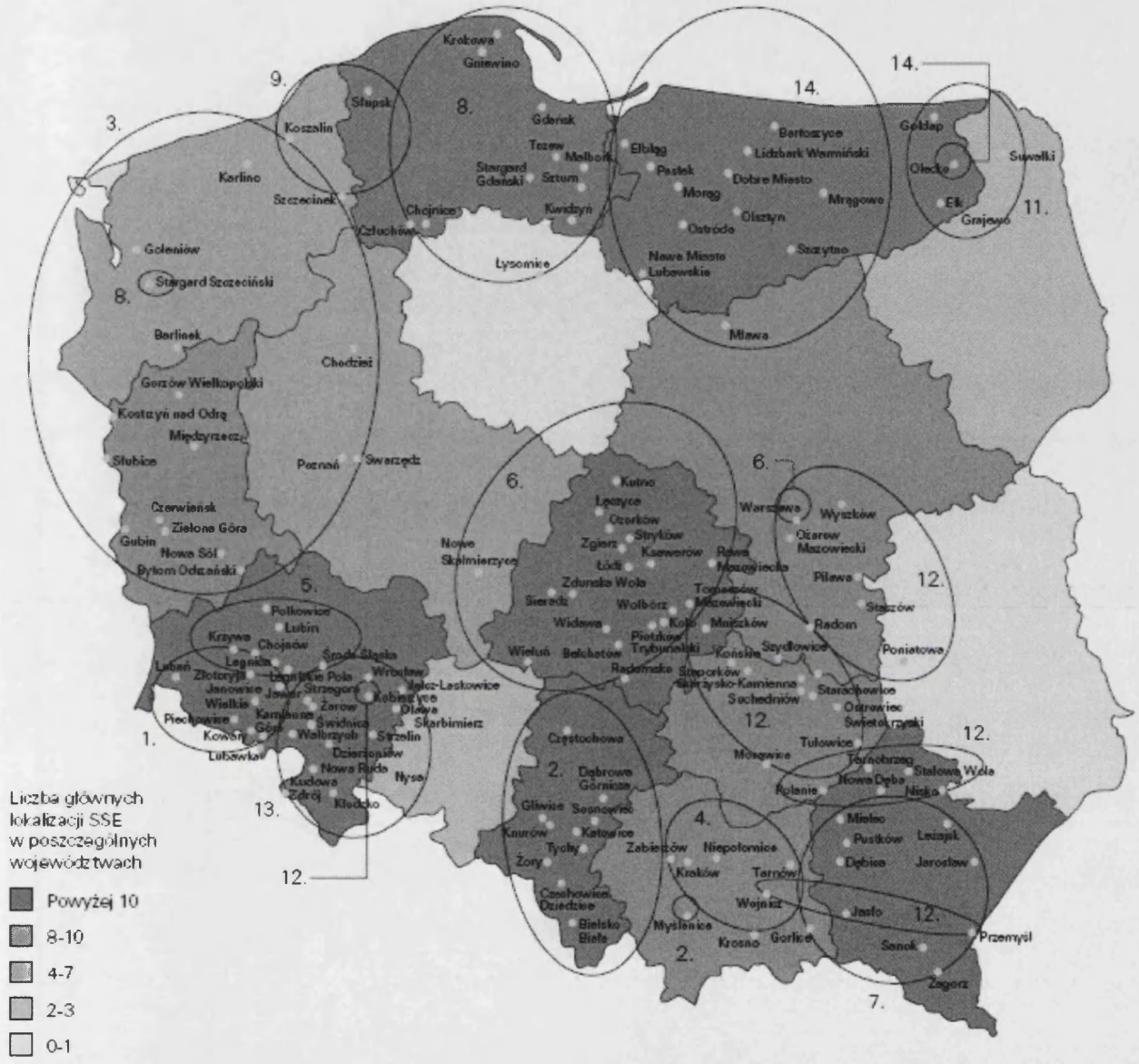
	Additional information normally to be supplied in the notification provided for by Article 93(3) of the EC Treaty of State aid for R&D).
24	94/C72/03 Community guidelines on State aid for environmental protection, OJ C 72, 10.3.1994, p. 3.
25	94/C368/05 Community guidelines on State aid for rescuing and restructuring firms in difficulty, OJ C 368, 23.12.1994
26	96/C213/04 Community guidelines of 16 July 1996 on state aid for small and medium-sized enterprises (SMEs), OJ C 213, 23.7.1996 (including authorized range of aid for SMEs, by size of company and location).
27	396X0280 Commission recommendation of 3 April 1996 concerning the definition of small and medium-sized enterprises (including annex concerning the definition of small and medium-sized enterprises adopted by the Commission), OJ L 107, 30.4.1996
28	95/C334/04 Guidelines on aid to employment, OJ C 334, 12.12.1995, p. 4.
29	97/C1/05 Monitoring of State aid and reduction of labour costs, OJ C 1, 3.1.1997, p. 10.
30	96/C218/04 Accelerated procedure for processing notifications of employment aid - Standard notification form, OJ C 218, 27.7.1996.
31	97/C146/08 Guidelines on State aid for undertakings in deprived urban areas, OJ C 146, 14.5.1997.
32	471Y1104 (01) Council Resolution of 20 October 1971, OJ C 111, 4.11.1971, p. 1 (with annex on procedure for application of the principles of coordination of general systems of regional aid).
33	Commission letter to Member States of 17 January 1994 (Reference rates for the assessment of regional aid - amendment to the mechanism for setting and revising the rates).
34	96/C186/07 Commission communication on the method of application of Article 92(3)(c) of the EC Treaty to national regional aid, OJ C 186, 26.6.1996, p. 6.
35	97/C198/06 Commission communication on the method of application of Article 92(3)(c) of the EC Treaty to national regional aid, OJ C 198, 28.6.1997.
36	Commission letter to Member States of 24 February 1998 concerning Guidelines on national regional aid (adopted by the Commission on 16.12.1997, not yet published).
37	97/C273/03 Communication notice on the method for setting the reference and discount rates, OJ C 273/3, 9.9.1997.
38	Multisectoral Framework on regional aid for large investment projects (adopted by the Commission on 16.12.1997, not yet published); will not enter into force until 1.9.1998.
39	96/C94/07 Code on aid to the synthetic fibres industry, OJ C 94, 30.3.1996.
40	397Y0915 (01) Community framework on State aid to the motor vehicle industry, OJ C 279, 15.9.1997, p. 1.
41	Commission letter to Member States SG (88) D/6181 of 26 May 1988.
42	Commission letter to Member States SG (89) D/311 of 3 January 1989, as amended by Commission letter SG (97) 4345 of 10 June 1997.
43	Commission letter to Member States SG (92) D/06981 of 19 March 1992.
44	95/C355/01 Agreement respecting normal competitive conditions in the commercial shipbuilding and repair industry (with Annex I - Measures of support inconsistent with normal competitive conditions in commercial shipbuilding and repair industry; Annex II - Special provisions relating to measures of support; Annex III - Injurious pricing charges), OJ 355, 30.12.1995, p. 1.
45	97/C51/03 Review of production aid ceiling for shipbuilding, OJ C 51, 21.2.1997, p. 5.
46	Framework for certain steel sectors not covered by the ECSC Treaty, OJ C 320, 13.12.1988, p. 3).
47	The notification of State aid to the Commission pursuant to Article 93(3) of the EEC Treaty : the

	failure of Member States to respect their obligations, OJ C 252, 30.9.1980, p. 2.
48	Commission communication, OJ C 318, 24.11.1983.
49	385Y0105 (01) Commission communication, OJ C 3, 5.1.1985.
50	Commission letter to Member States SG (89) D/5521 of 27 April 1989.
51	Commission letter to Member States SG (91) D/4577 of 4 March 1991 (Communication to Member States concerning the procedures for the notification of aid plans and procedures applicable when aid is provided in breach of the rules of Article 93(3) of the EEC Treaty; with annex on information to be supplied in an Article 93(3) notification).
52	Guidance note on use of the de minimis facility provided for in the SME aid guidelines (letter of 23 March 1993, IV/D/6878 from DG IV to the Member States, with annex concerning the calculation of the cash grant equivalent of a soft loan).
53	Commission letter to Member States of 22 February 1995 concerning interest rates to be applied when aid granted unlawfully is being recovered.
54	95/C156/05 Commission communication on the recovery of aid granted unlawfully, OJ C 156, 22.6.1995, p. 5.
55	Commission letter to Member States of 2 August 1995 replacing the annexes of the Commission letter to Member States of 22 February 1994- D/20506 - with Annex I : Joint annual reporting format on existing State aid under the EC Treaty and subsidies under the WTO Agreement on Subsidies and Countervailing Measures (SCM Agreement), and Annex II : Format for standardized notification under Art. 93(3) of the EC Treaty and under Art. 8.3 of the WTO Agreement on Subsidies and Countervailing Measures (SCM Agreement)
56	Commission letter to Member States SG (81) 12740 of 2 October 1981.
57	Commission letter to Member States of 30 April 1987.
58	92/C213/03 Commission communication to the Member States of 2 July 1992 on the accelerated clearance of aid schemes for SMEs and of amendments of existing schemes, OJ C 213, 19.8.1992, p. 10.
59	96/C218/04 Notice on the accelerated procedure for processing notifications of employment aid (standard notification form), OJ C 218, 27.7.1996.
60	Commission letter to the Member States of 27 June 1989.
61	Commission letter to the Member States of 11 October 1990.
62	95/C312/07 Notice on cooperation between national courts and the Commission in the State aid field, OJ C 312, 23.11.1995, p. 8.
63	597PC0396 Proposal for a Council Regulation (EC) on the application of Articles 92 and 93 of the EC Treaty to certain categories of horizontal aid, OJ C 262, 28.8.1997, p. 6.
64	97/C209/03 Commission communication concerning aid elements in land sales by public authorities, OJ C 209, 10.7.1997, p. 3.
65	397Y0917 (01) Commission communication concerning the application of Articles 92 and 93 of the EC Treaty to short-term export credit insurance, OJC 281, 17.9.1997, p. 4.
66	Application of Articles 92 and 93 of the EEC Treaty to public authorities' holdings, Bulletin EC 9-1984.
67	93/C307/03 Commission communication to the Member States on application of art. 92 and 93 of the Treaty and art. 5 of Commission Directive 80/723/EEC for public enterprises in food-processing sector, OJ C 307, 13.11.1993, p. 3.
68	Commission letter to Member States SG (89) D/4328 of 5 April 1989.
69	Commission letter to Member States SG (89) D/12772 of 12 October 1989.
70	96/C68/06 Commission notice on the de minimis rule for State aid, OJ C 68, 6 March 1996, p. 9.
71	91/C233/02 Guidelines on the application of EEC competition rules in the telecommunications sector, OJ C 233, 6.9.1991, p. 2.
72	97/C76/06 Notice on the application of the competition rules to access agreements in the telecommunications

	sector, OJ C076 p.9 1997
73	Communication concerning the review under competition rules of the joint provision of telecommunications and cable TV networks by a single operator and the abolition of restrictions on the provision of cable TV capacity over telecommunications networks, OJ C71, 7 March 1998, p.4
74	596DC0443 Communication from the Commission concerning services of general interest in Europe, COM(96) 443 final, 11.9.1996.
75	595DC0113 Communication by the Commission to the European Parliament and the Council on the status and implementation of Directive 90/388/EEC on competition in the markets for telecommunications services, OJ C 275, 20.10.1995, p. 2.
76	398Y0110 (01) Notice concerning the Status of voice communications on Internet under Community law, in particular, under Directive 90/388/EEC, OJ C 6, 10.1.1998, p. 4.
77	597IP0270 596DC0608 [Assessment criteria for national schemes for the costing and financing of universal service in telecommunications and guidelines for the Member States on Operation of such schemes, COM(96)608, 27.11.1996.][?]
78	398Y0206 (01) Notice on the application of the competition rules to the postal sector and on the assessment of certain state measures relating to postal services, OJ C39, 6 January 1998
79	Statements on Council Regulation (EC) No 1310/97, not published, available from the Council 9296/97 ADD 1; Commission Notice on the alignment of procedures for processing mergers under the ECSC and EC-Treaties, OJ C 66, 2.3.1998, p. 36
80	Request for transitional period (Ireland) Commission notice to Member States and other interested parties concerning the additional implementation period requested by Ireland OJ No C169 p. 5, 1996-06-13 Notice 96/C169/05 *

Source: Screening list B for Chapter 6

Annex 6.2.: Map of the Special Economic Zones in Poland



1 – Kamiennogórska	8 – Pomorska
2 – Katowicka	9 – Słupska
3 – Kostrzyńsko-Słubicka	10 – Starachowicka
4 – Krakowski Park Technologiczny	11 - Suwalska
5 - Legnicka	12 - Tarnobrzeska
6 – Łódzka	13 - Wałbrzyska
7 – Euro-Park Mielec	14 – Warmińsko-Mazurska

Source: KPMG (2007: 12)

Annex 6.3.: The questionnaire for entrepreneurs in the Special Economic Zones

Zone.....
Field of operation.....

		YES	NO	COMMENTARY
1.	Did Polish government represent your interest in appropriate way during the accession negotiations with the EU?	90%		
2.	Did members of the Negotiation Team do their utmost to achieve the most favorable (for you) results in the accession negotiations?	75%	25%	
3.	Are you aware of any institutional (formal) ways of contacting your government in the matters concerning you (in the context of accession negotiations)?		75%	No answers
4.	Have you had a chance to express your opinion on the issues concerning you during the accession negotiations? (If yes, how often)?	5%	90%	No answers
5.	If the answer to question four is positive, were these opinions taken into consideration?		30%	No answers
6.	Did Polish government make effort to keep you informed and updated about the developments in the in the accession negotiations with the EU?		85%	No answers
7.	Were you aware (prior to investing in the SEZ) of the fact that conditions governing public aid in the zones are not in accordance with EU law and may be changed after accession?	75%	25%	
8.	Are the final results of accession negotiation satisfactory for you?	75%	25%	
9.	Does the result of accession negotiations in any way have an impact on your investment decisions (current and planned ones)?	20%	80%	
10.	Do you think that the change of conditions for investments in the SEZ will cause any decrease of interest of potential investors?	5%	95%	

Around 45 questionnaires were sent to investors in different economic zones and 21 answers received. The questionnaire was anonymous; therefore it is difficult to group the results according to the branches (majority of the interviewees left blank the appropriate place).

Annex 7.1.: The acquis communautaire in the Regional policy area

Table 1: Key legal provisions of the acquis communautaire in Chapter 21

1	388R2052 / OJ L 185 15.07.88 p.9 Council Regulation (EEC) No 2052/88 of 24 June 1988 on the tasks of the Structural Funds and their effectiveness and on coordination of their activities between themselves and with the operations of the European Investment Bank and the other existing financial instruments
2	388R4253 / OJ L 374 31.12.88 p.1 Council Regulation (EEC) No 4253/88 of 19 December 1988, laying down provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments
3	388R4254 / OJ L 374 31.12.88 p.15 Council Regulation (EEC) No 4254/88 of 19 December 1988, laying down provisions for implementing Regulation (EEC) No 2052/88 as regards the European Regional Development Fund
4	388R4255 / OJ L 374 31.12.88 p.21 Council Regulation (EEC) No 4255/88 of 19 December 1988, laying down provisions for implementing Regulation (EEC) No 2052/88 as regards the European Social Fund
5	388R4256 / OJ L 374 31.12.88 p.25 Council Regulation (EEC) No 4256/88 of 19 December 1988, laying down provisions for implementing Regulation (EEC) No 2052/88 as regards the EAGGF Guidance Section
6	390R1865 / OJ L 170 03.07.90 p.35 Commission Regulation (EEC) No 1865/90 of 2 July 1990 concerning interest on account of late payment to be charged in the event of late repayment of assistance from the Structural Funds
7	390R1866 / OJ L 170 03.07.90 p.36 Commission Regulation (EEC) No 1866/90 of 2 July 1990 on arrangements for using the ecu for the purposes of the budgetary management of the Structural Funds
8	390D0589 / OJ L 280 13.11.93 p.30 93/589/EEC: Commission Decision of 28 October 1993 fixing an indicative allocation between Member States of the commitment appropriations of the Structural Funds and the financial instrument for fisheries guidance (FIFG) under Objective 1, as defined in Council Regulation (EEC) No 2052/88
9	390R0792 / OJ L079 1/4/93, p. 74 Council Regulation (EEC) No 792/93 of 30 March 1993 establishing a cohesion financial instrument
10	393R2080 / OJ L 193 31.07.93 p.1 Council Regulation (EEC) No 2080/93 of 20 July 1993 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards the financial instrument of fisheries guidance
11	394D0169 / OJ L 081 24.03.94 p.1 94/169/EC: Commission Decision of 20 January 1994 establishing an initial list of declining industrial areas concerned by Objective 2 as defined by Council Regulation (EEC) No 2052/88
12	394D0176 / OJ L082 25/3/94, p. 35 94/176/EC: Commission Decision of 11 February 1994 fixing an indicative allocation by Member State of Structural Fund commitment appropriations under Objective 2 as defined in Council Regulation (EEC) No 2052/88
13	394D0197 / OJ L 096 14.04.94 p.1 94/197/EC: Commission Decision of 26 January 1994 establishing, for the period 1994 to 1999, the list of rural areas under Objective 5b as defined by Council Regulation (EEC) No 2052/88
14	394D0203 / OJ L 097 15.04.94 p.43 94/203/EC: Commission Decision of 28 February 1994 establishing the indicative allocation by Member State of the commitment appropriations from the Structural Funds for Objective 5b as defined in Council Regulation (EEC) No 2052/88 for the period 1994 to 1999
15	394D0342 / OJ L 152 18.06.94 p.39 94/342/EC: Commission Decision of 31 May 1994 concerning information and publicity measures to be carried out by the Member States concerning assistance from the Structural Funds and the Financial Instrument for Fisheries Guidance (FIFG)
16	394R0566 / OJ L072 16/3/94, p. 1 COUNCIL REGULATION (EC) No 566/94 of 10 March 1994 extending Regulation (EEC) No 792/93 establishing a cohesion financial instrument
	394R1164 / OJ L 130 25.05.94 p.1

17	Council Regulation (EC) No 1164/94 of 16 May 1994 establishing a Cohesion Fund
18	394R1628 / OJ L 171 06.07.94 p.14 Commission Regulation (EC) No 1628/94 of 4 July 1994 concerning the implementation of a programme for cross- border cooperation between countries in central and eastern Europe and Member States of the Community in the framework of the Phare programme
19	398R2760 / OJ L 345 19.12.98 p.49 Commission Regulation (EC) No 2760/98 of 18 December 1998 concerning the implementation of a programme for cross-border cooperation in the framework of PHARE programme
20	394R1681 / OJ L 178 12.07.94 p.43 Commission Regulation (EC) No 1681/94 of 11 July 1994 concerning irregularities and the recovery of sums wrongly paid in connection with the financing of the structural policies and the organization of an information system in this field
21	394R1831 / OJ L 191 27.07.94 p.9 Commission Regulation (EC) No 1831/94 of 26 July 1994 concerning irregularities and the recovery of sums wrongly paid in connection with the financing of the Cohesion Fund and the organization of an information system in this field
22	395D0037 / OJ L 049 04.03.95 p.65 95/37/EC: Commission Decision of 17 February 1995 establishing, for the period 1995 to 1999 in Austria and Finland, the list of rural areas under Objective 5b as defined by Council Regulation (EEC) No 2052/88
23	395D0143 / OJ L 092 25.04.95 p.29 95/143/EC: Commission Decision of 18 April 1995 establishing, for the period 1995 to 1999 in Sweden, the list of rural areas under Objective 5b as defined by Council Regulation (EEC) No 2052/88 (Text with EEA relevance)
24	396D0455 / OJ L 188 27.07.96 p.47 96/455/EC: Commission Decision of 25 June 1996 concerning information and publicity measures to be carried out by the Member States and the Commission concerning the activities of the Cohesion Fund under Council Regulation (EC) No 1164/94
25	396D0468 / OJ L 192 02.08.96 p.29 96/468/EC: Commission Decision of 19 July 1996 fixing an indicative allocation by Member State of Structural Fund commitment appropriations for the period 1997 to 1999 under Objective 2 as defined in Council Regulation (EEC) No 2052/88
26	396D0472 / OJ L 193 03.08.96 p.54 96/472/EC: Commission Decision of 26 July 1996 establishing the list of declining industrial areas concerned by Objective 2 for the programming period from 1997 to 1999, as defined by Council Regulation (EEC) No 2052/88 and amending Decision 94/169/EC
27	397D0237 / OJ L094 9/4/97, p. 20 97/237/EC: Commission Decision of 14 March 1997 amending the list of declining industrial areas concerned by Objective 2 as defined by Council Regulation (EEC) No 2052/88
28	397D0349 / OJ L148 6/6/97, p. 29 97/349/EC: Commission Decision of 27 May 1997 amending the list of areas in industrial decline under Objective 2 as designated in Council Regulation (EEC) No 2052/88
29	397D0352 / OJ L151 10/6/97, p. 39 97/352/EC: Commission Decision of 20 May 1997 amending the list of declining industrial areas covered by Objective No 2 as defined by Council Regulation (EEC) No 2052/88
30	397R2064 / OJ L 290 23.10.97 p.1 Commission Regulation (EC) No 2064/97 of 15 October 1997 establishing detailed arrangements for the implementation of Council Regulation (EEC) No 4253/88 as regards the financial control by Member States of operations co-financed by the Structural Funds
31	394R2687 / OJ L 286 05.11.94 p.5 Council Regulation (EC) No 2687/94 of 31 October 1994 on Community financial contributions to the International Fund for Ireland
32	397R2614 / OJ L 353 24.12.97 p.5 Council Regulation (EC) No 2614/97 of 15 December 1997 on Community financial contributions to the International Fund for Ireland
33	395R0852 / OJ L 086 20.04.95 p.10 Council Regulation (EC) No 852/95 of 10 April 1995 on the grant of financial assistance to Portugal for a specific programme for the modernization of the Portuguese textile and clothing industry

	Added to the Screening List on 13 July 1999:
34	399R1260 / OJ L 161 , 26/06/1999 p.1 **Council Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the Structural Fund**
35	399R1261 / OJ L 161 , 26/06/1999 p.43 Regulation (EC) No 1261/1999 of the European Parliament and of the Council of 21 June 1999 on the European Regional Development Fund
36	399R1262 / OJ L 161 , 26/06/1999 p.48 Regulation (EC) No 1262/1999 of the European Parliament and of the Council of 21 June 1999 on the European Social Fund
37	399R1263 / OJ L 161 , 26/06/1999 p.54 Council Regulation (EC) No 1263/1999 of 21 June 1999 on the Financial Instrument for Fisheries Guidance
38	399R1264 / OJ L 161 , 26/06/1999 p.57 Council Regulation (EC) No 1264/1999 of 21 June 1999 amending Regulation (EC) No 1164/94 establishing a Cohesion Fund
39	399R1265 / OJ L 161 , 26/06/1999 p.62 Council Regulation (EC) No 1265/1999 of 21 June 1999 amending Annex II to Regulation (EC) No 1164/94 establishing a Cohesion Fund
40	399R1266 / OJ L 161 , 26/06/1999 p.68 Council Regulation (EC) No 1266/1999 of 21 June 1999 on coordinating aid to the applicant countries in the framework of the pre-accession strategy and amending Regulation (EEC) No 3906/89
41	399R1267 / OJ L 161 , 26/06/1999 p.73 Council Regulation (EC) No 1267/1999 of 21 June 1999 establishing an Instrument for Structural Policies for Pre-accession
42	399R1268 / OJ L 161 , 26/06/1999 p.87 Council Regulation (EC) No 1268/1999 of 21 June 1999 on Community support for pre-accession measures for agriculture and rural development in the applicant countries of central and eastern Europe in the pre- accession period

Source: Based on the screening list A from 04.02.1999, as amended by Corrigendum to Screening List from 12.04.99 and Addendum to Screening List from 13.07.99 (taking into account changes caused by the adoption of "Agenda 2000").

Table 2: Additional provisions to be implemented in the framework of Chapter 21

1	Detailed guidelines on the treatment of leasing in the framework of the Community structural financial instruments OJ No C250 p. 5, 1993-09-14 Notice 93/C250/03
2	Notice of the Member States laying down guidelines for operational programmes which Member States are invited to establish within the framework of a Community initiative for regions heavily dependent on the textiles and clothing sector OJ No C142 p. 5, 1992-06-04 Notice 92/C142/04
3	Notice to the Member States laying down guidelines for operational programmes which Member States are invited to establish in the framework of a Community initiative concerning urban areas (URBAN) OJ No C180 p. 6, 1994-07-01 Notice 94/C180/02
4	Notice to the Member States laying down guidelines for operational programmes or global grants which they are invited to propose in the framework of a Community initiative concerning the adaptation of small and medium-sized enterprises to the single market (SMEs INITIATIVE) OJ No C180 p. 10, 1994-07-01 Notice 94/C180/03
5	Notice to the Member States laying down guidelines for the initiative concerning the modernization of the Portuguese textile and clothing industry OJ No C180 p. 15, 1994-07-01 Notice 94/C180/04
6	Notice to the Member States laying down guidelines for the Retex initiative OJ No C180 p. 17, 1994-07-01 Notice 94/C180/05
7	Notice to the Member States laying down guidelines for operational programmes or global grants which Member States are invited to establish in the framework of a Community initiative concerning

	defence conversion (KONVER) OJ No C180 p. 18, 1994-07-01 Notice 94/C180/0
8	Notice to the Member States laying down guidelines for operational programmes or global grants which they are invited to establish in the framework of a Community initiative concerning the economic conversion of steel areas (RESIDER II) OJ No C180 p. 22, 1994-07-01 Notice 94/C180/07
9	Notice to the Member States laying down guidelines for operational programmes or global grants which they are invited to establish in the framework of a Community initiative concerning the economic conversion of coal-mining areas (RECHAR II) OJ No C180 p. 26, 1994-07-01 Notice 94/C180/08
10	Notice to the Member States laying down guidelines for operational programmes which Member States are invited to establish in the framework of a Community initiative concerning the most remote regions (REGIS II) OJ No C180 p. 44, 1994-07-01 Notice 94/C180/11
11	Notice to the Member States laying down guidelines for operational programmes which Member States are invited to establish in the framework of a Community initiative concerning border development, cross-border cooperation and selected energy networks (INTERREG II) OJ No C180 p. 60, 1994-07-01 Notice 94/C180/13
12	Notice to the Member States establishing the list of areas for assistance in the framework of a Community initiative concerning the economic conversion of coal-mining areas (Rechar II) OJ No C337 p. 4, 1994-12-01 Notice 94/C337/04
13	Notice to the Member States establishing the list of areas for assistance in the framework of a Community initiative concerning the economic conversion of steel areas (Resider II) OJ No C338 p. 3, 1994-12-02 Notice 94/C338/03
14	Notice to the Member States establishing the list of areas for assistance in the framework of a Community initiative concerning defence conversion (Konver) OJ No C402 p. 5, 1994-12-31 Notice 94/C402/02
15	Notice to the Member States laying down guidelines for an initiative in the framework of the special support programme for peace and reconciliation in Northern Ireland and the border counties of Ireland OJ No C186 p. 3, 1995-07-20 Notice 95/C186/04
16	Notice to the Member States laying down guidelines for operational programmes which Member States are invited to establish in the framework of a Community initiative concerning border development, cross-border cooperation and selected energy networks (INTERREG II) OJ No C304 p. 5, 1995-11-15 Notice 95/C304/05
17	Notice to the Member States establishing the list of areas eligible for aid under a Community initiative concerning the economic conversion of coal-mining areas (Rechar II) OJ No C330 p. 10, 1995-12-08 Notice 95/C330/04
18	Notice to the Member States establishing the list of areas eligible for aid under a Community initiative concerning the economic conversion of steel areas (Resider II) OJ No C330 p. 10, 1995-12-08 Notice 95/C330/05
19	Notice to the Member States establishing the list of areas eligible for aid under a Community initiative concerning the conversion of the armaments industry (Konver) OJ No C330 p. 11, 1995-12-08 Notice 95/C330/06
20	Communication to the Member States laying down guidelines for operational programmes which Member States are invited to establish in the framework of a Community initiative concerning urban areas (URBAN) OJ No C200 p. 4, 1996-07-10 Notice 96/C200/04
21	Notice 96/C200/07 Communication to the Member States laying down guidelines for operational programmes which Member States are invited to establish in the framework of a Community Interreg initiative concerning the transitional cooperation on spatial planning (INTERREG II C) OJ No C200 p. 23, 1996/07/10
22	397Y0927(02) Notice to the Member States laying down the list of new arcas of France eligible pursuants to the Community initiative concerning the conversion of the defence industry (Konver) OJ No C294 p. 9, 1997/09/27
23	Notice to the Member States laying down the list of new areas of the United Kingdom eligible under the Community initiative concerning the conversion of the defence industry (Konver)

	OJ No C074 10/3/98, p. 8
24	398Y0326(01) Communication from the Commission to the Member States on the links between regional and competition policy REINFORCING CONCENTRATION AND MUTUAL CONSISTENCY Official journal NO. C 090 , 26/03/1998 P. 0003

Annex 7.2.: The timetable of the accession negotiations

Table 1: Progress in the accession negotiations according to the policy chapters

POLICY AREA	ADOPTION OF THE NEGOTIATION POSITION BY THE COUNCIL OF MINISTERS OF POLAND	HANDING OVER OF THE POSITION TO THE EUROPEAN UNION	OPENING OF NEGOTIATIONS	PROVISIONAL CLOSURE OF THE NEGOTIATIONS
1. Free movement of goods	26.01.99	29.01.99	21.06.99	29.03.01
2. Free movement of persons	27.07.99	30.07.99	26.05.00	21.12.01
3. Freedom to provide services	13.07.99	15.07.99	12.11.99	14.11.00
4. Free movement of capital	13.07.99	15.07.99	30.09.99	21.03.02
5. Company law	10.12.98	11.12.98	19.05.99	28.11.01
6. Competition Policy	**26.01.99**	**29.01.99**	**19.05.99**	**20.11.02**
7. Agriculture	09.12.99	16.12.99	14.06.00	13.12.02
8. Fisheries	**11.02.99**	**12.02.99**	**19.05.99**	**10.06.02**
9. Transport Policy	13.07.99	15.07.99	12.11.99	10.06.02
10. Taxation	**19.10.99**	**22.10.99**	**07.12.99**	**21.03.02**
11. Economic and monetary union	26.01.99	29.01.99	30.09.99	07.12.99
12. Statistics	10.12.98	11.12.98	19.04.99	19.04.99
13. Employment and social policy	25.05.99	31.05.99	30.09.99	01.06.01
14. Energy	25.05.99	31.05.99	12.11.99	27.07.01
15. Industrial policy	27.08.98	01.09.98	29.10.98	19.05.99
16. Small and medium-sized enterprises	27.08.98	01.09.98	29.10.98	29.10.98
17. Science and research	27.08.98	01.09.98	29.10.98	29.10.98
18. Education, training and youth	27.08.98	01.09.98	29.10.98	29.10.98
19. Telecommunications and information technologies	27.08.98	01.09.98	29.10.98	19.05.99
20. Culture and audiovisual policy	27.08.98	01.09.98	29.10.98	04.12.00
21. Regional policy and co-ordination of structural instruments	**23.11.99**	**30.11.99**	**06.04.00**	**01.10.02**
22. Environment	05.10.99	08.10.99	07.12.99	26.10.01
23. Protection of consumer and health	10.12.98	11.12.98	19.04.99	19.05.99
24. Justice and Home affairs	05.10.99	08.10.99	26.05.00	30.07.02
25. Customs union	10.12.98	11.12.98	19.05.99	29.03.01
26. External relations	10.12.98	11.12.98	19.05.99	12.11.99
27. Common foreign and security policy	27.08.98	01.09.98	29.10.98	06.04.00

28. Financial control	03.08.99	06.08.99	06.04.00	14.06.00
29. Financial and budgetary provisions	23.11.99	30.11.99	26.05.00	13.12.02
30. Institutions				22.04.02

Source: www.negocjacje.gov.pl

Annex 7.3.: Organizational structure of the funds distribution system

Framework Document	Content	Co-ordinating and Managing Authorities	Source of financing
National Development Plan	Poland's regional policy	Prepared and co-ordinated by the Ministry of Economy, adopted by the Council of Ministers	Domestic funds, co-financing funds, Structural Funds, Cohesion Fund and other
Community Support Framework	Regional policy co-financed by the Structural Funds	CSF Managing Authority: Ministry of Economy	Structural funds + description of Cohesion Fund, domestic co-financing
SOP Improvement Competitiveness of the Economy	R&D sector, Innovation, Industry and services (trade) Promotion of investments Promotion of exports Domestic activities – tourism and cultural heritage	Ministry of Economy	ERDF, domestic co-financing
SOP Human Resources Development	Education Long-life learning Fighting unemployment	Ministry of Labour and Social Policy	ESF, domestic co-financing
SOP Restructuring and Modernisation of Agriculture and Development of the Rural Areas	Creation of jobs outside agricultural sector Modernisation of food sector's manufacturing potential Investment in farms	Ministry of Agriculture and Rural Development	EAGGF – Guidance Section, domestic co-financing
SOP Fisheries and fish processing industry	Modernisation of fishing fleet Modernisation of fish processing industry Other activities in fishery-dependant coastal zone	Ministry of Agriculture and Rural Development	FIFG, domestic co-financing
SOP Transport	Domestic transport infrastructure (domestic roads, bridges, ring roads, agglomeration problems)	Ministry of Infrastructure	ERDF, domestic co-financing

		Integrated Regional Development Operational Programme (composed of 16 sub-programmes)	Regional and local activities in the areas: 1) technical and social infrastructure 2) entrepreneurship promotion, support for SMEs 3) activities supplementary to domestic activities related to human resources development and education 4) tourism and cultural heritage	Ministry of Economy (some management functions delegated to the voivod and marshal offices)	ERDF, ESF EAGGF – Guidance section, domestic co-financing : central, local self-government units, other
		Technical Support	Support for programmes' preparation and implementation	Ministry of Economy	ERDF
	Cohesion Fund		Spatial cohesion of Europe, support for large Europe-wide projects	coordination - Ministry of Economy	Cohesion Fund, domestic co-financing
		Environmental Protection	Large environmental projects	Ministry of Environment	Cohesion Fund, domestic co-financing
		Transport	Trans-European networks (roads, railroads)	Ministry of Infrastructure	Cohesion Fund, domestic co-financing
	Community Initiatives		Variety of structural activities essential for the whole EU	Co-ordinated by the European Commission and the Managing Authority responsible for CSF – Ministry of Economy	ERDF, EAGGF, ESF
		LEADER	Rural development	Ministry of Agriculture and Rural Development	EAGGF – Guidance section
		URBAN	Social and economic restructuring of urban areas	Ministry of Infrastructure (Housing and Urban Development Office)	ERDF
		INTERREG	Cross-border co-operation, co-operation between towns and regions and in the area of spatial planning	Ministry of Economy	ERDF
		EQUAL	Promotion of equal opportunities on the labour market	Ministry of Labour and Social Policy	ESF

Source: National Development Plan for 2004-2006

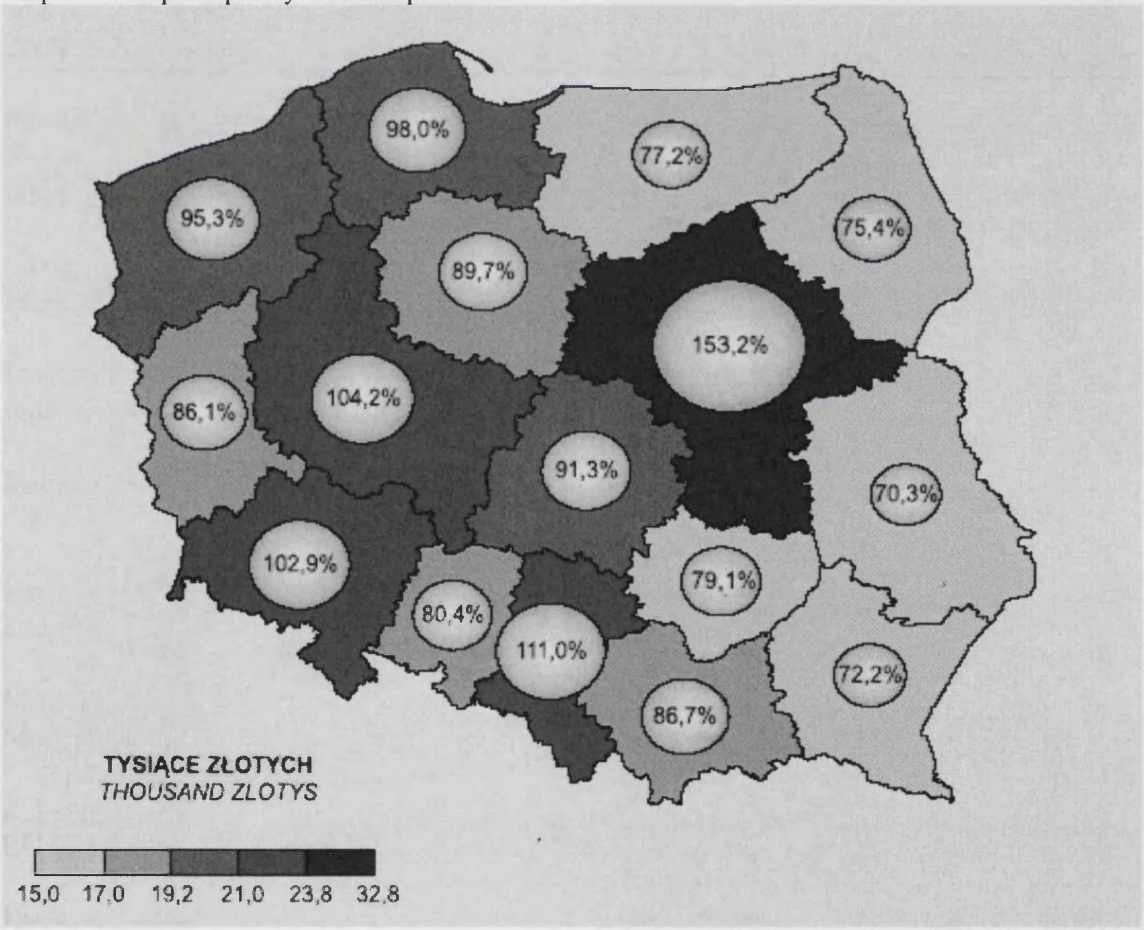
Annex 7.3.: Regional diversity in Poland

Table 1: Regional Disparities in the EU 25 in 2003 (in PPS, EU 25=100)

The ten highest GDP regions			The ten lowest GDP regions		
1	Inner London (UK)	278	1	Lubelskie (PL)	33
2	Bruxelles-Capitale (BE)	238	2	Podkarpackie (PL)	33
3	Luxembourg	234	3	Podlaskie (PL)	36
4	Hamburg (DE)	184	4	Świętokrzyskie (PL)	37
5	Ile de France (FR)	173	5	Warmińsko-Mazurskie (PL)	37
6	Wien (AT)	171	6	Opolskie (PL)	37
7	Berkshire, Buckinghamshire&Oxfordshire UK)	165	7	Eszak Magyaroszag (HU)	38
8	Provincia Autonoma Bolzano (IT)	160	8	Vychodne Slovensko (SK)	39
9	Oberbaryern (DE)	158	9	Eszag-Alfold (HU)	39
10	Stockholm (SE)	158	10		40

Source: Eurostat 63/2006

Graph 1: GDP per capita by voivodships in 2003



Source: GUS 2006

LIST OF INTERVIEWS

Stephanie la Barth - European Commission, Delegation to Poland, Phare Task Manager – Interview in May 2003

Artur Bartoszewicz - adviser on EU affairs of the Polish Confederation of Private Employers "Lewiatan" - Interview in December 2005

Casto Lopez Benitez - European Commission, DG Fisheries – Interview in October 2003

Kazimierz Dettlaff – the President of the Fish Producers Organization in Władysławowo – Interview in September 2008

Peter Droell – Member of Poland's Team in the European Commission, DG Enlargement – Interview in October 2003

Marta Garcia-Fidalgo - European Commission, DG Enlargement – Interview in October 2003

Paweł Graś - the Key Expert in Fisheries from the Department of Support of Accession Negotiations in the Office of the Committee of European Integration - Interview in May 2003

Grzegorz Gruca - the Board Member of Polish Humanitarian Action (NGO) - Interview in March 2006.

Justyna Janiszewska – the Secretary General of the Grupa Zagranica (NGO) – Interview in April 2006

Małgorzata Kałużyńska - the Director of the Regulations Department (in 2006–2008) in the Ministry of Economy – Interview in August 2008.

Lech Kempczyński - Director of the Department of Fisheries in the Ministry of Agriculture and Rural Development in May 2003 – Interview in May 2003

Michał Kulesza – the Government Plenipotentiary for the Territorial Reform – Interview in May 2003

Arkadiusz Lewicki – the Adviser to the President of the Polish Banks Association on the EU affairs – Interview in December 2006

Jarosław Mulewicz - the Member of the Establishers' Board of BCC, member of the Economic and Social Committee of the European Union - Interview in March 2006.

Piotr Necel - the President of the Association of Maritime Fishermen, President – Interview in September 2008

Tomasz Nowakowski - the Director of the Department of Support for the Committee of European Integration (in 2001–2004) at the Office of the Committee of European Integration – Interview in September 2008.

Jerzy Safader - the President of the Polish Association of Fish-processing Industry – Interview in August 2008

Patrycja Sawicz - the Political Advisor to the Secretary of State in charge of Fisheries at the Ministry of Agriculture and Rural Development - Interview in March 2006.

Piotr Serafin - Interview with the Director of the Analytical Unit in the Department of Support for Accession Negotiations -Interview in March 2006.

Jerzy Skiba – the President of the National Association of Tobacco Producers – Interview in September 2008

Justyna Stępień – the PR Director of the Polish Humanitarian Action (NGO) – Interview in April 2006

Dirk Swillens - PHARE Country co-ordinator & National programmes EU Commission, Enlargement, Directorate A – Interview in October 2003

Anna Tuz – the Deputy Director of the Department of Social Communication and European Information in the Office of the Committee for European Integration – Interview in May 2003

Piotr Żuber – the Director of Department of Co-ordination of Structural Policy in the Ministry of Economy – Interview in May 2003

Zbigniew Żurek - with the Deputy President of BCC and from March 2006 with a member of the Establishers' and Organizers' Board of BCC, member of the Economic and Social Committee of the European Union – Interview in January 2006

BIBLIOGRAPHY

(1963). Act of 21 May 1963 on sea fishery. O.J. 1963.22.114-115.

(1976). Council Resolution of 3 November 1976 on certain external aspects of the creation of a 200-mile fishing zone in the Community with effect from 1 January 1977 O. J. C 105 , 07/05/1981.

(1977). Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes - Common system of value added tax: uniform basis of assessment. OJ L 145, 13.6.1977: 0001 - 0040.

(1984). Regina v Kent Kirk Reference for a preliminary ruling: Crown Court, Newcastle-upon-Tyne - United Kingdom. - Reference for a preliminary ruling - Sea fisheries - National measure restricting access. Case-63/83, European Court of Justice.

(1986). Asociación Profesional de Empresarios de Pesca Comunitarios (Apesco) v Commission of the European Communities. - Fisheries - System of lists introduced by the Act of Accession of Spain and Portugal to the European Communities - Discrimination. Case-207/86, European Court of Justice.

(1986). Commission Decision No 2064/86/ECSC of 30 June 1986 establishing Community rules for State aid to the coal industry O J L 177 , 01.07.1986: 0001 - 0009.

(1987). Completing the Internal Market - the introduction of a VAT clearing mechanism for a VAT clearing mechanism for intra-Community sales, Working Document from the Commission. COM(87)323final. OF 05/08/87.

(1987). Proposal for a Council Directive completing and amending Directive 77/388/EEC Removal of fiscal frontiers COM(87)322final. OJ C 252, 22.9.1987.

(1989). Council Regulation (EEC) No 3906/89 of 18 December 1989 on economic aid to the Republic of Hungary and the Polish People's Republic

(1990). Act of 8 March 1990 on the Local Government. O.J. 1990.16.95.

(1990). Act of 24 February 1990 on combating monopolistic practices. OJ 1997.49.318 with amendments

(1991). Act of 12 January 1991 on local taxes and fees, . O.J. 1991.9.31 as amended.

(1991). Act of 21 March 1991 on the Maritime Territory and Maritime Administration of the Republic of Poland. O. J. 1991.32.131.

(1991). Act on State Treasury control. O.J. 1991.76.442, as amended.

(1991). Council Directive 91/680/EEC of 16 December 1991 supplementing the common system of value added tax and amending Directive 77/388/EEC with a view to the abolition of fiscal frontiers. OJ L 376, 31.12.1991: 1-19

(1991). Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Poland, of the other part, from 16 December 1991.

(1992). Act on regional settlement chambers. O.J. 1992.85.428, as amended.

(1992). Council Directive 92/12/EEC of 25 February 1992 on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products. OJ L 76, 23.3.1992: 1-13.

(1992). Council Directive 92/77/EEC of 19 October 1992 supplementing the common system of value added tax and amending Directive 77/388/EEC (approximation of VAT rates). OJ L 316, 31.10.1992: 1–4.

(1992). Council Directive 92/79/EEC of 19 October 1992 on the approximation of taxes on cigarettes. OJ L 316, 31.10.1992: 8-9

(1992). Council Directive 92/80/EEC of 19 October 1992 on the approximation of taxes on manufactured tobacco other than cigarettes. OJ L 316, 31.10.1992: 10-11.

(1992). Council Directive 92/111/EEC of 14 December 1992 amending Directive 77/388/EEC and introducing simplification measures with regard to value added tax. OJ L 384, 30.12.1992: 47-57.

(1992). Council Regulation (EEC) No 3759/92 of 17 December 1992 on the common organization of the market in fishery and aquaculture products. O. J. L 388, 31.12.1992

(1992). Council Regulation (EEC) No 3760/92 of 20 December 1992 establishing a Community system for fisheries and aquaculture OJ L 389 31.12.1992

(1992). Treaty on European Union, Consolidated Version. Official Journal C 191 of 29 July 1992

(1993). Act of 8 January 1993 on tax on goods and services and excise Duty. O.J. 1993.11.50.

(1993). Act of 16 April 1993 on combating unfair competition. O. J. 1993.47.211.

(1993). Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy. OJ L 261 20.10.93 1.

(1994). Act of 10 June 1994 on public procurement. O.J. 1994.76.344, as amended.

(1994). Act of 20 October 1994 on the Special Economic Zones. O.J. 1994.123.600, as amended.

(1994). Council Regulation (EC) No 1164/94 of 16 of May 1994 establishing a Cohesion Fund. OJ L 130, 25.5.1994: 1-13.

(1995). Act of 5 January 1995 on subsidizing interest on some bank loans. O. J. 1995.13.60.

(1995). Act on employment and counteracting unemployment. O.J. 1995.1.1, as amended.

(1995). Act on the Supreme Control Chamber. O.J. 1995.13.59, as amended.

(1995). Council Directive 95/59/EC of 27 November 1995 on taxes other than turnover taxes which affect the consumption of manufactured tobacco. OJ L 291, 06.12.1995: 0040-0045.

(1996). Act of 8 August 1996 on the Committee of European Integration. O.J. 96.106.494 amended by O.J. 01.154.1800.

(1996). A Common System of VAT: a programme for the Single Market. COM(96)328 final.

(1996). Council Regulation (EC) No 2406/96 of 26 November 1996 laying down common marketing standards for certain fishery products O. J. L 334 , 23.12.1996

(1996). Data Delecta Aktiebolag and Ronny Forsberg v MSL Dynamics Ltd., Reference for a preliminary ruling: Högsta Domstolen - Sweden. Case C-43/95, European Court of Justice.

(1996). Description of the General Principles, Commission Services technical note. XXI/1156/96.

(1996). Law of 18 January 1996 on Maritime Fisheries. O.J. 1996.34.145.

(1997). Commission Communication on the method of application of Article 92 (3)(a)(c) of the EC Treaty to national regional aid OJ C 198, 28.6.1997.

(1997). Community framework for State aid to motor vehicle industry. OJ C 279, 15.09.1997.

(1997). The Constitution of the Republic of Poland. O.J. 1997.78.483.

(1997). Resolution of the Council and the Representatives of the Governments of the Member States, Meeting within the Council of 1 December 1997 on a code of conduct for business taxation. OJ C 2 6.1.98.

(1997). Resolution of the Council of Ministers No. 13 from 25 February 1997 on the rules of work of the Council of Ministers. M.P. 1997.15.144.

(1997). Treaty of Amsterdam amending the Treaty on European Union, the Treaties establishing the European Communities and related acts. O J C 340, 10 November 1997.

(1997). Zarządzenie nr 3 Przewodniczącego Komitetu Integracji Europejskiej z dnia 9 września 1997 r. w sprawie powołania Rady ds. Strategii Informacyjnej.

(1998). Act of 5 June 1998 on Voivodship self-government. O.J. 1998.91.576, as amended.

(1998). Act of 18 December 1998 on amendment of the act on the governmental departments. O.J. 1998.162.1122.

(1998). Act of 26 November 1998 on income of territorial self-government units. O.J. 1998.150.983, as amended.

(1998). Act of 26 November 1998 on public finance. O.J. 1998.155.1014 as amended.

(1998). Act on government administration in the voivodship. O.J. 1998.91.577.

(1998). Commission Notice on the application of the State aid rules to measures relating to direct business taxation. OJ C 384, 10.12.1998: 3-9.

(1998). Council Regulation (EC) No 994/98 of 7 May 1998 on the application of Articles 92 and 93 of the Treaty establishing the European Community to certain categories of horizontal State aid O J L 142, 14.05.1998: 1-4

(1998). Euroregiony bez tajemnic. Prawo i gospodarka.

(1998). Information from the Commission - Guidelines on national regional aid. OJ C 74, 10.3.1998: 9-18

(1998). Ordinance of the Minister of Finance of 16 December 1998 on excise duty. O. J. 1998.157.1035.

(1998). Rozporządzenie Rady Ministrów z dnia 24 marca 1998 r. w sprawie ustanowienia Pełnomocnika Rządu do Spraw Negocjacji o Członkowstwo Rzeczypospolitej Polskiej w Unii Europejskiej. O. J. 98.39.225.

(1998). Uchwała Zespołu Negocjacyjnego do Spraw Negocjacji o Członkowstwo Rzeczypospolitej Polskiej w Unii Europejskiej z dnia 5 maja 1998 roku w sprawie ustalenia regulaminu pracy Zespołu Negocjacyjnego do Spraw Negocjacji o Członkowstwo Rzeczypospolitej Polskiej w Unii Europejskiej.

(1998). V Regional Forum, Warsaw, 4 September 1998.

(1998). Wystapienie Jana Kulakowskiego, Sekretarza Stanu w Kancelarii Prezesa Rady Ministrow, Pelnomocnika Rzadu ds. Negocjacji o Czlonkowstwo Rzeczypospolitej Polskiej w

Unii Europejskiej. 8 posiedzenie Senatu RP. Warszawa, Monitor Integracji Europejskiej nr. 18, 1998.

(1998). Zarządzenie Prezesa Rady Ministrów z dnia 27 marca 1998 r. w sprawie Zespołu Negocjacyjnego w Sprawie Negocjacji o Członkowstwo Rzeczypospolitej Polskiej w Unii Europejskiej. P-121-19-98.

(1999). Act of 20 November 1999 amending the Act on Tax on Goods and Services and Excise Duty. O.J. 1999.95.1100.

(1999). Council Regulation (EC) No 1266/1999 on coordinating aid to the applicant countries in the framework of the pre-accession strategy and amending Regulation (EEC) No 3906/89.

(1999). Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty. OJ L 83, 27.3.1999: 1-9.

(1999). Council Regulation (EC) No 1257/1999 of 17 May 1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) and amending and repealing certain Regulations. OJ L 160, 26.6.1999: 80–102

(1999). Council Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds. OJ L 161, 26.6.1999: 1-42.

(1999). Council Regulation (EC) No 1264/1999 of 21 June 1999 amending Regulation (EC) No 1164/94 establishing a Cohesion Fund. OJ L 161, 26.6.1999: 57-61.

(1999). Council Regulation (EC) No 1447/1999 of 24 June 1999 establishing a list of types of behaviour which seriously infringe the rules of the common fisheries policy. O C L 167,2. 7. 1999.

(1999). Council Regulation (EC) No 2792/1999 of 17 December 1999 laying down the detailed rules and arrangements regarding Community structural assistance in the fisheries sector(amended by Regulation (EC) No 179/2002) O.J. L 337, 30.12.1999 10

(2000). Act of 15 December 2000 on competition and consumer protection. O J 2000.122.1319 as amended.

(2000). Act of 16 November 2000 on amendment of the act on the special economic zones. O.J. 2000.117.1228.

(2000). The Act of 20 July 2000 on amendment of the act on the value added tax, excise tax and fiscal fees. O. J. 2000.68.805.

(2000). Act of 26 October 2000 on the method of calculating the value of the annual gross domestic product. O.J. 2000.114.1188.

(2000). Act of 30 June 2000 on the conditions for admissibility and supervising of state aid for entrepreneurs. O.J. 2000.60.704.

(2000). Commission Regulation (EC) No 1924/2000 of 11 September 2000 laying down detailed rules for the application of Council Regulation (EC) No 104/2000 as regards the grant of specific recognition to producers' organizations in the fisheries sector in order to improve the quality of their products. O. J. L 230, 12.9.2000.

(2000). Council Regulation (EC) No 104/2000 of 17 December 1999 on the common organization of the markets in fishery and aquaculture products O. J. L 17, 21.1.2000.

(2000). Law of 12 May 2000 on the principles of support for regional development. O.J. 2000.48.550.

(2000). Law of 13 October 2000 on amendment of the law on financing of territorial self-government O J 2000.95.1041.

(2000). Ordinance of 13 July 2000 on implementation of Territorial Unit Nomenclature for Statistical Purposes (NTS). O.J. 2000.58.685.

(2000). Ordinance of the Council of Ministers of 1 August 2000 on the public statistical research programme. O.J. 2000.79.888.

(2000). Ordinance of the Ministry of Regional Development and Construction (MRRiB) of 17 August 2000 on the mode of appointment of the social and economic partners' representation. O.J. 2000.68.810.

(2000). Sejm o Integracji Europejskiej. Warszawa, Kronika Sejmowa Nr 108 (412) III kadencja.

(2000a). Uchwała Sejmu Rzeczypospolitej Polskiej w sprawie przygotowań do członkostwa Rzeczypospolitej Polskiej w Unii Europejskiej. Monitor Polski Nr 6, poz. 124.

(2000b). Uchwała Komisji Spraw Zagranicznych i Integracji Europejskiej Senatu Rzeczypospolitej Polskiej z dnia 31 marca 2000 r. w sprawie
przygotowań do członkostwa Rzeczypospolitej Polskiej w Unii Europejskiej.

(2001). Act on the Tripartite Commission for the Socio-Economic Matters and the voivodship commissions of social dialogue. O.J. 100.1080.154.

(2001). Commission Regulation (EC) No 438/2001 of 2 March 2001 laying down detailed rules for the implementation of Council Regulation (EC) No 1260/1999 as regards the management and control systems for assistance granted under the Structural Funds. OJ L 63, 3.3.2001: 21-43.

(2001). Commission Regulation (EC) No 448/2001 of 2 March 2001 laying down detailed rules for the implementation of Council Regulation (EC) No 1260/1999 as regards the procedure for

making financial corrections to assistance granted under the Structural Funds. OJ L 64, 6.3.2001: 13-15.

(2001). Law of 6 September 2001 on Maritime Fisheries. O.J. 2001.129.1441.

(2001). Ordinance of the Council of Ministers of 20 February 2001 on the regional assistance for enterprises. O.J. 2001.28.306.

(2002). Act of 10 October 2002 on fish market organization and amendment of the maritime fisheries law. O.J.2002.181.1514.

(2002). Act of 27 July 2002 on conditions of admissibility and monitoring of state aid to enterprises O J 2002.141.1177

(2002). Action brought on 3 December 2002 by the Commission of the European Communities against the Republic of Finland. Case C-437/02, ECJ.

(2002). Action brought on 11 September 2002 by the Commission of the European Communities against Ireland. Case C-317/02, ECJ.

(2002). Action brought on 24 July 2002 by the Commission of the European Communities against the Kingdom of Sweden. Case C-271/02, ECJ.

(2002). Council Directive 2002/10/EC of 12 February 2002 amending Directives 92/79/EEC, 92/80/EEC and 95/59/EC as regards the structure and rates of excise duty applied on manufactured tobacco. OJ L 46, 16.2.2002: 26-28.

(2002). Council Regulation (EC) 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy.

(2002). Council Regulation (EC) No 2369/2002 of 20 December 2002 amending Regulation (EC) No 2792/1999 laying down the detailed rules and arrangements regarding Community structural assistance in the fisheries sector. O J L 358 31.12.2002: 49.

(2002). Council Regulation (EC) No 2370/2002 of 20 December 2002 establishing an emergency Community measure for scrapping fishing vessels. OJ L 358 31.12.2002: 57.

(2002). Ordinance of the Council of Ministers of 5 February 2002 on the enactment of the Common Commission of the Territorial Self-government and Government OJ 2002.13.124

(2002). Resolution of the Council of Minister No 49 from 19 March 2002 on the rules of work of the Council of Ministers. M.P.2002.13.221

(2003). Act of 2 October 2003 on amendment of the act on the special economic zones. O.J. 2003.188.1840.

(2003). Action brought on 29 July 2003 by the Commission of the European Communities against the Portuguese Republic. Case C-332/03, ECJ.

(2003). Community Support Framework 'Promoting economic growth and an environment for job creation'. Brussels-Warsaw, Council of Ministers.

(2004). Act of 11 March 2004 on tax on goods and services and excise duties. O.J. 2004.54.535.

(2004). Act of 24 May 2004 on the National Development Plan. O.J. 2004.116.1206.

(2004). Act of 29 January 2004 on Public procurement rules. O.J. 2004.19.177.

(2004). Act of 30 April 2004 on proceeding with matters related to State aid O.J. 2004.123.1291.

(2004). Act on fishery. O. J. 2004.62.573-574: 3647.

(2004). Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty. OJ L 140, 30.04.2004: 1-134.

(2004). Ordinance of the Minister of Agriculture and Rural Development of 11 August 2004 on the Sectoral Operational Programme "Fisheries and Fish-processing for 2004-2006". O. J. 2004.197.2027

(2006). Council Regulation (EC) No 1198/2006 of 27 July 2006 on the European Fisheries Fund. O J L 223 15.8.2006.

(2007). Commission Regulation (EC) No 804/2007 of 9 July 2007 establishing a prohibition of fishing for cod in the Baltic Sea (Subdivisions 25-32, EC Waters) by vessels flying the flag of Poland. O. J. L 180 10.7.2007.

(2007). Directive of the Minister of Maritime Economy from 31 July 2007 on appointment of the Maritime Economy Team. O. J. of the Ministry of the Maritime Economy from 1 October No. 2 issue 4.

(2007). Poland v Commission. Case T-379/07, ECJ.

Abbott, K. W. and D. Snidal (2000). "Hard and Soft Law in International Governance." International Organizations 54(3): 421-56.

Ambroziak, A. (2003). Problem udzielania pomocy publicznej w Specjalnych Strefach Ekonomicznych w ramach negocjacji Polski o członkowstwo w UE, (ed.), '', : . Okresy przejściowe w Traktacie o przystąpieniu Polski do Unii Europejskiej. E. Kawecka-Wyrzykowska. Warszawa, Katedra Integracji Europejskiej, SGH.

Anon. (1991). Revised Forecast. Presentation on Eastern Europe. http://www.pmdocs.com/PDF/2500058044_8090.PDF. June 6, 1991.

Apanowicz, P. (2001). Najwazniejsze jest rozpoznanie. Rzeczpospolita. Warszawa. 123(5896): B8.

Apanowicz, P. (2002). Byliśmy dobrze przygotowani do negocjacji. Rzeczpospolita. Warszawa: 29.07.02.

Arato, A. (1991). Social Theory, Civil Society, and the Transformation of Authoritarian Socialism. Crisis and Reform in Eastern Europe. A. Arato and F. Feher. New Brunswick, Transaction Publishers.

Armstrong, H. and P. Taylor (2000). Regional Economics and Policy, 3rd edition. Oxford, Blackwell Publishers.

Armstrong, H. W. (1978). "Community Regional Policy: A Survey and Critique." Regional Studies 12(5).

Artis, M. and S. Ostry (1986). International economic policy coordination. London Routledge & Kegan Paul : Royal Institute of International Affairs.

Avery, G. (1995). "The Commission's Perspective on the EFTA Accession Negotiations." SEI Working Paper No. 12.

Avery, G. (2003). Lessons and Consequences of EU Enlargement.

Bachtler, J. (1997). Instrumenty Polityki Rozwoju Regionalnego. Ekspertyza [Regional development policy instruments in the European Union. An expert report]. Warszawa, Task Force for Structural Policy in Poland.

Baka, W. (1992). Polska reforma gospodarcza. Warszawa, Panstwowe Wydawnictwo Ekonomiczne.

Balcerowicz, L. (1992). 800 Dni. Szok Kontrolowany. Warszawa, Polska Oficyna Wydawnicza "BGW".

Banasiński, C., T. Bińczycka-Majewska, et al. (2003). Costs and Benefits of Poland's Membership in the European Union. Warsaw, Centrum Europejskie Natolin.

Bannerman, E. (2002). The Future of EU Competition Policy. London, Centre for European Reform.

Barkas, M. (2000). Chcą zwrócić uwagę rządu, Rybacy na redach Kurier Szczeciński. Szczecin. 25.09.2000.

Barnes, I. and C. Randerson (2006). "EU enlargement and the effectiveness of conditionality: keeping the deal?" Managerial Law 48(4): 351-65.

Barro, R. J. and X. Sala-i-Martin (1999). Economic Growth. The MIT Press.

Bauer, P. T. (2000). From Subsistence to Exchange and Other Essays. Princeton, Princeton University Press.

Berkowska, E. (2008). "Wspólna Polityka Rybołówstwa a potrzeby i oczekiwania polskiego sektora rybołówstwa." Analizy BAS 4(4): 2-6.

Bernhard, M. (1996). "Civil Society after the First Transition: Dilemmas of Post-communist Democratization in Poland and Beyond." Communist and Post-Communist Studies 29(3): 309-330.

Bielecki, J. (2002). Polska-UE Specialne Strefy Ekonomiczne, Ustępstwa z obu stron. Rzeczpospolita. Warszawa: 23 maja 2002.

Bilal, S. and P. Nicolaides (1999). Understanding state Aid Policy in the European Union. perspectives on Rules and Practice. Netherlands, European Institute of Public Administration.

Blewąska, J. (2006). Co czeka specjalne strefy ekonomiczne? Gazeta Wyborcza. Warszawa: 06.02.2006.

Boeckhout, S., L. Boot, et al. (2002). Key indicators for Candidate Countries to Effectively Manage the Structural Funds. Rotterdam, NEI Regional and Urban Development.

Bolkestein, F. (2001). The future of European tax policy. Tax Policy in the European Union, Rotterdam, 18.10.2001, Speech/01/470.

Börzel, T. and T. Risse (2000). "When Europe Hits Home: Europeanization and Domestic Changes." European Integration Online Papers (EIoP) 4(15).

Börzel, T. A. (2003). Environmental Leaders and Laggards in Europe: Why there is (not) a 'Southern Problem'. Aldershot, UK, Ashgate.

Börzel, T. A. and T. Risse (2003). Conceptualising the Domestic Impact of Europe. The Politics of Europeanization. K. Featherstone and C. Radaelli. Oxford, Oxford University Press.

Bronk, R. (2002). "Commitment and Credibility, EU Conditionality and Interim Gains." EI Working Paper, London: European Institute, LSE.

Brown, J. (2006). Fishing Capacity Management in the EU post 2002 CFP Reform. London, IEEP.

Buchanan, J. (1975). The Samaritan's dilemma. Altruism, Morality, and Economic Theory. E. Phelps. New York, Russel Sage Foundation: pp. 71-85.

Burnside, C. and D. Dollar (1997). "Aid, Policies, Growth." Washington, DC: World Bank; Policy Research Working Paper 1(777).

Burnside, C. and D. Dollar (1998). Aid, the Incentive Regime, and Poverty Reduction. Working Paper, Macroeconomics and Growth Group, World Bank.

Caporaso, J. A. and D. P. Levine (1992). Theories of political economy. Cambridge, Cambridge University Press.

CASE (2004). The Comparative Analysis of State Aid and Government Policy in Poland, Hungary and the Czech Republic Warsaw, Center for Social and Economic Research.

Castle, M. and R. Taras (2002). Democracy in Poland. Colorado, Oxford, Westview Press.

CBOS (2002). Poparcie dla Integracji Polski z Unia Europejska. Komunikat z Badań. Warszawa, Centrum Badania Opinii Spolecznej.

CBOS (2004). Zaufanie w Sferze Publicznej i Prywatnej. Komunikat z Badań. Warszawa, Centrum Badania Opinii Społecznej.

CBOS, (2005). Polska, Europa, Świat. Warszawa, Wydawnictwo Naukowe SCHOLAR.

Checkel, J. T. (2000). "Compliance and Conditionality." Arena Working paper WP 00/18.

Chrzan, M. and K. Niklewicz (2007). Bruksela nadal nam nie pozwala łowić dorsza. Gazeta Wyborcza. 26.09.2007.

Club of Investors in the Special Economic Zones (2002). Investment conditions in the SEZ – Letter to the Under-secretary of State Jarosław Pietras, Warsaw, 28 March 2002

Cnossen, S. (2003). Special Report, Cigarette taxation: issues for EU accession countries. International Tax & Investment Center and Oxford Economic Forecasting November 2003.

Collier, P. (1997). The Failure of Conditionality. Perspectives on Aid and Development. E. Berg, M. Bruno, M. Collier, M. Ravallion and L. Squire. Washington, DC, Overseas Development Council.

Collier, P., D. Dollar, et al. (2000). Fifty Years of Development, World Bank.

Conference on Accession (1998). European Union general position for the Accession Conference with Poland. CONF-PL 2/98.

Conference on Accession (1999). European Union Common Position, Chapter 6: Competition Policy, 12 May 1999. CONF-PL 18/99.

Conference on Accession (1999a). European Union Common Position, Chapter 10: Taxation, 30 November 1999. CONF-PL 57/99.

Conference on Accession (1999b). European Union Common Position Chapter 8: Fisheries, 15 April 1999. CONF-PL 10/99.

Conference on Accession (2000). European Union Common Position Chapter 21: Regional Policy and coordination of structural instruments, 22 March 2000. CONF-PL 13/00.

Conference on Accession (2000a). European Union Common Position Chapter 21 (Replaces doc. 200088/00 CONF-PL 13/00), 1 December 2000. CONF-PL 75/00.

Conference on Accession (2000b). Draft European Union Common Position Chapter 6: Competition Policy, 28 January 2000. 5722/00.

Conference on Accession (2000c). European Union Common Position Chapter 6: Competition Policy, 7 February 2000. CONF-PL 5/00.

Conference on Accession (2000c). European Union Common Position, Chapter 10: Taxation, 27 September 2000. CONF-PL 57-00.

Conference on Accession (2000d). European Union Common Position Chapter 8: Fisheries (Replaces doc 20065/99 CONF-PL 10/99), 4 October 2000. CONF-PL 60/00.

Conference on Accession (2001). European Union Common Position Chapter 6: Competition Policy, 21 November 2001. CONF-PL 102/01.

Conference on Accession (2002). European Union Common Position, Chapter 10: Taxation, 7 March 2002. CONF-PL 13/02.

Convent of Marshals (2006). Stanowisko w sprawie utrzymania dotychczasowego systemu dotacji inwestycyjnych dla MSP. Lublin

Copenhagen Economics (2007). Study on reduced VAT applied to goods and services in the Member States of the European Union, Final report, European Commission DG TAXUD, 6503.

Council of Europe (1985). European Charter of Local Self-government. European Treaty Series No. 122. Strasbourg.

Council of Ministers (1996). Rozwój Regionalny Polski 1990-1995, Raport Diagnostyczny. Warszawa, Zespół Zadaniowy ds. Polityki Regionalnej w Polsce.

Council of Ministers (1999). Poland's Negotiation Position in the area of "Competition Policy", CONF-PL 2/99.

Council of Ministers (1999). Stanowisko Negocjacyjne w obszarze "Polityka regionalna i koordynacja instrumentow strukturalnych", CONF-PL 58/99.

Council of Ministers (2000). Odpowiedz na Wspolne Stanowisko Negocjacyjne Unii Europejskiej w obszarze "Polityka regionalna i koordynacja instrumentow strukturalnych", CONF-PL 43/00.

Council of Ministers (2002). The Report on the Results of the Negotiations about Poland's Membership in the European Union. Warsaw, December 2002.

Cox, T. M. and B. Mason (2000). "Interest Groups and the Development of Tripartism in East Central Europe." European Journal of Industrial Relations 6(3): 325-347.

CPB Netherlands Bureau of Economic Policy Analysis (2002). Funds and Games, the Economics of European Cohesion Policy.

Cremona, M. (2003). The Enlargement of the European Union. Oxford, Oxford University Press.

Cunningham, S. and T. Bostock (2005). Successful Fisheries Management. Delft, Eburon Academic Publishers.

Dahrendorf, R. (1990). Reflections on the Revolutions in Europe. London, Chatto&Winds.

de la Fuente, A. (2000). Convergence across countries and regions: theory and empirics. European Investment Bank Conference on Economics and Finance: Regional development policy and convergence in the EU., Unitat de Fonaments de l'Analisis Economica, , Departament d'Economia i Historia Economica Universitat Autonoma de Barcelona.

de Tocqueville, A. (1998). Democracy in America. Hertfordshire, Wordsworth Etitions Limited.

Dehejia, V. H. and P. Genschel (1998). "Tax Competition in the European Union." MPIfG Discussion Paper 98(3).

Diamond, L. (1996). Toward Democratic Consolidation. The Global Resurgence of Democracy. L. Diamond and M. F. Plattner. Baltimore and London, John Hopkins University Press.

Diamond, L. and M. F. Plattner (1996a). The Global Resurgence of Democracy. Baltimore, The Johns Hopkins University Press.

Diaz, A. C. F. (1984). "IMF Conditionality: What Kind?" PIDE Tidings(January-February): 7-9.

Dinan, D. (1994). Ever Closer Union. London, Lynne Rienner Publishers Inc.

Dobbin, F. (1994). Forging Industrial Policy: The United States, Britain and France in the Railway Age. New York, Cambridge University Press.

Dollar, D. and J. Svensson (2000). "What Explains the Success or Failure of Structural Adjustment Programs." Economic Journal 110(October): pp. 894-917.

Domański, M., A. Tomaszewski, et al. (2001). Ekspertyza dotycząca 5-letniego okresu przejściowego w odniesieniu do art. 2 dyrektywy Rady 92/79/EWG w celu stosowania minimalnego udziału podatku akcyzowego niższego niż 57% maksymalnej ceny detalicznej papierosów. Gdańsk, Instytut Badań nad Gospodarką Rynkową.

Donigiewicz, A. (2004). Informacja o wynikach kontroli przygotowania polskiego rybołówstwa morskiego do integracji z Unią Europejską. Szczecin, Najwyższa Izba Kontroli,.

Drazen, A. (2001). Conditionality and Ownership in IMF Lending: A Political Economy Approach. Second Annual IMF Research Conference, Washington, DC.

Dreher, A. (2002). "The Development and Implementation of IMF and World Bank Conditionality." HWWA Discussion Paper, Hamburg Institute of International Economics.

Druckman. D. (1978). Boundary Role Conflict: Negotiation as Dual Responsiveness. The Negotiation Process: Theories and Applications. W. Zartman. Beverly Hills, Sage.

Dunin-Wasowicz, M. (2004). Europe and the Fifth Enlargement. Warsaw, Wyzsza Szkola Handlu i Finansow Miedzynarodowych.

Dziennik Bałtycki (2007). Rybacy blokowali port w Gdyni, a Komisja i tak nie zmieni decyzji w sprawie dorsza. 18.09.2007. Gdańsk.

Dziennik Bałtycki (2007a). Zastępca dyrektora do spraw naukowych Morskiego Instytutu Rybackiego w Gdyni Zbigniew Karnicki podał się do dymisji. 26 września 2007. Gdańsk.

Easterly, W. (2001). The Elusive Quest for Growth: Economists' Adventures and Misadventures in the Tropics. Cambridge, MA, MIT Press.

Easterly, W. (2006). The White Man's Burden: Why the West's Efforts to Aid the Rest Have Done So Much Ill and So Little Good. New York, Penguin Press HC.

Edmondson, R. (1997). Introduction: the context of collective political action. The Political Context of Collective Action: Power, Argumentation and Democracy. R. Edmondson. London, Routledge.

Edmondson, R. (1997). The Political Context of Collective Action: Power, argumentation and democracy. London, Routledge.

Edwards, J. and M. Keen (1996). "Tax competition and Leviathan." European Economic Review 40: 113-34.

Ekiert, G. (1998). Legacies of Struggle and Defeat. Transition to Democracy in Poland. R. F. Staar. Hampshire, London, Macmillan Press Ltd.

Ekiert, G. and J. Kubik (1998). "Contentious Politics in New Democracies: East Germany, Hungary, Poland, and Slovakia, 1989-1993." World Politics 50(4): 667-91.

Ekiert, G. and J. Kubik (1999). Rebellious Civil Society. Michigan, University of Michigan.

Emilewicz, J. and A. Wolek (2002). Reformatorzy i politycy: Gra o reformy ustrojowa roku 1998 widziana oczami jej aktorow. Nowy Sacz - Krakow, Wyzsza Szkola Biznesu National - Luis University.

Erbas, N. (2003). IMF Conditionality and Program Ownership: A Case for Streamlined Conditionality. IMF Working Paper, Middle Eastern Department.

Etmanowicz, J. (2002). Zmiany w polskim systemie podatkowym w zwiazku z planowanym wejsciem Polski do Unii Europejskiej. Polska a Wspólnota - Opracowania. RCIE. Lodz, UKIE.

European Commission (1995). White Paper: Preparation of the Associated Countries of Central and Eastern Europe for Integration into the Internal Market of the Union COM(95) 163.

European Commission (1996). Taxation in the European Union. SEC(96) 487 final. Brussels, 20.03.1996.

European Commission (1997). Towards tax co-ordination in the European Union, A package to tackle harmful tax competition, Communication. COM(97) 495 final. Brussels, 01.10.1997.

European Commission (1997a). A package to tackle harmful tax competition in the European Union, Communication. COM(97) 564 final. Brussels, 05.11.1997.

European Commission (1997b). Agenda 2000 - Commission Opinion on Poland's Application for Membership of the European Union. DOC/97/16. Brussels.

European Commission (1997c). Agenda 2000: For a stronger and wider Union. Bulletin of European Union, Supplement 5/97.

European Commission (1998). 1998 Regular Report from the Commission on Poland's progress towards accession. Brussels.

European Commission (1998a). Sixth survey on State aid in the European Union in the manufacturing and certain other sectors. Brussels, COM (98) 417.

European Commission (1999). 1999 Regular Report from the Commission on Poland's progress towards accession. Brussels.

European Commission (1999a). Poland, Accession Partnership 1999. Enlargement DG. Brussels.

European Commission (1999b). Sixth Periodic Report on the Social and Economic Situation and the Development of the Regions of the European Union. Brussels.

European Commission (1999c). Draft Common Position - Poland - Chapter 10: Taxation, 19 November 1999.

European Commission (2000). 2000 Regular Report from the Commission on Poland's progress towards accession. Brussels.

European Commission (2000a). Accession Negotiations - Poland - Draft Common Position. D. Enlargement.

European Commission (2000b). Enlargement Strategy Paper - Report on progress towards accession by each of the Candidate Countries. COM(2000) 700 final. Brussels.

European Commission (2000c). Eight survey on State aid in the European Union. Brussels, COM (2000)205 final.

European Commission (2001). Making a Success of Enlargement. COM (2001) 700 final. Brussels, 13.11.2001.

European Commission (2001a). Tax policy in the European Union - Priorities for the years ahead, Communication. COM(2001) 260 final. Brussels, 23.5.2001.

European Commission (2001b). 2001 Regular Report from the Commission on Poland's progress towards accession. Brussels.

European Commission (2001c). Information Note on Chapter 21 "Regional policy and co-ordination of structural instruments" of enlargement negotiations. SEC(2001) 1904. Brussels.

European Commission (2001d). Green paper on the future of the Common Fisheries Policy. COM(2001) 135 final. Brussels, 20.03.2001.

European Commission (2001e). Accession Negotiations, Progress Report. Negotiation Chapter 8 Fisheries. Brussels, DG Enlargement.

European Commission (2001f). Report from the Commission to the Council and the European Parliament on the Structure and Rates of the Excise Duty Applied on Cigarettes and Other Manufactured Tobacco Products. COM (2001) 133 final. Brussels.

European Commission (2002). 2002 Regular Report on Poland's Progress towards Accession. COM(2002) 700 final. Brussels.

European Commission (2002a). Discussion points, Technical meeting with the candidate countries, Chapter 21: Regional policy and co-ordination of structural instruments.

European Commission (2002b). Chapter 21 Regional policy and co-ordination of structural instruments, Technical meeting with Candidate Countries, Discussion points. Warsaw, Ministry of Foreign Affairs.

European Commission (2002c). European Commission comments on Draft Operational Programs Poland 2004-2006. DG. REGIO. 12 November 2002.

European Commission (2002d). Communication from the Commission to the Council and the European Parliament, A Strategy for the Sustainable Development of European Aquaculture. Brussels.

European Commission (2003). Communication of the Commission: Structural and Cohesion Funds: Acceding countries need to further strengthen their administrative capacity. Brussels.

European Commission (2003a). Communication from the Commission - Compliance with the rules of the Common Fisheries Policy - "Compliance work plan and scoreboard". Brussels.

European Commission (2004). VAT rates applied in the Member States of the European Community. DOC/2008/2004 - EN. Brussels, DG TAXUD.

European Commission (2004a). Enlargement of the European Union, Guide to the Negotiations, Chapter by Chapter. DG Enlargement. Luxembourg, Office for Official Publications of the European Communities.

European Commission (2004b). Report State Aid scoreboard. Brussels, COM 2004 (256) final.

European Commission (2005). State Aid Action Plan. SEC(2005) 795- COM(2005) 107 final. Brussels, DG Competition.

European Commission (2007). VAT reduced rates: Commission launches a political debate on how to simplify current EU legislation, Press Release. IP/07/1017. Brussels, 5 July 2007.

European Commission (2007a). Communication on VAT reduced rates - FAQ MEMO/07/277. Brussels, 5 July 2007.

European Commission (2007b). Vademecum on State Aid Rules. Brussels, DG Competition.

European Council in Copenhagen (1993). 21-22 June, Conclusions of the Presidency.

European Council in Lisbon (2000). 23-24 March, Presidency Conclusions. Lisbon.

European Council in Santa Maria Da Feira (2000). Report from the ECOFIN Council to the European Council on the Tax Package, Presidency Conclusions, Annex IV.

European Council in Stockholm (2001). 23-24 March 2001, Presidency Conclusions. Stockholm.

European Parliament (1998). The Phare Programme and the Enlargement of the European Union. Briefing Note No 33. Luxembourg, Secretariat Working Party Task Force "Enlargement".

European Parliament (1998). Tax competition in the European Union, Working Paper. ECON - 105 EN. Economic Affairs Series. Luxembourg, December 1998.

Eurostat (2007). Fishery statistics, data 1990-2006. Luxembourg, Office for Official Publications of the European Communities.

Falkner, G., M. Harlapp, et al. (200). "Opposition through the Backdoor? The Case of National Non-Compliance with EU Directives." Reihe Politikwissenschaft Political Science Series 83.

Forbrig, J. (2002). "Spoleczenstwo Obywwatelskie, Polska, jej sasiedzi i Europa Zachodnia - porownanie." Raporty i Analizy, Center for International Relations 6/02.

Fornalczyk, A. (1998). Pomoc publiczna dla przedsiębiorstw w Unii Europejskiej i w Polsce. Warszawa, UKIE.

Fornalczyk, A. (1998a). Rodzaje, formy i instrumenty pomocy publicznej w Unii Europejskiej. Pomoc publiczna dla przedsiębiorstw w Unii Europejskiej i w Polsce. A. Fornalczyk. Warszawa, UKIE.

Fratczak-Rudnicka, B. (2003). Organizacje pozarzadowe i spoleczenstwo obywatelskie. Demokracja Polska 1989-2003. W. e. al. Warszawa, Wydawnictwo Naukowe SCHOLAR.

Frey, B. S. and R. Eichenberger (1996). "To harmonize or to compete? That's not the question." Journal of Public Economics 60: pp. 335-49.

Friis, L. (2005). The European Union's enlargement negotiations with EFTA and central and eastern Europe. European Union Negotiations: Processes, Networks and Institutions. C. Joensson and O. Elgstroem. London, Ney York, Routledge.

Friis, L. and A. Jarosz (2000). "When the Going Gets Tough - the EU's Enlargement negotiations with Poland." Journal of European Integration 23(1): 29-61.

Fuchs, J. (2000). Fisheries research organizations and research programmes in the European Union, Iceland, Israel and Norway. DG Fisheries. European Commission. Luxembourg.

Fundacja Malych i Srednich Przedsiebiorstw (2006). Bariery utrudniajace korzystanie z funduszy Unii Europejskiej. Warszawa.

Ganev, V. I. (2005). "The "Triumph of Neoliberalism" Reconsidered: Critical Remarks on Ideas-Centered Analyses of Political and Economic Change in Post-Communism." East European Politics and Societies 19(3): 343-378.

Gawlikowska-Hueckel, K. and M. Dutkowski (2000). Polska Regionów. Gdansk, Instytut Badan nad Gospodarka Rynkowa.

Gazeta Prawna (2007). Wiele przepisów nadal oczekuje na dostosowanie, Trzy lata po przystąpieniu do Unii Europejskiej. Warszawa.

Gazeta Wyborcza (2006a). Powstanie "morskiego" resortu przesądzone.

Gazeta Wyborcza (2007). Prezes związku rybaków wiceministrem gospodarki.

Geremek, B. (1996). Civil Society Then and Now. The Global Resurgence of Democracy. L. Diamond and M. F. Plattner. Baltimore, John Hopkins University Press.

Getimis, P. and D. Economou (1996). Greece. Policy Networks and European structural Funds: A Comparison Between European Union Member States. H. Heinelt and R. Smith. Brookfield USA, Avebury.

Gibson, C. C., K. Andersson, et al. (2005). The Samaritan's Dilemma: The Political Economy of Development Aid. Oxford, Oxford University Press.

Gibson, J. L. (1998). Social Networks and Civil Society in Process of Democratization. Studies in Public Policy. Centre for the Study of Public Policy University of Strathclyde, Glasgow. 301.

Gilowska, Z. (2000). Pozadany mechanizm wykorzystania srodkow pomocowych Unii Europejskiej do wspierania rozwoju regionalnego. Gdansk, Instytut Badan nad Gospodarka Regionow.

Gilowska, Z. (2001a). Preferencje spoleczne - preferencje wladzy. Polityka regionalna panstwa posrod uwiklan instytucjonalno-regulacyjnych. J. Szomburg. Gdansk, IBnGR.

Gilowska, Z. (2001b). Mozliwosci i bariery prowadzenia polityki regionalnej. Polityka regionalna panstwa pośród uwikłań instytucjonalno-regionalnych. J. Szomburg. Gdansk, IBnGR.

Gilowska, Z. (2001c). Reforma finansów publicznych. Reforma terytorialnej organizacji kraju: dwa lata doświadczeń. G. Gorzelak, B. Jałowiecki and M. Stec. Warszawa, Scholar.

Gilowska, Z. and W. Misiag (2000). Dostosowanie dochodow samorzadu terytorialnego do norm konstytucyjnych i standardow europejskich. Gdansk, IBnGR.

Glinski, P., B. Levenstein, et al. (2003). Samoorganizacja spoleczenstwa polskiego: trzeci sektor. Warszawa, Wydawnictwo Instytutu Filozofii i Socjologii PAN.

Goetz, K. H. (2001). "Making sense of post-communist central administration: modernization, Europeanization or Latinization?" Journal of European Public Policy 8(6): 1032-1051.

Goetz, K. H. and S. Hix (2000). Europeanised Politics? European Integration and National Political Systems, Portland, OR: Frank Cass, 2000.

Gojtkowski, J. (1999). Wojna morska. Unia & Polska. 6.

Górniak, J. and J. Jerschina (1995). From Corporatism to ... Corporatism: The Transformation of Interest Representation in Poland Strategic Choice and Path-Dependency in Post-Socialism : Institutional Dynamics in the Transformation Process. J. Hausner, B. Jessop and N. Klaus, Brookfield, Vt: E. Elgar.

Grabbe, H. (1999). "A Partnership for Accession? The Implications of EU Conditionality for the Central and East European Applicants." Robert Schuman Centre Working Paper, European University Institute 12/99.

Grabbe, H. (2001). Heading for a Big Bang. London, Centre for European Reform.

Grabbe, H. (2001a). "How does Europeanization affect CEE governance? Conditionality, diffusion and diversity." Journal of European Public Policy 8(6): 1013-1031.

Grabbe, H. (2002). "Europeanisation Goes East: Power and Uncertainty in the EU Accession Process." Paper for ECPR Joint Session of Workshops Turin.

Grabbe, H. (2002a). "European Union Conditionality and the Acquis Communautaire." International Political Science Review 23(3): 249-68.

Grabbe, H. (2004). "Poland: The EU's New Awkward Partner." CER Bulletin Issue 34.

Grabbe, H. (2006). The EU's Transformative Power: Europeanization through Conditionality in Central and Eastern Europe. Hampshire and New York, Palgrave Macmillan.

Graś, A. (2001). Przewodnik po Wspólnej Polityce Rybołówstwa. Warszawa, UKIE.

Gray, J. (1994). "Post-Communist Societies in Transition: A Social Market Perspective." The Social Market Foundation(Paper No. 18).

Green Cowles, M. and T. Risse (2001). Transforming Europe: Conclusions. Transforming Europe: Europeanization and Domestic Change. G. M. Cowles, J. Caporaso and T. Risse. Ithaca, Cornell University Press: 217-237.

Grosse, T. G. (2000). Polityka regionalna Unii Europejskie i jej wplyw na rozwoj gospodarczy, Przyklad Grecji, Wloch, Irlandii i wnioski dla Polski. Warszawa, Instytut Spraw Publicznych.

Grosse, T. G. (2003). Zmierzch decentralizacji w Polsce? Polityka rozwoju w województwach w kontekście integracji europejskiej. Warszawa, Instytut Spraw Publicznych.

Grosse, T. G. (2004). "Stan przygotowań administracji regionalnej do wykorzystania pomocy strukturalnej UE." Analizy i Opinie, ISP 18.

Grosse, T. G. (2005). "Ocena projektu Narodowego Planu Rozwoju na lata 2007-2013." Instytut Spraw Publicznych, Analizy i Opinie 31/2005.

Grossman, G. M. and E. Helpman (1994). The politics of free trade agreements Discussion Paper Series No 908. London, Centre for Economic Policy Research.

Gumkowska, M. and J. Herbst (2005). Podstawowe Fakty o Organizacjach Pozarzadowych - Raport z Badania "Kondycja sektora organizacji pozarzadowych w Polsce". Warszawa, Klon/Jawor Association.

Gzel, M. (2002). Przygotowanie polskiej administracji centralnej i terenowej do realizacji Wspólnej Polityki Rybołówstwa.
www.cie.gov.pl/fundusze/kondanreg/gdansk_mat/adm_wpr.pdf.

Hagan, R. (2003). "Europe's New Common Fisheries Policy." Ocean Law On-Line Papers 20.

Hall, P. A. (1986). Governing the Economy. New York, Oxford University Press.

Hall, P. A. and R. Taylor (1996). "Political Science and the Three New Institutionalisms." MPIFG Discussion Paper 96/6.

Hallerberg, M. (1996). "Tax Competition In Wilhelmine Germany and Its Implications for the European Union " World Politics 48(3): 324-57.

Hancher, L. (1998). Przedstawienie rozwoju prawodawstwa w zakresie pomocy państwa - artykuł 92. Pomoc państwa w Unii Europejskiej: rozwój prawa i polityki. K. Kopytko. Łódź, Instytut Europejski.

Hanna, S. S. (1995). "User participation and fishery management: performance within the Pacific Fishery Management Council." Ocean & Coastal Management 28(1-3): 23-44.

Hausner, J. (2001). Mechanizm polityki regionalnej. Polityka regionalna panstwa posrod uwiklan instytucjonalno-regulacyjnych. J. Szomburg. Gdansk, IBnGR.

Hausner, J., B. Jessop, et al. (1995). Institutional Change in Post-Socialism. Strategic Choice and Path-Dependency in Post-Socialism Institutional Dynamics in the Transformation Process. J. Hausner, B. Jessop and N. Klaus, Brookfield, Vt: E. Elgar.

Hausner, J. and M. Marody (2000). The quality of governance. Poland Closer to the European Union? Krakow, Małopolska School of Public Administration, Cracow University of Economics, Friedrich-Ebert Stiftung.

Hausner, J., O. K. Pedersen, et al. (1995a). Evolution of Interest Representation and Development of the Labour Market in Post-Socialist Countries. Cracow, Cracow Academy of Economics, Friedrich Ebert Stiftung.

Haverland, M. (2000). "National adaptation to European integration: the importance of institutional veto points." Journal of Public Policy 20(1): 83-103.

Hedley, C. (2002). "Reform of the Common Fisheries Policy, The Commission's Reform Package " International Fisheries Bulletin, Focus 4.

Held, D. (1987). Models of Democracy. Stanford, California, Stanford University Press.

Heritier, A. (1995). 'Leaders' and 'Laggards' in European Clean Air Policy. Convergence or Diversity? Internationalization and Economic Policy Response. F. van Waarden and B. Unger. Avebury, Aldershot: 278-305.

Hill, C. (2002). The Geo-Political Implications of Enlargement. Europe unbound: enlarging and reshaping the boundaries of the European Union. J. Zielonka. New York, Routledge.

Hirschman, A. O. (1981). Shifting Involvements: Private Interest and Public Action. Oxford, Basil Blackwell.

Howard, M. M. (2003). The weakness of civil society in Post-Communist Europe. Cambridge, Cambridge University Press.

Hughes, J. (2003). "EU Enlargement Conditionality and Coercive Europeanization in the Central and Eastern European Transition States." Department of Government, LSE, Working Paper.

Hughes, J., G. Sasse, et al. (2001). "Top Down Policies and Bottom Up Reactions." ESRC 'One Europe or Several?' Working Paper 29/01.

Hughes, J., G. Sasse, et al. (2002). The Ambivalence of Conditionality: Europeanization and Regionalization in Central and Eastern Europe. ECPR Joing Sessions, Workshop 4: Enlargement and European Governance, Turin, 22-27 March 2002.

Hughes, J., G. Sasse, et al. (2003). "EU Enlargement and Power Asymmetries: Conditionality and the Commission's Role in Regionalisation in Central and Eastern Europe." ESRC "One Europe or Several?" Programme, Working Paper 49/03.

Hughes, J., G. Sasse, et al. (2003a). EU Enlargement, Europeanisation and the Dynamics of Regionalisation in the CEECs. The Regional Challenge in Central and Eastern Europe:

Territorial Restructuring and European Integration. M. Keating and J. Hughes. Paris, P.I.E.-Peter Lang.

Hughes, J., G. Sasse, et al. (2004). Europeanization and Regionalization in the EU's Enlargement to Central and Eastern Europe, The Myth of Conditionality. New York, Palgrave Macmillan.

Hughes, J., G. Sasse, et al. (2004a). "Conditionality and Compliance in the EU's Eastward Enlargement: Regional Policy and the Reform of Sub-national Government." Journal of European Public Policy 42(3): 523-51.

Hyvärinen, M. (1997). The merging of context into collective action. The Political Context of Collective Action. R. Edmondson. London, Routledge.

IMF (2000). Streamlining Structural Conditionality in Fund-Supported Programs, Interim Guidance Note.

IMF (2001a). Conditionality in Fund-Supported Programmes - Policy Issues.

IMF (2001b). Structural Conditionality in Fund-supported Programmes, Policy Development and Review Department, International Monetary Fund.

IMF (2001c). Streamlining Structural Conditionality: Review of Initial Experience, Policy Development and Review Department.

IMF (2002). Guidelines on Conditionality, Legal and Policy Development and Review Departments.

IMF (2002a). IMF Conditionality: A Factsheet.

Imiołczyk, B. and J. Regulski (2007). Samorządność i demokracja lokalna. Warszawa, Doświadczenie i Przyszłość.

Institute for European Environmental Policy (2003). CFP Reform 2002: Assessing the 2002 Reforms. Briefing No. 10, January 2003.

Institute for European Environmental Policy (2004). Progress on EU Stock Recovery Plans. CFP Developments. Briefing No. 19, IEEP.

Instytut Spraw Publicznych (1998). Oczekiwania Polaków wobec negocjacji z Unią Europejską. Warszawa, ISP.

International Council for the Exploration of the Sea (2003). Environmental Status of the European Seas. ICES Report Prepared for the German Federal Ministry for the Environment, Nature Conservation and Nuclear Safety. Copenhagen, ICES.

Italian Irish and Dutch Presidencies of the Council of the European Union (2004). A Comparative Analysis of Regulatory Impact Assessment in ten EU Countries. Dublin, A Report prepared for the EU Directors of Better Regulation Group: May 2004.

Jacoby, W. (2004). The Enlargement of the European Union and NATO. Ordering from the Menu in Central Europe. Cambridge, Cambridge University Press.

Jasiecki, K., M. Moleda-Zdziech, et al. (2000). Lobbing. Krakow, Dom Wydawniczy ABC.

Jaworki, K. (2003). "Organizacja rybołówstwa morskiego i rynku rybnego." ARR Biuletyn Informacyjny 7(145).

Jesień, L. (2000). Information Note on the consultations in the "Fisheries" area carried out on 15 November 2000 in Brussels. PM Chancellery.

Johnson, J. H. and S. S. Wasty (1999). Borrower Ownership of Adjustment Programs and the Political Economy of Reform. World Bank Discussion Papers 316/1999.

Jupille, J. and J. A. Caporaso (1999). "Institutionalism and the European Union: Beyond International Relations and Comparative Politics." Annual Review of Political Science 2: pp. 429-44.

Kancelaria Łukowicz Swierzewski i Wspólnicy (2007). Analiza wybranych aktów prawnych pod katem ich wykorzystania w procesie konsultacji społecznych w ramach dobrych praktyk regulacyjnych. Warszawa, Raport dla Ministerstwa Gospodarki.

Katzenstein, P. J. (1978). Between Power and Plenty: Foreign Economic Policies of Advanced Industrial States. Madison, University of Wisconsin Press.

Katzenstein, P. J. (1996). The Culture of National Security. New York, Columbia University Press.

Kawecka-Wyrzykowska, E. (1998). Wdrażanie przez Polskę zobowiązań przyjętych w Układzie Europejskim. Warszawa, Instytut Koniunktur i Cen Handlu Zagranicznego.

Keating, M. (1995). Europeanism and Regionalism. The Eurepean Union and the Regions. B. J. a. M. Keating. Oxford, Clarendon Press.

Keating, M. (1998). The New Regionalism in Western Europe: Territorial Restructuring and Political Change. Cheltenham, Massachusetts, Edward Elgar Ltd.

Keating, M. and L. Hooghe (1996). By-passing the nation-state? Regions and the EU policy process. European Union: Power and Policy-making. J. Richardson. London, Routledge.

Kemmerling, A. and E. Seils (forthcoming). "Managing conflict in Corporate Tax Competition between EU Member States." West European Politics 32(4).

Keohane, R. O. (1984). After Hegemony: Cooperation and Discord in the World Political Economy. Princeton, Princeton University Press.

Keohane, R. O. and H. V. Milner (1996). Internationalization and domestic politics. Cambridge; New York, Cambridge University Press.

Keohane, R. O. and J. S. Nye (1977). Power and Interdependence. Boston, Little, Brown.

Khan, M. S. and S. Sharma (2001). IMF Conditionality and Country Ownership of Programs. South Asia Network of Economic Institutes (SANEI) Third Annual Conference, New Delhi, India, IMF Institute.

KIE (1997). Narodowa Strategia Integracji. Warszawa, Komitet Integracji Europejskiej,.

KIE (1998). Wytyczne do negocjacji w sprawie członkowstwa Polski w Unii Europejskiej (mandat negocjacyjny). Ryszard Czarnecki - Przewodniczący Komitetu Integracji Europejskiej, 16 marca 1998. No 239/98.

KIE (1999). Program Informowania Spoleczenstwa. Warszawa, Komitet Integracji Europejskiej.

KIE (1999a). Sprawozdanie z Dzialalnosci Pelnomocnika Rzadu do Spraw Negocjacji o Czlonkostwo Rzeczpospolitej Polskiej w Unii Europejskiej za 5 lutego - 31 grudnia 1998. Warszawa, Komitet Integracji Europejskiej.

Killick, T., R. Gunatilaka, et al. (1998). Aid and the political economy of policy change. London, Routledge.

Klasik, A. (2001). Uwarunkowania instytucjonalne polityki regionalnej państwa i polityki rozwoju regionalnego województw. Polityka regionalna państwa pośród uwikłań instytucjonalno-regulacyjnych. J. Szomburg. Gdańsk, IBnGR.

Knill, C. and D. Lehmkuhl (1999). "How Europe Matters. Different Mechanisms of Europeanization." European Integration online Papers (EIoP) 3(7).

Knill, C. and A. Lenschow (1998). "Compliance with Europe: The Implementation of EU Environmental Policy and Administrative Traditions in Britain and Germany." Journal of European Public Policy 5(4): 597-616.

Koć, J. and A. Grabarczyk (2007). Ministrowie finansów Unii Europejskiej: VAT na polską żywność i książki nie wzrośnie. Dziennik. 5.12.1007.

Kohler-Koch, B. (1996). "Catching up with change: the tranformation of governance in the European Union." Journal of European Public Policy 3(3): 359-80.

Kohler-Koch, B. (2002). "European Networks and Ideas: Changing National Policies?" European Integration Online Papers (EIoP) 6.

Kolarska-Bobinska, L. (1992). Konflikty w nowej Polsce. Gazeta Wyborcza. Warszawa.

Kolarska-Bobińska, L. (1990). "Civil Society and Social Anomy in Poland." Acta Sociologica 33(4): 277-88.

Kolarska-Bobińska, L. (1994). Aspirations, Values and Interests. Warsaw, IFiS Publishers.

Kolarska-Bobińska, L. (2003). "The EU Accession and Strengthening of Institutions in East Central Europe: The Case of Poland." East European Politics and Societies 17(1): 91-98.

Kolegium Europejskie, -. N. (1999). Negocjacje Akcesyjne, Wnioski z doswiadczen Grecji, Hiszpanii i Portugalii. Warszawa.

Kolegium Europejskie, -. N. (1999a). Negocjacje Akcesyjne, Wnioski z doswiadczen Austrii, Finlandii, Norwegii i Szwecji. Warszawa.

Kooiman, J. (2005). Governing as Governance. London, Sage Publications.

Kopytko, K. (1998). Pomoc państwa w Unii Europejskiej: rozwój prawa i polityki. Łódź, Instytut Europejski.

Korkut, U. (2005). The position of interest groups in Eastern European democracies, maturing servicemen of Trojan horses? Democracy and the Role of Associations Political, organizational and social contexts. S. Rossteutscher. London and New York, Routledge.

KPMG (2005). Study on the collection and interpretation of data concerning the release for consumption of cigarettes and fine-cut tobacco for the rolling of cigarettes, the final report. Brussels, KPMG, Tax Advisers CVBA for DG TAXUD.

KPMG (2007). Specjalne Strefy Ekonomiczne - Badanie edycja 2007. Warszawa.

KPRM (1998). Partnerzy Społeczni. CONA - Zespół Pełnomocnika Rządu do spraw Negocjacji o Członkowstwo RP w Unii Europejskiej.

KPRM (1998a). Ujawnianie stanowiska negocjacyjnego - scenariusze, możliwości i zagrożenia. Pełnomocnik Rządu do Spraw Negocjacji o Członkowstwo RP w Unii Europejskiej Jan Kułakowski.

KPRM (1998b). Identyfikacja problemów negocjacyjnych - znaczenie dla kampanii informacyjnej. CONA - Zespół Pełnomocnika Rządu do spraw Negocjacji o Członkowstwo RP w Unii Europejskiej, 13.11.1998.

KPRM (1999). Metodologia informowania o negocjacjach w kontekście regionalnym. Centrum Obsługi Negocjacji Akcesyjnych - Zespół Pełnomocnika Rządu ds. Negocjacji o Członkowstwo RP w Unii Europejskiej.

KPRM (2000). Komunikat po KIE. Warszawa, 13.03.2000.

Kramer, M. (2002). "Collective protests and democratization in Poland 1989-1993: was civil society really "rebellious"?" Communist and Post-Communist Studies 35: 213-21.

Krasner, S. D. (1978). United States Commercial and monetary Policy: Unravelling the Paradox of External Strength and Internal Weakness. Between Power and Plenty. P. J. Katzenstein. Madison, University of Wisconsin Press.

Kraśnicki, A. (2007). Polscy rybacy złamią dziś zakaz połowu dorszy. Gazeta Wyborcza. 17.09.2007.

Krugman, P. (1991). Geography and Trade. Cambridge, The MIT Press.

Kryńska, E. (2000). Polskie specjalne strefy ekonomiczne - zamierzenia i efekty. Warszawa, UW, Europejski Instytut Rozwoju Regionalnego i Lokalnego, Wydawnictwo Naukowe Scholar.

KSPT (2000). Notatka ze spotkania KSPT z wicedyrektorem DONA, UKIE w dniu 27.10.2000. Krajowe Stowarzyszenie Przemysłu Tytoniowego. Warszawa.

KSPT (2000a). Notatka ze spotkania grupy roboczej KSPT z przedstawicielami UKIE w dniu 16.11.2000. Krajowe Stowarzyszenie Przemysłu Tytoniowego. Warszawa.

Kubik, J. (1994). "The Power of Symbols against the Symbols of Power: the Rise of Solidarity and the Fall of State Socialism in Poland."

Kudłacz, T. (2001). Rozwoj regionalny Polski lat 90.- ocena dominujacych procesow oraz spodziewanych tendencji. Polityka regionalna panstwa posrod uwiklan instytucjonalno-regulacyjnych. J. Szomburg. Gdansk, IBnGR.

Kułakowski, J. (2001). Notatka dla Pana Premiera Jerzego Buzka na temat postulatów zmiany stanowisk negocjacyjnych. Kancelaria Prezesa Rady Ministrów - Pełnomocnik Rządu do Spraw Negocjacji o Członkowstwo RP w Unii Europejskiej, 23 marca 2001 r.

Kumar, K. (1993). "Civil Society: An Inquiry into the Usefulness of an Historical Term." The British Journal of Sociology 44(3): 375-395.

Kuźmicz, M. (2006a). Zgoda rządu i samorządu? Gazeta Wyborcza. Warszawa.

Kuźmicz, M. and L. Kostrzewski (2006). Niewydolny SIMIK potrzebuje wsparcia. Gazeta.pl. Warszawa.

Leœ, E. and S. Nalecz (2002). Potencjal ekonomiczny i spoleczny sektora non-profit w Polsce. Wybrane wyniki badan miedzynarodowych sektora non-profit. Samoorganizacja spoleczenstwa polskiego: trzeci sektor. P. Glinski, B. Lewenstein and A. Sicinski. Warszawa, Wydawnictwo Instytutu Filozofii i Socjologii PAN.

Leonardi, R. (2005). Cohesion Policy in the European Union, The building of Europe, Palgrave Macmillan.

Lewis, P. G. (1990). Democracy and Civil Society in Eastern Europe, St. Martin's Press.

Lippert, B., G. Umbach, et al. (2001). "Europeanization of CEE executives: EU membership negotiations as a shaping power." Journal of European Public Policy 8(6): 980-1012.

Litwinczuk, H. (2005). "Obszary niezgodnosci polskich przpisow z regulacjami unijnymi." Prawo i Podatki.

Maciejewicz, P. (2006). Patologie specjalnych stref ekonomicznych. Gazeta Wyborcza. Warszawa: 17.04.2006.

Maciejewicz, P. (2006a). SSE powstanie tam gdzie zechce inwestor. Gazeta Wyborcza. Warszawa: 12.11.2006.

Maciejewicz, P. (2006b). Zabory wciąż nas dzielą. Gazeta Wyborcza. Warszawa: 14.02.2006.

Mandelkern Group on Better Regulation (2001). Final Report. 13 November 2001.

March, J. G. and J. P. Olsen (1984). "The New Institutionalism: Organisational Factors in Political Life." The American Political Science Review 78(3).

March, J. G. and J. P. Olsen (1984). "The New Institutionalism: Organisational Factors in Political Life." The American Political Science Review 78(3): 734-749.

March, J. G. and J. P. Olsen (1989). Rediscovering Institutions: The Organizational Basis of Politics. New York, Free Press.

Marek, D. and M. Baun (2002). "The EU as a Regional Actor: The Case of the Czech Republic." Journal of Common Market Studies 40(5): 895-919.

Maresceau, M. (2003). Pre-accession. The Enlargement of the European Union. M. Cremona. Oxford, Oxford University Press.

Marins, M. R. and J. Mawson (1980). "The Evolution of EEC Regional Policy: Additionality in the Scottish Coalfields." Local Government Studies 6(4).

Marks, G. (1993). Structural Policy and Multilevel Governance in the EC. The State of the European Community: The Maastricht debates and Beyond, Vol.2. A. Cafruny and G. Rosenthal. London, Longman.

Marks, G., L. Hooge, et al, (1996). "European Integration from the 1980s: State-Centric versus Multi-level Governance." Journal of Common Market Studies 34(3): pp.29-56.

Marks, G., F. W. Scharpf, et al. (1996). Governance in the European Union London, Sage Publications Ltd. .

Martin, L. (2000). Agency and Delegation in IMF Conditionality. IMF Papers.

Martin, R. (1998). Regional policy in the EU: economic foundations and reality Brussels, Centre for European Policy Studies.

Martini, J. and L. Karpiesiuk (2006). "Niezgodnosci polskich przepisow dotyczacych odliczania oraz zwrotow podatku naliczonego z VI Dyrektywa." Prawo i Podatki.

Mastenbroek, E. and M. Keading (2006). "Europeanization Beyond the Goodness of Fit: Domestic Politics in the Forefront." Comparative European Politics 4: 331-54.

Mayhew, A. (1998). "Membership Negotiations and Preparation for Accession: Preparation of EU and CEEC Institutions for the Accession Negotiations." SIGMA Papers CCNM/SIGMA/PUMA(98)39.

Mayhew, A. (1998a). Recreating Europe: The European Union's Policy towards Central and Eastern Europe. Cambridge, Cambridge University Press.

Mayhew, A. (2002). Rozszerzenie Unii Europejskiej: analiza negocjacji akcesyjnych z panstwami kandydujacymi z Europy Srodkowej i Wschodniej. Warszawa, Urzad Komitetu Integracji Europejskiej.

Mayhew, A. (2002a). "The Negotiation Position of the European Union on Agriculture, the Structural Funds and the EU Budget." SEI Working Paper No 52.

Mazurkiewicz, P. (2005). Czy warto wstapic do organizacji pracodawcow? Gazeta Wyborcza. Warszawa.

Mersh, D., B. Elisabeth, et al. (2002). Historical Institutionalism: Beyond Pierson and Skocpol, Harvard University.

Migalski, M. (2003). Proces integracji Polski z Unia Europejska w programach komitetow wyborczych. Wybory parlamentarne 2001. J. Sztumski and M. Kolczynski. Katowice, Wydawnictwo Uniwersytetu Slackiego.

Milner, H. V. (1997). Interests, Institutions and Information. Domestic Politics and International Relations. Princeton, New Jersey, Princeton University Press.

Milner, H. V. (1998). "Rationalizing Politics: The Emerging Synthesis of International, American, and Comparative Politics." International Organization 42d(4).

Milner, H. V. and P. B. Rosendorff (1997). A Model of Two-Level Game. Interests, Institutions and Information. H. V. Milner. Princeton, New Jersey, Princeton University Press.

Milward, A. (1984). The Reconstruction of Western Europe, 1945-51. Berkeley, University of California Press.

Ministerstwo Finansów (2003). Strategia podatkowa, materialy do dyskusji. Warszawa.

Ministerstwo Finansów (2004). Strategia podatkowa. Warszawa.

Ministerstwo Gospodarki (2002). Harmonogram przygotowania Narodowego Planu Rozwoju na lata 2004-2006. Warsaw.

Ministerstwo Gospodarki (2002a). Zarys planu działań na rzecz zwiększenia potencjału administracyjnego Polski do sprawnego zarządzania funduszami strukturalnymi i Funduszem Spójności - projekt z 8.09.2002.

Ministerstwo Gospodarki (2002b). Raport z przebiegu procesu dostosowań instytucjonalnych w administracji rządowej szczebla centralnego dla absorpcji funduszy strukturalnych i Funduszu Spójności. O. 2002.

Ministerstwo Gospodarki (2005a). Raport na temat wdrażania Narodowego Planu Rozwoju 2004-2006. Warszawa.

Ministerstwo Gospodarki (2005b). Pierwszy okres wykorzystania Funduszy Strukturalnych w Polsce. Raport IZ PWW. Warszawa.

Ministerstwo Gospodarki (2007). Informacja o realizacji ustawy o specjalnych strefach ekonomicznych, stan na 31 grudnia 2006. Warszawa.

Ministerstwo Gospodarki, i. P. (2005c). Specjalne strefy ekonomiczne, stan na dzień 31 grudnia 2004 r. Warszawa.

Ministerstwo Gospodarki Morskiej (2006). Raport roczny o polskiej flocie rybackiej w 2006 roku. D. Rybołówstwa.

Ministerstwo Infrastruktury (2002). Raport o stanie gospodarki morskiej. Warszawa.

Ministerstwo Rozwoju Regionalnego (2000). Narodowa Strategia Rozwoju Regionalnego 2001-2006. Warszawa.

Ministerstwo Rozwoju Regionalnego (2005). Program naprawczy zwiększający absorpcję funduszy strukturalnych w ramach Narodowego Planu Rozwoju 2004-2006. Warszawa.

Ministerstwo Rozwoju Regionalnego (2005a). Raport końcowy z ewaluacji, Analiza wybranych elementów systemu implementacji ZPORR pod kątem określenia potencjału regionów do wdrożenia zdecentralizowanego systemu zarządzania RPO. Warszawa.

Ministerstwo Rozwoju Regionalnego (2006). Raport na temat stanu wdrazania programow operacyjnych wspolfinansowanych z funduszy strukturalnych Unii Europejskiej. Warszawa.

Ministerstwo Rozwoju Regionalnego (2008). Wykorzystanie środków z funduszy strukturalnych i Funduszu Spójności w ramach NPR 2004-2006 oraz NSRR 2007-2013. Warszawa, Departament Koordynacji i Zarządzania Podstawami Wsparcia Wspólnoty,.

Mission of the Republic of Poland to the European Union (2000).

Moravcsik, A. and A. Vachudova (2003). "National Interests, State Power, and EU Enlargement." East European Politics and Societies 17(1): 42-57.

Nicolaides, P. (1999). "Enlargement of the EU and Effective Implementation of Community Rules: An Integration-Based Approach." EIPA Working Paper 99/W/04.

Niklewicz, K. (2002). SSE - koniec negocjacji już 31 lipca br.? Gazeta Wyborcza. Warszawa: 17.06.2002.

Niklewicz, K. (2002a). Dlaczego firmy inwestujące w specjalnych strefach ekonomicznych muszą znowu płacić podatek od nieruchomości. Gazeta Wyborcza. Warszawa: 13.07.2002.

Niklewicz, K. (2002b). Czym SSE są dla gospodarki. Gazeta Wyborcza. Warszawa: 04.04.2002.

Niklewicz, K. (2002c). Specjalne Strefy Ekonomiczne, Inwestorzy grożą odwetem. Gazeta Wyborcza. Warszawa: 8-9 czerwca 2002.

Niklewicz, K. (2002d). Polska - UE, Cd. kłopotów ze strefami specjalnymi. Gazeta Wyborcza. Warszawa: 15.05.2002.

Niklewicz, K., M. Chrzan, et al. (2007). Bałtycka wojna o dorsza. Gazeta Wyborcza: 10.10.2007.

NOMISMA (2000). The consequences of rapid alignment to the EU's minimum tax on cigarettes in five Accession countries. Bologna, Italy, Institute of Economic Research.

North, D. D. (1990). Institutions, Institutional Change and Economic Performance. New York, Cambridge University Press.

Nowicki, M. and B. Kosciukiewicz (2002). Polityka spojnosci Unii Europejskiej w latach 2007-2013: Glos polskich regionow. Gdansk, IBnGR.

OBOP (2002). Rybołówstwo polskie w kontekście integracji z UE Warszawa.

OBOP Communique (2000). Ocena Negocjacji Akcesyjnych oraz Nadzieje i Obawy Zwiazane z Wejsciem Polski do Unii Europejskiej.

O'Donnell, G. and P. C. Schmitter (1986). Transitions from Authoritarian Rule: Tentative Conclusions about Uncertain Democracies. Baltimore, Johns Hopkins University Press.

Olgstroem, O. and C. Joensson (2005). European Union Negotiations Processes, Networks and Institutions. New York, Routlage.

Olson, M. (1965). The Logic of Collective Action: Public Goods an the Theory of Groups, Harvard University Press.

Organization for Economic Co-operation and Development (1998). Preparing public administrations for the European Administrative Space.

Orłowski, W. M. (1998). Droga do Europy. Makroekonomia wstępowania do Unii Europejskiej. Łódź, Instytut Europejski.

Ost, D. (2005). The Defeat of Solidarity. Anger and Politics in Post-communist Europe. New York, Cornell University Press.

Ożóg, I. (2002). Odpowiedź podsekretarza stanu w Ministerstwie Finansów - z upoważnienia prezesa Rady Ministrów - na interpelację nr 1697 w sprawie podatku akcyzowego na wyroby tytoniowe z 29 lipca 2002 r.

Paczynska, A. (2005). "Inequality, Political Participation, and Democratic Deepening in Poland." East European Politics and Societies 19(4): 573-613.

Padgett, S. (2000). "Collective Action in Post-Communist Society: The Impact of Structural Context." Strathclyde Papers on Government and Politics 114.

PAP (2005). Budżet UE 2007-13 UE/ KE daje Polsce więcej czasu na składanie rozliczeń za rok 2005.

PAP (2005a). Pilarczyk: Wstąpienie do UE ułatwia restrukturyzację floty rybackiej.

PAP (2007). Komisarz UE grozi Polsce procedurą karną. 10.10.2007.

PAP (2007a). Sztab Kryzysowy Rybołówstwa poparł zakazane przez KE połowy dorsza. 24.09.2007.

Parulski, S. and E. Lis (2006). Podatek akcyzowy. Bankier.pl.

Paszynski, M. (1998). "Formula Akcesji - Potrzeba uznania rownowagi interesow." Wspolnoty Europejskie 7-8((83-84)).

Pawlicki, J. (2002). Negocjacje z Unią o przyszłości SSE. Gazeta Wyborcza. Warszawa: 17.04.2002.

Peers, S. (1995). "An ever closer waiting room?: the case for Eastern European accession to the European Economic Area." Common Market Law Review 32(1).

Peet, R. (2003). Unholy Trinity, the IMF, World Bank and WTO. London, New York, Zed Books.

Pelowski, W. (2006). PiS dla sciany wschodniej. Gazeta Wyborcza. Warszawa. 23.

Peters, G. B. (1999). Institutional Theory in Political Science, the 'New Institutionalism'. London, Pinter.

Pierson, P. (1996). "The Path to European Integration: A Historical-Institutionalist Analysis." Comparative Political Studies 29(2): 123-163.

Pierson, P. and T. Skocpol (2002). Historical Institutionalism in Contemporary Political Science, Harvard University.

PKPP (2002). Negotiations with the EU on the special economic zones. J. T. Chief Negotiator. Warsaw.

PM Chancellery (1998). Poland's negotiation position in the area of: Fisheries Government Plenipotentiary for Poland's Accession Negotiations in the European Union. 11 February 1998

PM Chancellery (1999). Poland's negotiation position in the area of: Regional policy and co-ordination of structural instruments, Government Plenipotentiary for Poland's Accession Negotiations in the European Union. 23 November 1999.

PM Chancellery (2000). Regional policy and co-ordination of structural instruments, Reply to European Union Common Position, Plenipotentiary of the Government for the Accession Negotiations about Poland's Membership in the European Union. 6 July 2000.

PM Chancellery (2000a). Information Note on the consultations in the "Competition policy" area carried out on 21 June 2000 in Brussels, Secretariat of the Government Plenipotentiary for Accession Negotiations.

PM Chancellery (2000b). Answers to the European Commission's Queries Concerning the Negotiation Position on Taxation. Secretary of State, Government's Plenipotentiary for the Negotiations about Poland's Membership in the European Union, Warsaw, 27 April 2000.

PM Chancellery (2001). Regional policy and co-ordination of structural instruments, Reply to European Union Common Position, Plenipotentiary of the Government for the Accession Negotiations about Poland's Membership in the European Union. 5 February 2001.

PM Chancellery (2001a). Information note on the technical consultations on the "Competition policy" conducted on 22 May 2001 in Warsaw. Department of Integration and Negotiations with the European Union.

PM Chancellery (2001b). Addendum to Poland's negotiation position in the area of Fisheries, Plenipotentiary of the Government for the Accession Negotiations about Poland's Membership in the European Union. 6 February 2001.

PM Chancellery (2001c). Amendment to Poland's negotiation position in the area of Fisheries, Plenipotentiary of the Government for the Accession Negotiations about Poland's Membership in the European Union. 16 October 2001.

PM Chancellery (2001d). Amendment to Poland's negotiation position in the area of Taxation. Plenipotentiary of the Government for the Accession Negotiations about Poland's Membership in the European Union, 29 March 2001.

PM Chancellery (2001e). Amendment to Poland's negotiation position in the area of Taxation. Plenipotentiary of the Government for the Accession Negotiations about Poland's Membership in the European Union, 23 December 2001.

PM Chancellery (2002). Materials for the Technical Meeting with the EU Commission on 18 February 2002, Regional Policy and co-ordination of structural instruments.

PM Chancellery (2002a). Amendment to Poland's negotiation position in the area of Fisheries. Plenipotentiary of the Government for the Accession Negotiations about Poland's Membership in the European Union, 9 April 2002.

Podlasiak, Z. (1998). Regionalna pomoc publiczna w Unii Europejskiej. Pomoc publiczna dla przedsiębiorstw w Unii Europejskiej i w Polsce. A. Fornalczyk. Warszawa, UKIE.

Podlasiak, Z. (1998a). Analiza porównawcza pomocy publicznej w Polsce i w krajach członkowskich Unii Europejskiej. Pomoc publiczna dla przedsiębiorstw w Unii Europejskiej i w Polsce. A. Fornalczyk. Warszawa, UKIE.

Podlasiak, Z. (1998b). Pomoc publiczna a efektywność wykorzystania zasobów. Pomoc publiczna dla przedsiębiorstw w Unii Europejskiej i w Polsce. A. Fornalczyk. Warszawa, UKIE.

POHiD, Polska Organizacja Handlu i Dystrybucji (2002). Memorandum on competition. Secretary of State, Danuta Huebner, UKIE. Warsaw,14 June 2002

Polak, J. J. (1991). The Changing Nature of IMF Conditionality. Essays in International Finance No. 184. Princeton, New Jersey, Princeton University.

Polish Marine Fishery Science Center, M. I. R. (2005). Quality of Life and Management of Living Resources Programme, Międzyzdroje, May 2005.

Pollack, M. A. (1993). Regional Actors in an Intergovernmental Play: The Making and Implementation of EC Structural Policy. The State of the European Union Vol. 3. C. M. Rhodes. London, Longman.

Pollit, C. (2001). "Convergence: The Useful Myth?" Public Administration 79(4): 933-47.

Pomeroy, R. and F. Douvere (2008). "The engagement of stakeholders in the marine spatial planning process." Marine Policy 32: 816-822.

Pomorskie w Unii (2004). Minister Huebner z wizytą w Gdańsku. styczeń-marzec 2004. 3.

Powell, W. and P. DiMaggio (1991). Introduction. The New Institutionalism in Organizational Analysis. Chicago, IL, University of Chicago Press.

Preston, C. (1997). Enlargement and integration in the European Union. London, New York, Routledge.

Putnam, R. D. (1988). "Diplomacy and domestic politics: the logic of two-level games." International Organization 42(3).

Putnam, R. D., R. Leonardi, et al. (1992). Making Democracy Work: Civic Traditions In Modern Italy. Princeton, New Jersey, Princeton University Press.

Pyszkowski, A., J. Szlachta, et al. (2000). Model institucjonalny polityki rozwoju regionalnego w Polsce. Gdansk, IBnGR.

Quah, D. T. (1997). "Regional cohesion from local isolated actions." Centre of Economic Performance, Programme on National Economic Performance, London, LSE.

Radaelli, C. (2003). "The Code of Conduct Against Harmful Tax Cooperation: Open Method of Coordination in Disguise?" Public Administration 81(3): 513-31.

Radaelli, C. M. and U. Kraemer (forthcoming). "Governance arenas and multilateral cooperation in EU tax policy." World Politics

Regulski, J. R. (2000). Samorząd III Rzeczpospolitej. Koncepcje i realizacja Warszawa, Wydawnictwo Naukowe, PWN.

Reynolds, L. G. (1995). Economic Growth in the Third World, 1850-1980. New Haven, CT and London, Yale University Press.

Risse, T., M. Green Cowles, et al. (2001). Europeanization and Domestic Change: Introduction. Transforming Europe: Europeanization and Domestic Change. M. Green Cowles, J. A. Caporaso and T. Risse. Ithaca, NY, Cornell University Press.

Rose, R. (1996). Post-communism and the Problem of Trust. The Global Resurgence of Democracy. L. Diamond and M. F. Plattner. Baltimore, The Johns Hopkins University Press.

Rotta, K. (2005). Wizyta Komisarza ds. Rybołówstwa i Polityki Morskiej UE. Stowarzyszenie Przyjaciele Helu.

Rzeczpospolita (2002). Polska-UE Zmiana statusu specjalnych stref ekonomicznych, Unia przeciwna odszkodowaniom. Warszawa: 4.01.2002.

Sachs, K. and R. Namyslowski (2004). "Czy nowa ustawa o VAT jest zgodna z regulacjami unijnymi?"

Salz, P., E. Buisman, et al. (2006). Employment in the fisheries sector: current situation. F. B. LEI BV.

Sandecki, M. (2006). Wielkie dorszowe oszustwo. Gazeta Wyborcza. Gdańsk.

Sandholtz, W. and A. Stone Sweet. (1998). "European Integration and Supranational Governance." from http://www.oxfordscholarship.com/oso/public/content/politicalscience/0198294646/toc.html

Sauer, A., E. Kawecka-Wyrzykowska, et al. (2000). Polityka regionalna Unii Europejskiej a instrumenty wspierania rozwoju regionalnego w Polsce. Warszawa, Elipsa.

Schelling, T. C. (1960). The Strategy of Conflict. Cambridge, Mass., Harvard University Press.

Schimmelfennig, F. (2000). "International Socialisation in the New Europe: Rational Action in an Institutional Environment." European Journal of International Relations 6(1): 109-39.

Schimmelfennig, F. (2001). "The Community Trap: Liberal Norms, Rhetorical Action, and the Eastern Enlargement." International Organizations 55(47-80).

Schimmelfennig, F., S. Engert, et al. (2003). "Costs, Commitment and Compliance: The Impact of EU Democratic Conditionality on Latvia, Slovakia and Turkey." Journal of Common Market Studies 41(3): 495-518.

Schimmelfennig, F., S. Engert, et al. (2005). The Impact of EU Political Conditionality. The Europeanization of Central and Eastern Europe. F. Schimmelfennig and U. Sedelmeier. Ithaca and London, Cornell University Press.

Schimmelfennig, F. and U. Sedelmeier (2002). "Theorizing EU enlargement: research focus, hypotheses, and the state of research." Journal of European Public Policy 9(4): 500-28.

Schimmelfennig, F. and U. Sedelmeier (2004). "Governance by conditionality: EU rule transfer to the candidate countries of Central and Eastern Europe." Journal of European Public Policy 11(4): 669-87.

Schmitter, P. C. (1995). Dangers, Dilemmas and Prospects in the Consolidation of Democracy. Evolution of Interest Representation and Development of the Labour Market in Post-Socialist Countries. J. Hausner, O. K. Pedersen and R. Karsten. Cracow, Cracow Academy of Economics Friedrich Ebert Stiftung.

Sedelmeier, U. (2002). "Sectoral dynamics of EU enlargement: advocacy, access and alliances in a composite policy." Journal of European Public Policy 9(4): 627-49.

Sejm RP (2005). Wykorzystanie funduszy Unii Europejskiej w Polsce, Raport. Warszawa, Parlamentarny Zespół ds. Absorpcji Funduszy UE.

Sepiol, J. (2001). Refleksje i wnioski; polityka rozwoju regionalnego. Polityka regionalna panstaw posrod uwiklan instytucjonalno-regulacyjnych. J. Szomburg. Gdansk, IBnGR.

Shepsle, K. (1986). Institutional Equilibrium and Equilibrium Institutions. Political Science: The Science of Politics. W. H.F. New York, Agathon: 51-81.

Sienna, G. D. (2005). Raport: Funkcjonowanie systemu wdrażania Sektorowego Programu Operacyjnego Wzrost konkurencyjności przedsiębiorstw, lata 2004-2006 - identyfikacja barier i problemów organizacyjnych. Warszawa.

Skocpol, T. (1979). States and Social Revolutions: A Comparative Analysis of France, Russia, and China. New York, Cambridge University Press.

Skocpol, T. (1985). Bringing the State Back In. Cambridge, Cambridge University Press.

Skotnicka-Illasiewicz, E. (1995). Polska w Europie - odmiennosc wizji. Swiat elity politycznej. W. Wesolowski and I. Pañków. Warszawa, Wydawnictwo IFiS PAN.

Skotnicka-Illasiewicz, E. (1998). Integracja europejska jako oś podziałów sceny politycznej. Polityka i Sejm. Formowanie się elity politycznej. W. Wesołowski and B. Post.

Skotnicka-Illasiewicz, E. (2003). Społeczne uwarunkowania obaw i nadziei następstw polskiego członkostwa w Unii Europejskiej. Warszawa, Centrum Europejskie Natolin.

Skowronek, S. (1982). Building a New American State: The Expansion of National Administrative Capacities, 1877-1920. New York, Cambridge University Press.

Smith, A., H. Holmes, et al. (1996). "The European Union and Central and Eastern Europe: Pre-accession Strategies." SEI Working Paper, University of Sussex 15.

Smith, K. E. (2003). The Evolution and Application of EU Membership Conditionality. The Enlargement of the European Union. M. Cremona. Oxford, Oxford University Press.

Smyrl, M. E. (1997). "Does European Community Regional Policy Empower the Regions?" Governance: An International Journal of Policy and Administration 10(3): 287-309.

Socha, R. (2007). Ość niezgody. Polityka. 40: 115.

Solska, J. (2007). Kilku biednych bogaczy. Polityka. Warszawa. 43: 32.

Solska, J. (2008). Biznes szuka twarzy. Polityka. Warszawa. 5: 38.

Sroka, J. (2004). Polityka Organizacji Pracodawców i Przedsiębiorców. Wroclaw, Wydawnictwo Uniwersytetu Wroclawskiego.

Staar, R. F. (1998). Transition to Democracy in Poland. Hampshire and London, Macmillan Press Ltd.

Steinmo, S. (1993). Taxation and Democracy. New Haven, CT, Yale University Press.

Steinmo, S., K. Thelen, et al. (1992). Structuring Politics: Historical Institutionalism in Comparative Analysis. New York, Cambridge University Press.

Steunenberg, B. and A. Dimitrova (2007). "Compliance in the EU enlargement process: The limits of conditionality." European Integration Online Papers (EIoP) 11(5).

Steves, F. (2001). "Poland and the international system: external influences on democratic consolidation." Communist and Post-Communist Studies 34: 339-52.

Stokke, O. (1995). Aid and Political Conditionality. London, Frank Cass.

Swank, D. (1998). "Funding the Welfare State: Globalization and the Taxation of Business in Advanced Market Economies." Political Studies XLVI: pp. 671-92.

Swierkocki, J. (2001). Negocjacje Akcesyjne - wybrane zagadnienia. Raport przejsciowy. Integracja Europejska, Instytut Europejski w Lodzi.

Szacki, J. and J. B. Warman (1991). "Polish democracy: Dreams and reality." Social Research 58(4).

Szczeciński, K. (2000). Rybacy protestują. Bez dostępu do morza? 11.12.2000.

Szczerbiak, A. (2000). Public Opinion and Eastward Enlargement: Explaining Declining Support for EU Membership in Poland. Sussex, Sussex European Institute.

Szilágyi, T. and S. Chapman (2003). "Tobacco Industry Efforts to Keep Cigarettes Affordable: A Case Study from Hungary." Cent. Eur. J. publ. Health 11(4): 223-228.

Szlachta, J. (2000). "Problems of Regional Development Policy in Poland in the Context of European Integration."

Szlachta, J. (2001). "Polityka regionalna Polski w perspektywie integracji z Unią Europejską." Studia Regionalne i Lokalne 1(5).

Szlachta, J. and A. Pyszkowski (1999). Rozwoj Regionalny jako Element Strategii Spoleczno-Regionalnej Polski w latach 2000-2006. Gdansk, IBnGR.

Szomburg, J. (2001). Polityka regionalna panstwa posrod uwiklan instytucjonalno-regulacyjnych. Gdansk, IBnGR.

Szomburg, J. (2001a). Hybryda instytucjonalna, czyli licencjonowany regionalizm. Polityka regionalna panstwa posrod uwiklan instytucjonalno-regulacyjnych. J. Szomburg. Gdansk, IBnGR.

Szomburg, J. (2001b). Zamiast zakonczenia - musimy wrocic do redefinicji funkcji panstwa. Polityka regionalna panstwa posrod uwiklan instytucjonalno-regulacyjnych. J. Szomburg. Gdansk, IBnGR.

Szymanek-Borginon, K. (2003). W piżamie do Europy. Olszanica, Bosz.

Świąder, B. and E. Matyszewska (2008). Papierosy: akcyza i ceny będą rosnąć. Gazeta Prawna. Warszawa. 06.06.2008.

Świeboda, P. (2002). Information Note on the technical consultations with the European Commission in the negotiation chapter "Fisheries" on 14 March 2002 in Brussels. Department of the European Union and Support for the Accession Negotiations.

Tadeusiak, M. (1998). Pomoc publiczna - przegląd przepisów prawa polskiego. Pomoc publiczna dla przedsiębiorstw w Unii Europejskiej i w Polsce. A. Fornalczyk. Warszawa, UKIE.

Taras, R. (1998). Voters, Parties, and Leaders. Transition to Democracy in Poland. New York, St. Martin's Press.

Tarrow, S. (1998). Power in Movement Social Movements and Contentious Politics. Cambridge, Cambridge University Press.

Task Force for the Regional Development in Poland (1996). Outline of the Regional Development Strategy for Poland. Final Report. Warsaw.

Task Force for the Regional Development in Poland (1997). Poland's Structural Policy in the Context of Integration with the European Union. Warsaw.

Taylor, P. G. (1996). The European Union in the 1990s. Oxford, Oxford University Press.

Thelen, K. and S. Steinmo (1992). Historical Institutionalism in Comparative Politics. Structuring Politics: Historical Institutionalism in Comparative Analysis. S. Steinmo, K. Thelen and F. Longstreth. New York, Cambridge University Press.

Thielemann, E. R. (2002). "The Price of Europeanization: Why European Regional Policy Initiatives Are a Mixed Blessing." Regional and Federal Studies 12(1): pp: 43-65.

Thompson, E. M. (1998). The Political Activation of Social Groups. Transition to Democracy in Poland. R. F. Staar. Hampshire, London, Macmillan Press Ltd.

Truszczyński, J. (2000). Letter to Jan Kułakowski, the Secretary of State in the Prime Minister Chancellery, Plenipotentiary of the Government for the Accession Negotiations on Membership in the European Union. Mission of the Republic of Poland to the European Union, Brussels, 29.02.2000. .

Truszczyński, J. (2001). Information about the Accession Negotiations in the Chapter "Fisheries". Ministry of Foreign Affairs, 28.11.2001.

Tsebelis, G. (2002). Veto Players. New York, Russel Sage Foundation.

UKIE (1998). Narodowy Program Przygotowania Polski do Czlonkostwa w Unii Europejskiej. Warszawa.

UKIE (1998a). Ocena stopnia dostosowania prawa polskiego do prawa Unii Europejskiej, Polityka konkurencji i pomoc państwa a proces harmonizacji prawa polskiego z prawem Wspólnot Europejskich, Warszawa.

UKIE (1998b). Założenia do Polityki Informowania o Negocjacjach DONA - Departament Obsługi Negocjacji Akcesyjnych. Warszawa.

UKIE (1999). Raport z realizacji w 1998 roku Narodowego Programu Przygotowania do Czlonkostwa w Unii Europejskiej. Warszawa.

UKIE (1999a). Narodowy Program Przygotowania Polski do Czlonkostwa w Unii Europejskiej. Warszawa.

UKIE (1999b). Sprawozdanie ze spotkania uzgodnieniowego w obszarze "Podatki". Departament Obsługi Negocjacji Akcesyjnych, 19 marca 1999.

UKIE (1999c). Zrozumieć negocjacje, program konferencji regionalnych Ministra Jana Kułakowskiego. DONA - Zespół Pełnomocnika Rządu ds. Negocjacji o Członkowstwo RP w Unii Europejskiej.

UKIE (2000). Poland's Position Papers for the Accession Negotiations with the European Union. Warsaw, Government Plenipotentiary for Poland's Accession Negotiations to the European Union, Chancellery of the Prime Minister of the Republic of Poland.

UKIE (2000a). Negocjacje czlonkowskie: Polska na drodze do Unii Europejskiej. Warszawa.

UKIE (2000b). Raport z realizacji w 1999 roku Narodowego Programu Przygotowania do Czlonkostwa w Unii Europejskiej. Warszawa.

UKIE (2000c). Narodowy Program Przygotowania Polski do Czlonkostwa w Unii Europejskiej. Warszawa.

UKIE (2000d). Przebieg negocjacji o czlonkowstwo Rzeczypospolitej Polskiej w Unii Europejskiej, najwazniejsze dzialania dostosowawcze, stan na 1 stycznia 2000, Departament Analiz Ekonomicznych i Spolecznych.

UKIE (2001). Raport z realizacji w 2000 roku Narodowego Programu Przygotowania do Czlonkostwa w Unii Europejskiej. Warszawa.

UKIE (2001a). Narodowy Program Przygotowania Polski do Czlonkostwa w Unii Europejskiej. Warszawa.

UKIE (2002). Raport z realizacji w 2001 roku Narodowego Programu Przygotowania do Czlonkostwa w Unii Europejskiej. Warszawa.

UKIE (2002a). Narodowy Program Przygotowania Polski do Czlonkostwa w Unii Europejskiej. Warszawa.

UKIE (2002c). Opinion on the alternative solutions to the SEZ problem proposed by the OCCP. D. o. E. a. S. Analyses.

UKIE (2003). Raport z realizacji w 2002 roku Narodowego Programu Przygotowania do Czlonkostwa w Unii Europejskiej. Warszawa.

UOKiK (2000). Report on Public Aid to Enterprises in 1999 Warsaw, Office of Competition and Consument Protection.

UOKiK (2002). Report on State aid in Poland granted to enterprises in 2001. Warsaw, Office of Competition and Consumer Protection.