

**1999**  
**REGULAR REPORT**  
**FROM THE COMMISSION**  
**ON**  
**POLAND'S**  
**PROGRESS TOWARDS ACCESSION**

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## A. Introduction

### a) Preface

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

“From the end of 1998, the Commission will make regular reports to the Council, together with any necessary recommendations for opening bilateral intergovernmental conferences, reviewing the progress of each Central and East European candidate State towards accession in the light of the Copenhagen criteria, in particular the rate at which it is adopting the Union *acquis*.” ... “In that context, the Commission will continue to follow the method adopted by Agenda 2000 in evaluating candidate States' ability to meet the economic criteria and fulfil the obligations deriving from accession.”

The European Council in Vienna invited the Commission to present its further progress reports with a view to the Helsinki European Council.

This Regular Report on Poland follows the same structure as the Commission's 1997 Opinion. It

- describes relations between Poland and the Union, particularly in the framework of the Association Agreement;
- analyses the situation in respect of the political conditions set by the European Council (democracy, rule of law, human rights, protection of minorities)
- assesses Poland's situation and prospects in respect of the economic conditions mentioned by the European Council (functioning market economy, capacity to cope with competitive pressures and market forces within the Union)
- addresses the question of Poland's capacity to adopt the obligations of membership, that is, the *acquis* of the Union as expressed in the Treaty, the secondary legislation and the policies of the Union. This part gives special attention to nuclear safety standards as underlined by the Cologne European Council.

It also covers judicial and administrative capacity as requested by the Madrid European Council which underlined the necessity for the candidate countries to adapt their administrative structures so as to guarantee the harmonious implementation of Community policies after membership.

The report takes into consideration progress since the 1998 Regular Report. It looks at whether intended reforms referred to in the 1998 Regular Reports have been carried out and examines new initiatives, including those directly related to addressing Accession Partnership priorities. The report contains a separate section which examines the extent to which Poland has addressed the short term priorities and started to address the medium term priorities set out in the Accession Partnership.

While the assessment of progress in meeting the political and *acquis* criteria focuses on that which has been accomplished since the last Regular Report, the economic assessment is based on a longer term evaluation of Poland's economic performance. The assessment of progress made in adopting the *acquis* has been made on the basis of adopted legislation rather than legislation which is in various stages of either preparation or Parliamentary approval. This approach ensures equal treatment for all the candidate countries and permits objective assessment and comparison between countries in terms of concrete progress in preparation for accession.

This report draws on numerous sources of information. The candidate countries were invited to provide information on progress made in preparations for membership since the publication of the last Regular Report. Their presentations at the meetings held under the auspices of the Europe Agreement, their National Programmes for the Adoption of the *Acquis*, the information provided in the context of the analytical examination of the *acquis* (screening) and in the negotiations were additional sources of information. Council deliberations and European Parliament reports and resolutions<sup>1</sup> have been taken into account in the preparations. The Commission also drew on assessments made by various international organisations and in particular on contributions from the Council of Europe, the OSCE and the international financial institutions as well as non-governmental organisations.

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

### *Developments under the EU-Poland Europe Agreement (including bilateral trade)*

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

The Association Council met in November 1998 and will meet again in Brussels in December 1999. An Association Committee meeting was held in Warsaw in April 1999. The system of sub-committees continues to function as a forum for technical discussions.

The Joint Parliamentary Committee comprising representatives of the Polish and European Parliament met in November 1998 in Brussels and March 1999 in Warsaw. The Association Council has decided on the establishment of a Joint Consultative Economic and Social Committee.

Bilateral trade continues to increase. In 1998 EU exports to Poland stood at €28.1 billion and imports at €16.1 billion resulting in an EU trade surplus of €12 billion. Bilateral trade continues to grow at a rate in excess of overall trade. Poland's share in

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<sup>1</sup> For the European Parliament the rapporteurs are A. Oostlander and E. Baron Crespo; Co-rapporteurs: M. Aelvoet, J. Donner, O. Von Habsburg, E. Caccavale, F. Kristoffersen, M. Hoff, C. Carnero Gonzales, P. Bernard-Raymond, R. Speciale, J. Wiersma, J.W. Bertens, B. Malone.

total EU exports rose to 3.85% while Poland's share in total EU imports rose to 2.27%. However, while trade increased in absolute terms, the rate of growth declined in 1998. As a consequence the trade gap when expressed as the ratio of exports to imports decreased in 1998, the first such fall since 1993. Concerning trade by product, machinery and electrical goods represent the largest sector for both EU exports to and imports from Poland. In terms of export growth, only machinery and electrical goods (20% growth) and base metals (27% growth) grew faster than the average for exports as a whole. On the import side, machinery and electrical goods (27% growth), textiles (15% growth), transport equipment (16% growth), and other manufactures (17% growth) all grew at above average rates.

Under the Europe Agreement an adaptation protocol, covering in particular agricultural and processed agricultural products, has been signed to take into account the results of the Uruguay Round and the accession of Austria, Finland and Sweden to the EU.

In March 1999, the Council mandated the Commission to open negotiations with the associated countries in view of new reciprocal concessions in the field of agriculture. The Council mandate clearly refers to the accession process and is based on the assumption that the progressive and orderly liberalisation of bilateral trade should be an important instrument in preparation of Poland's economic integration into the Community market.

A range of difficulties in the implementation of the Europe Agreement by Poland remain, from complex long standing issues such as steel restructuring and certification to more recent issues such as trade in agriculture. However, some issues have been resolved through the functioning of the various joint institutions such as the elimination of tariffs on steel products by 2000.

Although the Europe Agreement provides for entry into its second stage since February 1999, a number of legal requirements have yet to be fulfilled to permit this transition. The criteria for transition have not been met, and there remain restrictions on the level of investment by non-nationals in the following sectors: gambling, sporting clubs and audio-visual. The Law on Economic Activity which would, for the two former sectors at least, resolve this issue has not yet been adopted.

A significant underlying trend in the delays which characterise the elimination of the many market access barriers and legislative alignment issues which remain, involves the lengthy delays which these requirements encounter in Parliament. It is hoped that recent government initiatives will improve perspectives for the pace of alignment, particularly in the light of the considerable legislative workload which timely pre-accession preparations require.

The tendency noted in the last Regular Report towards a reversal of the close co-operation on trade matters identified in the Opinion has unfortunately continued, there has been a protracted dispute relating to the import of yoghurt - an issue in many respects symptomatic of broader difficulties in the processed and unprocessed agricultural sectors. Furthermore, in mid September Poland decided to raise a number of agricultural tariffs to their WTO bound level without the prior consultation

foreseen in the Europe Agreement. Elsewhere, the restructuring of the steel sector has stalled.

On trade and resources in the fishing sector, since the entry into force of the Europe Agreement discussions on a resources agreement and subsequent discussions on trade issues have not made any progress.

The lack of progress identified in the 1998 report concerning the certification of industrial products remains. The short term result is the continuance of a number of market access difficulties which have a impact on the bilateral relationship as a whole. In the longer term the lack of harmonisation with the *acquis* is having a negative effect on the competitiveness of Polish firms on their largest export market, the European Union.

In early 1999, the EU imposed definitive anti-dumping duties on import of hardboard, binder/baler twine and steel wire ropes and cables respectively originating, *inter alia*, in Poland. There were no new anti-dumping cases concerning imports from Poland initiated in the period.

#### *Accession Partnership/ NPAA*

An Accession Partnership was adopted in March 1998. Its implementation is reviewed in chapter D of this Report.

On 4 May 1999 Poland submitted a revised National Programme for the Adoption of the *Acquis* (NPAA) to the Commission, in which it outlines its strategy for accession including how to achieve the priorities contained in the Accession Partnerships (see chapter D).

#### *Pre-Accession Aid : Phare*

In 1999 Phare was the main instrument providing financial assistance to support Poland's pre-accession strategy.

The programme is “accession-driven”, concentrating support on the Accession Partnership priorities which help the candidate countries to fulfil the Copenhagen criteria. Around 30% of the Phare allocation is used for “institution building” (i.e. helping the countries to improve their capacity to implement the Union *Acquis*, see twinning below) and the remaining 70% is used for financing investments to strengthen the regulatory infrastructure needed to ensure compliance with the *acquis* and to reinforce economic and social cohesion including the effects of restructuring in important sectors of the economy.

The Phare programme allocated €2,050 million to Poland during the period 1990 – 1999 .

The 1999 Phare Programme for Poland consists of a national allocation (of €230.5 million), concentrated on the following priorities:

- alleviation of the social costs of coal and steel restructuring (€1 million)

- the reinforcement of institutional and administrative capacity in the fields of customs, financial control, taxation, fight against fraud, occupational health and safety, human resources development (€20.5 million)
- internal market (certification and standards, liberalisation of capital movements, telecommunications regulatory authority, state aids control (€10.4 million)
- agriculture (phytosanitary and veterinary administration, dairy facility, preparation for the CAP (€27.55 million)
- the strengthening of co-operation in the field of Justice and Home Affairs (border management, fight against organised crime, visa and migration policies), €17.5 million)
- environment (environmental inspectorate, support for investments) (€26.2 million)
- transport (road inspectorate, support for investments) (€64 million)
- regional policy and cohesion (€12.15 million)
- participation in various Community Programmes, Tempus and in the College of Europe (€11.2 million)

An additional €32 million have been allocated for a cross-border co-operation (CBC) programme with Germany, €3 million for the co-operation with the Czech Republic, and €3 million for co-operation within the Baltic Sea region.

Poland also participates in and benefits from Phare funded multi-country and horizontal programmes such as TAIEX, the Small and Medium-sized Enterprises programme and the Large Scale Infrastructure Facility .

Since 1990 Phare has provided support in addressing key economic transformation and structural reform issues. It has been delivered mainly in the form of technical assistance and used primarily in support of institution building and policy development. Increasingly Phare resources have also been mobilised in the form of support for investment priorities identified by the Government as essential to the fundamental restructuring of the economy over the medium term.

Overall the impact of Phare has been positive. Effective transfer of know-how and scarce equipment and financial resources has taken place in a number of important fields such as industrial restructuring and privatisation, SME development, trade and investment promotion, energy, land registration, etc. Phare support to agriculture and SME development has succeeded in developing sector strategies and initiating essential institutional and financial mechanisms servicing enterprises in these sectors.

Phare played for example a particularly important role in :

- the transport sector, selected sections of construction and renovation of the A4 Motorway project Wroclaw-Katowice-Krakow (126 km) were financed by Phare (€105 million) together with the EIB (€75 million).
- a regional development programme, where SME development was funded by Phare (€50 million) which cofinanced nearly 200 municipal SME infrastructure projects and cofunded over 1,000 SME investment projects through a grant scheme along with commercial banks. This created over €150 million of public

and private investment and generated more than 11,000 jobs in the regions concerned.

- a flood damage reconstruction programme funded by Phare (€65 million) in 1997. This allowed the cofunding of over 500 small infrastructure projects designed to renovate, reconstruct or improve public infrastructure (schools, medical centres, local roads, bridges, etc) in the flooded areas.
- environment, where a forestry programme, financed by Phare, eradicated pests in 250,000 ha of Polish forests, installed an early warning system, replanted 6,000 ha of new forests and helped establish a national programme to counteract forest erosion in Poland.

In 1998 the Commission reduced the 1998 national Phare allocation for Poland by €34 million because of a lack of sufficient mature projects meeting the priorities of the Accession Partnership. By contrast, the 1999 programme was undertaken in a efficient professional manner with concentration on Accession Partnership priorities. This resulted in the largest ever single Phare programme being approved in a short period of time. It should be noted that approval of projects in fields of standards and certification, telecommunications, social alleviation in the coal and steel sector and state aids is dependant on specific conditions being met. The conditionality usually relates to prior legislative or administrative actions which are essential precursors to the projects.

#### *Phare Management System*

The Phare management system was reformed in 1998 and 1999 to improve the speed, efficiency, effectiveness and transparency of Phare activities. Phare assistance has been implemented on a decentralised basis since it began. The authorities in the partner country have taken responsibility for contracting and payment of the assistance. However the European Community's Financial Regulation requires that the Commission supervise the contracting procedure and endorse any contracts financed from Phare signed by the partner country before they go into effect. The regulation co-ordinating assistance from Phare, SAPARD and ISPA, which was approved in June 1999 will allow the Commission to move to ex post control of contracting where the Financial Control exercised by the partner country is deemed by the Commission to be sufficient. This possibility will be reviewed on a country-by-country, sector-by-sector basis and introduced gradually.

In the meantime, and in order to streamline the implementation of Phare programmes, the Commission has transferred much of the responsibility for the supervision of contracting to its Delegations in the Candidate Countries.

Phare implementation structures have been rationalised in Poland to increase transparency and avoid dispersion of funds. This process increases the responsibility of the Candidate Countries by using, as far as possible, sustainable institutions and implementing agencies which will be responsible for the management and implementation of programmes financed from Community funds after membership.

Since December 1998, a National Fund located within the Polish Ministry of Finance is the central entity through which Phare and other EU funds will be channelled. The

National Fund has overall responsibility for financial management of funds and for ensuring that Phare procurement rules, reporting and financial management are respected, and that there is a proper project information system. A Central Finance and Contracting Unit has also been established to increase visibility and transparency in financial administration, accounting and payments. As regards the investment side of Phare, Poland established a limited number of Implementing Agencies which will be responsible for the implementation for specific projects.

#### *Pre-Accession Aid 2000*

During the period 2000-2006, pre-accession aid to the candidate countries will be more than doubled. Alongside the Phare programme, it will, as from the year 2000, comprise aid for agricultural and rural development (SAPARD) and a structural instrument (ISPA), which will give priority to measures similar to those of the cohesion fund in environment and transport.

In the years 2000-2002 total financial assistance available will amount annually €398 million for Phare, €168 million for Sapard and between €300 and €370 million for Ispa.

#### *Twinning*

One of the important challenges the candidate countries are facing is the need to strengthen their administrative capacity to implement and enforce the *acquis*. The European Commission proposed to mobilise significant human and financial resources to help them in this respect, through the process of twinning of administrations and agencies. The vast body of Member States expertise is now being made available to the candidate countries, in particular through the long-term secondment of civil servants. The strong support and response from EU Member States has meant that twinning partnerships covering a total of 108 projects involving all candidate countries and almost all Member States are presently being implemented.

Phare funding for twinning has so far focused primarily on the priority sectors of agriculture, environment, public finance, Justice and Home Affairs and preparatory measures for the Structural Funds.

For Poland, eight projects have so far been twinned under Phare. Out of the three agriculture twinning projects under implementation, France is assisting with the reform and strengthening of the veterinary administration, while Germany is leading projects on integrated administration and control (assisted by Austria), and animals identification and registration (assisted by Denmark). A project to assist implementation of environmental legislation is led by France, supported by Germany and the UK. Two important twinning projects in the field of Justice and Home Affairs concern the reform of the court system (led by France) and the management of the eastern border (UK). The UK is also leading a group of administrations from several Member States to help prepare Poland for the management of the Structural Funds.

Twinning is foreseen for 15 projects under the 1999 programme to cover a wider field including tax and customs administration, anti-trust and state aids, occupational safety and health.

*The negotiations/screening process*

The analytical examination of the *acquis* (screening) has been concluded for Poland except with regard to the agricultural *acquis*, which is foreseen to be concluded in the autumn.

Since the opening of accession negotiations in March 1998, two rounds of ministerial negotiations took place. As a result of these negotiations seven chapters have been provisionally closed (science and research, education and training, small and medium-sized enterprises, statistics, industrial policy, telecommunications and consumer protection) while eight (culture and audio-visual, CFSP, company law, free movement of goods, fisheries, external relations, customs union, competition policy) remain open.

## B. Criteria for Membership

### 1. Political criteria

#### *Introduction*

In the 1998 Regular Report on Poland's progress towards accession, the Commission concluded that :

"Developments in Poland confirm the conclusion of the Opinion that Poland fulfils the Copenhagen political criteria and its institutions continue to function smoothly. Important progress has been made in dealing with the weaknesses identified in the Opinion, in particular as concern civil rights protection and legislative measures regarding penal and criminal proceedings."

In the 1998 Accession Partnership with Poland "further attention to ensuring equal access to public services" is mentioned.

#### *Recent Developments*

The coalition government elected in September 1997 has exercised its mandate in accordance with the requirements of democratic governance. Poland's political institutions continue to function properly in conditions of stability, including ongoing "cohabitation" between the executive and the president. The 1997 Constitution has proved to be a stabilising factor since its introduction.

The government continues to support EU membership as a top political priority. Poland's accession to the North Atlantic Treaty Organisation on 12 March 1999 underlines successive government's commitment to integration in Euro-Atlantic structures.

Notwithstanding its commitment to EU membership, the last 12 months have seen the government focus its attentions on a domestic reform process intended to overhaul and modernise many areas of Polish society. Reforms of impressive scope and depth have been undertaken in the following areas; health, education, social security system and regional administration. Once fully implemented the reform process should facilitate Poland's integration into the European Union and its adoption of the *acquis*.

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

As mentioned in the last Regular Report, Poland has achieved stability of institutions guaranteeing democracy and the rule of law. This section therefore describes only the most significant developments of the past year.

#### *The Parliament*

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

### *The Executive*

The entry into force on 1 January 1999 of a new national administrative structure at central, regional and local levels represents an impressive reform in Polish government and administration and will provide significant opportunities for economic and democratic development at all levels of Polish society. The reform replaces previous structures by devolving powers to three levels of self-government at regional (Voivodships), county (Poviats) and commune (Gminas) levels and by reducing the number of Voivodships from 49 to 16 regions.

Free and fair elections to the new bodies took place (applying a 5% threshold for party representation) on 11 October 1998. In total 240.000 candidates stood for the 64.000 available mandates.

Regional self-government is now provided in 16 Voivodships through regional governors (Voivods) appointed by central government, and newly elected regional Councils (Sejmiks). Voivodship government tasks range from economic development and international economic relations, through regional promotion and postgraduate vocational education, to responsibility for social housing and unemployment offices and the provision of specialised regional level medical services.

In addition, government administration in the Voivodship has been fundamentally reshaped through the law on Voivodship self-government (in force 1.1.99). Most of the tasks previously undertaken by the Voivod have been moved to the Gmina, Poviat or Voivodship self-governments. The government continues to appoint the Voivod, who supervises the compliance of the activities of self-government with national law. At county level, 308 Poviats plus 65 city Poviats have been created with an elected Poviat representation (average 100,000 inhabitants), fixed assets and own revenues and primary responsibility for the provision of public services.

At commune level, the 2489 Gminas are in the process of being given new budgetary resources and new tax-raising powers to undertake the provision of primary community services.

The successful implementation of the new administrative structure will require an adequate allocation of financial revenues and of revenue raising powers.

Further systemic reforms in the functioning of the state administration are envisaged through the provisions of the Act on Governmental Departments which was adopted on 1 April 1999. This Act regulates the functioning of the Executive, identifying 28 departments of government and providing the Prime Minister with chancellery powers to allocate ministerial portfolios and to combine departmental responsibilities in ministerial portfolios. When fully effective, these provisions should in principle lead to a smoother running of the executive.

The revised 1998 law on the Civil Service which entered into force on 1 July 1999 aims to establish an open, competitive, career system. This will provide a new two tier corps of civil service employees with provision for competitive examinations for permanent status. Implementation of the law has to date been very gradual. A more rapid increase in the number of official covered would help to reinforce the efficiency of the administration and to ensure the development of an adequate pre-accession administrative capacity.

A core concern in the implementation of the new act will be equal provision of access to the public service on an open and independent basis to ensure continuity of administration in the years ahead. The issue of remuneration of civil servants is also addressed in the 1998 Act and will require further attention in the years ahead to ensure the recruitment and retention of a body of experienced officials.

Under the new law only certain officials working at the regional level, those in the offices of the Voivodships, will be accorded civil service status. The legal, financial and professional provisions for the remainder of the administrative staff responsible for the management of the Voivodship, and all staff at Poviat and Gmina level require clarification and further assessment.

### *The Judiciary*

Little progress has been made in addressing the constraints identified in the Commission's Opinion and the 1998 Regular Report. The limited development of the Judiciary and its administrative capacity remains a continuing source of concern. Furthermore, the ongoing failure to address urgently required improvements in the provision of the due process of law, permits a continuation of procedural and professional constraints which hamper the civil, political and economic development of Poland.

As described in the 1998 Report, the average times for processing court cases in civil, criminal and commercial cases remain lengthy (see chapter on administrative capacity). In consequence the enforcement of court rulings and the provisions of access to the courts have not improved significantly since the Opinion. Indeed, a number of cases have been taken by Polish citizens to the European Court of Human Rights (ECHR) in particular regarding alleged breaches of related Article 6 provisions on the due process of law and the right to be judged within a reasonable timeframe. The first rulings made so far in favour of the Polish plaintiffs, confirm that further attention needs to be paid to addressing this issue, but it also confirms the proper functioning of the ECHR mechanisms for citizens in Poland. The treatment of cases relating to real estate issues continue to be severely hampered by the poor state of the land register. However, the first signs of concrete progress being made in the reform of the courts system has been registered with the entry into force on 1 January 1999 of the law amending the common courts system which transforms Voivodships courts into district courts in line with the requirements of the state administration reform.

In general the independence of the judiciary continues to be respected. However, concerns have been expressed about proposals to place the Public Prosecutor's office under the Ministry of Justice given the importance of guaranteeing the independence of the judicial process from political pressures

The new Criminal Procedures Code, new Penal Code and new Code of Penal Procedures described in the 1998 Report, entered into force on 1 September 1998.

Although some progress has been recorded in the training of judges, significant further efforts are expected to improve the status of judges, prosecutors and officials. In particular, the level of enforcement of judicial decisions and the length of judicial proceedings, particularly in commercial matters, require significant further improvements.

### *Anti-Corruption measures*

The need to intensify the fight against corruption through the adoption of a national policy and the establishment of adequate institutional and enforcement measures continues to be a source of serious concern since the publication of the Opinion. Poland's own departmental reports on corruption by the Ministry of the Interior and the Court of Auditors underline the gravity of the problem in key economic sectors such as customs, public procurement, real estate, industrial waste disposal, healthcare and insurance. In 1998 411 investigations resulted in 37 arrests. Although some initiatives have been taken in key sectors such as the establishment of a National Customs Inspectorate, an effective national policy has yet to be defined.

The widespread use of bureaucratic controls in the Polish economy through the issuance of permits, licences and certificates tends to support a regulatory climate in which corruption prospers and in which political transparency and economic competitiveness are impaired. It is important to adopt an effective anti-corruption policy and to provide adequate institutional resources and powers to tackle the issue and its potentially negative impact on economic development.

On 27 January 1999, Poland signed the Council of Europe Criminal Law Convention on Corruption. The 1990 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of proceeds from crime and the 1997 OECD Convention on Combating Bribery and corruption in international business transactions await ratification.

Poland should address this serious problem. The implementation of the reform to the statutes of civil servants could provide an important element to remedying this problem.

## **1.2 Human Rights and the Protection of Minorities**

As mentioned in the last Regular Report, Poland continues to respect human rights and freedoms. The following section only concentrates on subsequent major developments

Poland has ratified the major Human Rights conventions (see annex) and has an established track record of providing appropriate international and constitutional legal

safeguards for human rights and protection of minorities. The 1997 Constitution provides explicit protection for the citizen's right to privacy.

The Vetting or 'Lustracja' process provides for the vetting of Government members, senior officials, officers of the state and members of the judicial system regarding the nature of their involvement with the former communist regime. Although subject to judicial review, there is no automatic requirement for resignation. However, in practice the implementation of the law has resulted in the resignations of a number of ministers and high ranking members of the judiciary. On two occasions the Polish Constitutional Court has ruled that the 1997 Vetting Law (Lustracja) does not infringe constitutional rights. The Ombudsman responsible for examining affidavits is empowered to bring suspected cases of misrepresentation to the Court of Appeal. In the light of the Constitutional Tribunal ruling on the applicability of the process to the judiciary, the Sejm has amended the procedures to ensure that due process of law is applied to cases involving judges.

### *Civil and Political Rights*

Basic rights continue to be respected and some significant developments have been registered since the 1998 Report.

The office of Commissioner for Civil Rights Protection continues to function well in the execution of its duties regarding the protection of citizens' rights.

Considerable developments have occurred with regard to the legislative framework relating to the communist past through vetting and the National Remembrance Institute. Subsequent to the application of a presidential veto, legislation establishing the National Remembrance Institute has been amended to provide wider access to information for all concerned citizens. The National Remembrance Institute will provide access to the secret service files of victims of the regime between 1945 and 1989.

Regarding rights to privacy, concerns remain relating to the provision of adequate safeguards for individuals in the light of an increasing array of legal instruments providing for surveillance by the state of private individuals and state control over access to information relating to citizens. There are growing concerns that inadequate legal safeguards are in place to ensure that data protection provisions for citizens – particularly regarding medical records and information on asylum seekers – are properly enforced. The 1998 Data Protection Law does not yet appear to be functioning adequately to provide safeguards ensuring citizens rights to privacy.

More attention needs to be paid to ensure that the increase in wiretapping and surveillance techniques (4000 in 1998) to deal with the fight against organised crime are subject to adequate judicial control.

The provisions of the Penal code regarding the liability of journalists to prosecution due to "slander and abuse" of the public authorities do not in practice appear to have caused significant problems for journalists' rights to freedom of speech since the 1998 Report.

The treatment of asylum seekers remains an important issue. In general, asylum procedures are carried out in accordance with the law but further efforts are required to improve the speed of processing. The Aliens Act does not recognise the concept of first asylum or any other form of temporary protection. It does provide access for all prospective refugees to a procedure for adjudicating refugee status and an independent Refugee Council to treat asylum appeals. Poland co-operates actively with the UNHCR and there are no reports of forced repatriations.

There has been a decline in the number of cases in trafficking in human beings and in the number of victims since the mid 1990s. A further decline will come about as and when the social and economic conditions of those parts of Polish society most susceptible to such crime improve.

Prison conditions, although rapidly approaching minimum international standards, are still generally poor. Many facilities are old, overcrowded and in disrepair. According to a recent report by the National Penitentiary Authority, the prison system is in desperate need of additional funding. The Ombudsman for Human Rights complained about the safety of prisoners, noting that inmates are often the victims of violence from other prisoners. The Ombudsman also suggested that the prison population be reduced.

Considerable restrictions still apply to the purchase of land by non-nationals (see section on free movement of capital).

### *Economic social and cultural rights*

As already documented in the 1998 Report, Human Rights organisations' concerns about the need to make progress on national policies improving the treatment of women and providing support for the victims of spousal violence have not been addressed, indeed the government cancelled a UN programme in this field. In addition, given the increasing level of problems affecting children, consideration would be merited regarding developing legislation and policies addressing violent and other forms of abusive treatment of children.

The President and Government of Poland have worked constructively to address the concerns of the Jewish community. A lively debate regarding the use of former Nazi concentration camp sites, has been handled with sensitivity by mainstream state and religious representatives. In keeping with this, the government is in the process of adopting legislation regarding the protection of former Nazi concentration camp sites which forbids public meetings, commercial activities and adjacent construction.

### *Minority Rights and Protection of minorities*

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

The 1998 Penal code provisions regarding the use of the mass media to “advocate discord” on national, ethnic, racial or religious grounds appears to be functioning well.

### **1.3 General evaluation**

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

## 2. Economic criteria

### 2.1 Introduction

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

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

This finding was confirmed in the 1998 Regular Report.

In examining the economic developments in Poland since the Opinion, the Commission's approach was guided by the conclusions of the European Council in Copenhagen in June 1993 which stated that membership of the Union requires:

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

In the analysis below, the Commission has followed the methodology applied in the Opinion and the 1998 Regular Report.

### 2.2 Economic developments

The Russian crisis induced a slowdown from the high rates of economic growth that Poland experienced over the last 3 years. Since August 1998, unemployment increased by more than 2% of the labour force. The financial sector withstood the impact of the crisis. The Polish currency remained within its wider band, in spite of the occasional precipitous drop in market value. In more recent months, inflation has edged up. The Polish authorities have started to implement a series of major social and structural reforms in the area of pensions, healthcare and local government, to be followed later this year by education. Combined with an ambitious privatisation agenda, these reforms should lead to a more efficient allocation of resources and a greater share of the private sector in the economy but they entail sizeable budgetary costs in the short run.

#### *Macroeconomic developments*

Real GDP increased by 4.8% in 1998, which is significantly lower than the vigorous performance of previous years. Weaker growth since mid-1998 has been the direct result of the Russian crisis and of the slowdown of the EU economy, combined with lower domestic demand. Private consumption and investment grew by 4.9% and

14.5%, respectively, compared with 6.9% and 21.7% in 1997. For the first time since 1992, industrial production went down, by 1.5% year-on-year in the fourth quarter of 1998. Domestic demand decelerated further in the first quarter of this year, and unemployment rose briefly above 12% in March. However, developments in recent months suggest a resumption of growth. Industrial sales recovered to 5% year-on-year in the second quarter of 1999.

Poland's current account deficit continued to widen. The current account deficit is likely to expand from 4.3% of GDP in 1998 to more than 6% this year. After negative growth in the final quarter, exports grew by 9.4% in 1998, while imports increased by 14.6%. Over the first half of 1999, exports continued to be lower than in 1998, mainly due to a decrease of more than two thirds to Russia, but the impact on the trade deficit was limited as imports also dropped. The main reasons for the widening of the current account imbalance are the increased deficit on services and the reduced surplus on unclassified transactions. The so-called "suitcase trade" was considerably cut down in the wake of the Russian crisis, from about €446.5 million per month in 1998 to half of that amount in 1999. In the first half of 1999, the current account deficit of €4.5 billion remains to be covered for a large part by capital inflows, including more than €2 billion of FDI. Due to the slowdown in economic growth and the reduction in interest rates, the Polish economy has become less attractive to international investors and foreign reserves have declined each month since November 1998. In July 1999, reserves rose again as a result of large capital inflows related to privatisation and the appreciation of the euro. They are equivalent to some 8 months of imports – still comfortably high.

Inflation decreased to 5.6% in March, compared with an annual average of 11.8% in 1998, but has risen since above 6% on a year-on-year basis. This mainly reflects the depreciation of the zloty in the first four months of this year, by some 15% against both the US dollar and the euro. The return of the zloty to central parity from the upper level of its band feeds into import prices with a lag of 3-5 months. Other factors, including the rise in oil prices, have also come into play.

The fall in inflation and the fast recovery of the zloty in the aftermath of the Russian crisis allowed a series of interest rate cuts. Real rates remain high, as inflation expectations have not yet subsided. The Monetary Policy Council (RPP), which has a target range of 6.6-7.8% for inflation at the end of 1999, has slowed down the monthly devaluation of the zloty from 0.65% to 0.5% from September 1998, and to 0.3% from March of this year. In two steps, the RPP also decided to widen the fluctuation band to +/-15% around the central parity, in preparation of a move to a full float within a year. At the beginning of 1999, the monetary authorities re-weighted the currency basket to 45% USD and 55% euro.

The economic slowdown is impeding efforts to reduce the budget deficit. Even though the assumption on GDP growth was lowered from 6.1% to 5.1% before the budget was adopted in October 1998, tax receipts until the end of May were only 36% of total revenue expected and transfers to social insurance and healthcare were higher than expected. By law, in order to achieve the central government target deficit of 2.15% of GDP, expenditure will have to be reduced if government revenues fall short of the budgeted amounts.

Main Economic Trends							
Poland		1995	1996	1997	1998	1999 latest	
Real GDP growth rate	per cent	7.0	6.0	6.8	5.0	1.5	Jan-Mar
Inflation rate							
- annual average	per cent	28.1	19.9	14.9	11.8	6.3	Jan-Jul
- December-on-December	per cent	22.0	18.6	13.0	8.4	6.3	Jan-Jul
Unemployment rate, end-year							
- ILO definition	per cent	15.2	14.3	11.5	10.6	12.5	Mar
General government budget balance	per cent of GDP	-2.1	-2.4	-2.6	:	:	
Current account balance	per cent of GDP million ECU/€	4.2 4062	-0.9 -1080	-3.0 -3806	-4.3 -6124	-7.2 -4632	Jan-Jun Jan-Jun
Foreign debt <sup>2</sup>							
- debt export ratio	per cent	169	145	123	126	144	Apr
- gross foreign debt	per cent billion ECU/€ billion ECU/€	33.6	31.8	33.6	38.0	38.3	Apr
Foreign direct investment net inflow							
- according to EBRD	per cent of GDP	0.9	1.9	2.1	4.2	:	
- balance of payments data	million ECU/€	2797	3542	4328	4568	2125	Jan-Jun

Source: National sources, OECD external Debt Statistics, IMF Government Finance Statistics, EBRD.

### Structural reforms

The Polish authorities are gradually implementing the privatisation programme adopted in July 1998, which envisages that 44 enterprises will remain in public ownership. Privatisation over the period until 2001 should cover more than 70% of the assets currently held by the State Treasury, and raise more than €35 billion. By the end of 1998 around 3,000 firms remained to be privatised, around half of them under the direct sales method - 156 direct sales were made in 1998. In addition, 244 enterprises were commercialised by offering at least 10% of their shares to private investors; 16 companies were privatised by tender, public offer or invitations to negotiate. Liquidation proceedings are running for many state-owned enterprises and farms

<sup>2</sup> The first row is taken from national sources. The data in the second row are the result of cooperation between BIS, IMF, OECD and World Bank. This source should be more reliable in terms of broader coverage, avoidance of double counting, etc., as well as improved timeliness.

<sup>3</sup> 1998 is estimated: only goods export figures are available, 1997 data used for services, income, and transfers.

In 1998 15% of the shares of Poland's national telecommunications operator TPSA were sold, generating over €765 million in government revenue. The fact that the Government went ahead successfully with this offer in the middle of the emerging markets crisis is evidence of Poland's commitment to privatisation and reform, as well as foreign investors' confidence in the country. A further 40% of TPSA is due to be sold by the end of 1999.

Between June 1998 and June 1999, advisers have been selected for the privatisation of LOT airlines, the Polish petroleum, mining, gas and spirits industries as well as a coal mine and several heat and power generating plants. Polish State Railways (PKP) was restructured into separate infrastructure, passenger transport and freight sections to prepare it for privatisation. The government also has a clear view on the privatisation of sugar holdings and energy providers, but less so on the steel and pharmaceutical sectors.. In December 1998 Nafta Polska cancelled a tender for the sale of a majority share in the second largest oil refinery of the country.

Substantial progress has been made in the privatisation of banks, with the sale of a stake in BPH last year and the sale of a 52% stake in Pekao Bank and a 80% stake in Zachodny Bank in June this year, all to foreign strategic investors. The proceeds from the two last transactions are equivalent to almost half of the state budget deficit. About 60% of total assets in the banking sector are now in foreign hands.

Privatisation revenue of €1.9 billion in 1998 exceeded expectations. The sale of about 70 firms in 1999 is expected to contribute € 3.6 billion to government revenue. Privatisation receipts are earmarked for the financing of the gap on existing pension arrangements, for the compensation of both public sector employees and pensioners (for the non-indexation of wages and pensions), and for the restitution of claims on property confiscated by the Polish state and Warsaw city under the old regime. These uses of privatisation revenue run up to some 2.5% of GDP in 1999-2001. The costs of pension, health sector and education reforms add another 1.5% of GDP to the financing needs of the government. Finally, the territorial administration reform, which is also implemented since the beginning of this year, implies a change in the revenue-sharing arrangements between the state and the lower levels of government.

In June of this year, the government reached agreement on a significant reform of the tax system: simplification, lowering tax rates, broadening the tax base, and removal of incentives to grey activities. There will be a gradual reduction of the corporate tax rate to 22% in 2003, income tax deductions will be removed in 2000 and income tax rates will be reduced in 2001.

At 0.5% of total assets, the exposure of the Polish banking sector to Russia was very limited. Moreover, the ratio of non-performing loans to total assets fell for the fifth year in a row, to below 10%. At the same time, the financial markets in Poland are deepening. The market capitalisation of the stock exchange rose by 65% last year. More importantly, the implementation of the pension reform from April of this year will boost the development of Poland's capital markets, as the establishment of institutional investors in the form of pension funds will enhance domestic demand for financial instruments. The launch of pension funds may also benefit Poland's largest insurer, PZU which needed a re-capitalisation from the government earlier this year in order to prepare for future privatisation.

Over 99% of Polish enterprises are small and medium sized enterprises and most of them are very small. SMEs contribute 45% of GDP and account for over 60% of employment. Around 40% of SMEs are involved in the trade sector with 10-12% each in manufacturing, construction, real estate, transport and other services.

People living in rural areas have not benefited greatly from economic growth. Strong protests followed the collapse of export opportunities to Russia and the decline in international prices at the end of 1998. The Polish government responded by increasing farm support and border protection. The Agricultural Property Agency of the State Treasury (APAST) has a reserve of more than 4 million hectares of land. Foreigners participation in the acquisition of part of this reserve is allowed. Up to now, non-residents have acquired 3% of the total land sold, and 6% of the land leased by the Agency.

<b>Main Indicators of Economic Structure in 1998</b>		
Population (average)	thousand	38666
GDP per head	PPS-ECU per cent of EU average	7800 39
Share of agriculture <sup>4</sup> in: - gross value added - employment	per cent per cent	4.8 19.1
Investment-to-GDP ratio	per cent	25.3
Gross foreign debt/GDP	per cent	15.9
Exports of goods & services/GDP	per cent	23.7
Stock of foreign direct investment, according to EBRD	billion ECU ECU per head	12.9 334

*Source: National sources, OECD external Debt Statistics, IMF, EBRD*

## 2.3 Assessment in terms of the Copenhagen criteria

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

As set out in Agenda 2000 the existence of a functioning market economy requires that prices, as well as trade, are liberalised and that an enforceable legal system, including property rights, is in place. Macro-economic stability and consensus about economic policy enhance the performance of a market economy. A well-developed

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<sup>4</sup> Agriculture, hunting, forestry and fishing.

financial sector and the absence of any significant barriers to market entry and exit improve the efficiency of the economy.

In Poland there is a broad consensus about the essentials of economic policy, even though policy choices and reform are usually widely debated. An example is the public discussions on tax reform that started earlier this year and does not appear to have come to an end. Economic policymaking benefits from the good understanding between the Ministry of Finance and the monetary authorities. The Polish authorities have recently finalised a Joint-Assessment of economic policy priorities with the services of the Commission, which demonstrates an effective level of co-ordination between the line ministries.

Macro-economic stability has been maintained in Poland. However, the trade and current account deficits have increased considerably, as a percentage of GDP, and their this situation need to be addressed. Inflation appears to be under control. The main challenge lies in fiscal consolidation, against the background of the multiple reforms which are now underway and their initial costs to the public budget.

The private sector accounts for almost 65% of Polish GDP, and for 70% of employment. Administered prices have been progressively liberalised, and market mechanisms are at work in most sectors of the economy. Nevertheless, prices directly affected by government decisions still represent roughly a quarter of the consumer price index. Intervention prices apply to a range of agricultural products. Trade is largely liberalised, but from time to time Poland has recourse to protective measures..

A large number of firms in the public sector are loss-making, and their restructuring is slow to take place. However, formal barriers to the undertaking of business activities and to the entry of firms have been removed in most sectors. A draft law on economic activities constitutes a positive step in this process. It will consolidate the existing legal framework in this area, which had been amended many times since 1988. It will also expand the scope for entrepreneurship – by giving a definition of a small and medium-sized enterprise (SME) and providing a framework for self-regulation. It will curb state intervention in the economy and give equal status to domestic and foreign companies. In addition, the laws applicable to tender offers and monopolies have been amended.

Poland's investment climate is good, except for the difficult access of the smaller domestic firms to outside finance and barriers to the establishment of foreign firms in certain sectors. To date, small enterprises have thrived in the large grey economy, but will progressively have to enter the official sector. The tax system also provides incentives for foreign firms to use their establishments in Poland as cost centres, through inter-company pricing policies and financial transactions. For these reasons, corporate tax reform is an important next step in the registration and deepening of economic activity.

The financial sector is developing fast from a low base, in particular through the increased presence of foreign strategic investors in large Polish institutions. Lending to the private sector has consistently increased in real terms over the last few years (by more than one quarter since 1996), reaching 26% of GDP in 1998. Nevertheless, the ability of Polish banks to lend to firms for investment is limited. Attempt to

accommodate demand for long-term loans by using short term funding defy sound banking principles. Domestic banks also still have difficulties to tap the international market for long-term capital. Poland's stock market is relatively small. At the end of 1998, the capitalisation of the Warsaw stock reached €18 billion, equivalent to some 14% of GDP.

Poland is a functioning market economy, with an increasingly thriving private sector and an appropriate legal and institutional environment for economic activity. The institutional framework is largely in place and final amendments are being made to the legal framework in which business operates. Market mechanisms work effectively in most sectors of the economy, but there is an urgent need to speed up the restructuring and privatisation of large state enterprises. The main challenge to macro-economic stability is to ensure medium term sustainability by reconciling fiscal consolidation with the start-up and continuation of a number of far-reaching reforms.

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

As set out in Agenda 2000 Poland's ability to fulfil this criterion depends on the existence of a market economy and a stable macroeconomic framework, allowing economic agents to make decisions in a climate of predictability. It also requires a sufficient amount of human and physical capital, including infrastructure. State enterprises need to be restructured and all enterprises need to invest to improve their efficiency. Furthermore, the more access enterprises have to outside finance and the more successful they are at restructuring and innovating, the greater will be their capacity to adapt. Overall, an economy will be better able to take on the obligations of membership the higher the degree of economic integration it achieves with the Union prior to accession. Both the volume and the range of products traded with EU Member States provide evidence of this.

Poland has a dynamic market economy, characterised by a high degree of macroeconomic stability. Increased openness to foreign investment and trade are key factors in boosting its competitiveness.

The rate of accumulation of capital goods has steadily risen in Poland since 1992; the investment-to-GDP ratio reached a level of 26% in 1998. Moreover, the annual investment in machinery and equipment, including transport, is now practically equal to that in buildings and structures, compared with only one half in the early 1990s. Also, half of the capital goods for investment in machinery and equipment are imported, against more than two thirds in 1992. The largest part of these investments is financed from own funds. In addition, the potential and dynamism of the Polish market has attracted a sizeable inflow of foreign direct investment over the years. At the end of 1998, the accumulated stock of FDI was €26.8 billion. The Polish Agency for Foreign Investment (PAIZ) reported an inflow of €8.9 billion in 1998, including investment in kind and reinvested earnings. A growing number of Polish companies have foreign participation in their capital.

Poland's communications, energy and transportation infrastructure requires upgrading. In particular the road network is an impediment to trade and future

development. The Polish authorities are aware that the doubling in public spending on infrastructure projects (to roughly 1% of GDP) foreseen for the next few years will not be sufficient, and they are actively looking for private-public partnerships. The protection of the environment is also a concern. While private initiative in these areas has been held back by the slow pace of restructuring, the increase in public investment has been limited by the government's commitment to fiscal restraint.

The number of university students has more than doubled during this decade. Post-graduate studies and professional courses, catering for the needs of particular enterprises and the requirements of the market economy, are very popular. The government is considering increasing its involvement in the promotion of innovation channels from research centres to enterprises, for example through the creation of technology parks.

Trade integration with the EU has further increased. In 1998, share of the EU in total exports increased from 64.2% to 68.3%, and that in imports from 63.8% to 65.9%. In the first quarter of 1999, Germany accounted for half of Poland's exports. In 1998, the commodity composition of Poland's trade with the EU was dominated by electronic products on the export side (nearly 17% of the total, followed by textiles and clothing, base metals, vehicles and vessels) and by machinery and equipment on the import side (31.6%). Even though Poland's export performance continues to improve overall, sectors such as the agri-food sector are not very competitive vis-à-vis the EU, mainly because of low productivity and quality deficiencies.

Poland has established a program for technology transfer to small and medium-sized enterprises with an explicit objective of regional redistribution. The employment opportunities offered by SMEs, mostly in manufacturing and services, will continue to play an important role in the absorption of excess labour from heavy industry and agriculture. However, the present financial and taxation system and the lack of active mechanisms for supporting innovation are all obstacles to SME development. The falling share of SMEs in both exports and imports in recent years are warning signs which should be taken seriously. The government recently adopted an ambitious programme for SME development for the period 1999-2002.

Around 25 percent of Polish employment is in agriculture, mainly on small-scale family farms. Overall agricultural employment has declined slightly during transition, but the rate of unemployment in rural areas is currently above the average level. The main reason is the lack of education and skills of the rural labour force. This sector is in urgent need of reform. An important part of the food industry has been privatised, but there is still overcapacity in some sectors and much needed restructuring is being held back partly, because of institutional barriers.

Poland should be able to cope with competitive pressure and market forces within the Union in the medium term, provided that the various reforms that have been set in motion are completed. The dynamism and openness of the Polish economy needs to be lifted to a higher level by restructuring heavy industry and agriculture and reducing trade protection. Urgent measures should be taken to improve Poland's infrastructure. This would enhance competitiveness but also facilitate trade between the Union, Poland and the wider region.

## **2.4 General Evaluation**

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

Macroeconomic stability in Poland is well established and has withstood the Russian crisis. The widening of trade and current account deficits needs to be closely monitored and controlled. There has been some progress in privatisation, including in the banking sector, and in social sector and territorial reforms.

The biggest economic challenge which Poland now faces is to press ahead with reform and privatisation, particularly in agriculture, while pursuing fiscal consolidation in the medium term. Continuing economic reform will be required in order to foster private sector growth. The process of privatisation and restructuring of the many remaining state-owned enterprises should be accelerated, in particular in sectors such as steel.

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

This section aims to update the Commission's Regular Report of 1998 regarding Poland's ability to assume the obligations of membership - that is, the legal and institutional framework, known as the *acquis*, through which the Union implements its objectives.

In the 1998 Regular Report on Poland's progress towards accession, the Commission concluded that :

“Poland has a mixed record in legislative transposition and implementation. Progress in the adoption of internal market legislation has not proceeded satisfactorily due to delays in adoption of the new approach and related institutional structures in the standards and certification area. There is also a need to set up a credible system of state aid control. A key weakness in the general record on approximation is environment where only limited progress has been made. On the other hand, Poland has demonstrated a willingness to tackle key industrial issues such as coal and steel restructuring.

While Poland has partially addressed the short term Accession Partnership priorities in the areas of economic reform and industrial restructuring particularly by submitting a steel restructuring plan by the 30 June deadline in the Accession Partnership, internal market and regional development, insufficient attention has been paid to the agriculture, environment and institutional and administrative capacity priorities. Poland has also shown determination in meeting the short term Accession partnership priority in justice and home affairs, particularly in the area of border management where first results are already visible.”

The presentation set out below follows uses the same structure as the 1998 Regular Report and focuses on progress made since October 1998. Under each heading legislative decisions and the progress in implementing and enforcing the legislation are reported.

#### **3.1 The Internal Market without frontiers**

The Union's internal market is defined in Article 14 of the Treaty as an area without internal frontiers in which free movements of goods, persons, services and capital is ensured. This internal market, central to the integration process, is based on an open-market economy in which competition and economic and social cohesion must play a full part.

Effective implementation and enforcement of these four freedoms requires not only compliance with such important principles as, for example, non-discrimination or mutual recognition of national legislation but also the effective application of common rules, such as those designed for safety, environmental or consumer protection, and effective means of redress. The same principles apply to certain common rules, for example in the areas of public procurement, intellectual property and data protection, which are important in shaping the general framework within which the economies operate.

In the field of *Public Procurement* Poland has adopted the basic principles of the Community *acquis* and has achieved a reasonable level of compliance. However, there still remains a compulsory domestic preference and the new public procurement law has not yet entered into force. Further amendments of the public procurement law notably in areas such as coverage of utilities, negotiated procedure, remedies and domestic preference clauses are still required. As regards implementation, the Polish public procurement administration was faced with an increased number of tender announcements up from 44.567 in 1997 to 53.147 in 1998, as well as an increase in administrative decisions and the number of appeals (see chapter on administrative capacity).

Poland has achieved a moderate level of compliance with the *acquis* in the field of *intellectual property* and has acceded to all industrial property conventions administered by the World Intellectual Property Organisation. In the interim very limited progress has been achieved in the area of intellectual and industrial property rights. Pursuant to articles 66, 68 and 69 of the Europe Agreement, Poland needs to undertake serious efforts to significantly improve the protection of intellectual, industrial and commercial property rights in order to provide a level of protection similar to that existing in the Union, including comparable means of enforcing such rights.

Although singled out in both the 1998 Report and an Accession Partnership priority, the Polish Copyright Act of 1994 remains unchanged and a source of concern about divergent approaches between Poland's and the Community's Intellectual Property legislation. Issues to be urgently addressed by Poland continue to include the scope of the rental Directive (in particular the rights for broadcasting of foreign sound recordings), major parts of the cable and satellite Directive, the periods of protection for neighbouring rights, post-mortem author copyrights and copyrights for pre-1974 sound recordings and, finally, the legal protection of databases. In the enforcement of intellectual property rights at administrative and judiciary level important improvements are needed in particular regarding border enforcement and anti-piracy measures.

Poland is to a large extent in line with the *acquis* in the field of *industrial property*. However, over the last year, no significant legislative developments have taken place in the area of industrial property legislation. Poland has to make further efforts in the field of patents, in particular concerning protection of pharmaceutical products, in order to comply with the EU level of protection. Poland has also to pay special attention to the enforcement of industrial property in particular at the border and in the judiciary, both of which remain to be tackled. Poland has been invited to accede to the European Patent Convention from 1 July 2002.

Poland's level of alignment in the field of *Company law* is relatively high. However, further efforts are required to achieve a full alignment with the Company Law directives (1<sup>st</sup> Company Law directive- cases of nullity; 2<sup>nd</sup> Company Law directive- rules on groups; 3<sup>rd</sup> Company Law directive- draft terms of mergers; 6<sup>th</sup> Company Law directive- divisions).

Poland's level of alignment in the field of *accounting* is relatively high. An accounting standards setting body has been established during the last year.

In the area of *data protection*, Poland has achieved a reasonable level of compliance with the *acquis*. Poland signed the Council of Europe Convention on the protection of individuals with regard to automatic processing of personal data on 21 April 1999. Further efforts are required in the implementation of data protection legislation in particular regarding respect for rights of privacy (see Political criteria).

Poland has not yet deposited the ratification instruments of the Lugano Convention on jurisdiction and enforcement of judgements in civil and commercial matters.

### *The four freedoms*

In its opinion, the Commission indicated that while substantial progress had been made in the alignment of legislation considerable work remained to be done.

The assessment in the 1998 Regular Report focused on the issues of standards and certification, banking and administrative structures, all of which were identified as key areas where further progress was required.

### **Free movement of goods**

Poland has achieved a poor level of compliance with the *acquis* in this field. The short term impact of this has been the creation of a number of damaging market access difficulties for EU economic agents. A lack of compatibility with the EU regime also means that Polish producers face higher costs as they have to meet two, differing standards. In the longer term the lack of progress in harmonising with this key element of the internal market *acquis* creates difficulties for Polish firms as they will face a shorter time frame in which to adjust to the *acquis* as well as making it more difficult for them to benefit from their access to the European Union's market.

As was also the case in 1998, in the fields covered by the New Approach Directives, there has been no progress in transposition or implementation. No progress has been achieved in transposition or implementation in a number of sectors such as chemicals, pharmaceuticals, cosmetics, glass, textiles, footwear, wood and legal metrology. In the field of motor vehicles, a regulation on technical conditions was adopted.

Progress in the field of conformity assessment certification and technical regulation has been confined to the removal of long-standing trade barriers through the adoption of the amendment to the Act on Testing and Certification on 23 July 1999 which came into force on 10 September 1999. Given the background of these trade barriers, attention will be required to ensure that this amendment will be implemented in accordance with the obligations set out in the agreement on the Protocol on European Conformity Assessment. The short term priorities of the 1998 Accession Partnership require significant further efforts given that none of the framework legislation required has been adopted over the previous twelve months.

As far as standards are concerned, Poland has made some progress, and has aligned itself with 20 % of European standards.

With regards to the institutional reforms which will be necessary to align the Polish system with that of the EU, some limited progress has been made. The government has adopted the decree which allows for the functional separation of the accreditation and certification functions which currently both reside in the same body, the Polish Centre for Testing and Certification. However, it is not clear how the effective separation will be accomplished or the level of resources which will be allocated to the two bodies. On standards, the Polish Committee for Standardisation is not yet a fully independent body.

The result of the above absence of significant progress on framework and New Approach directives is that Poland remains far from fulfilling this important element of the single market.

### **Free movement of capital**

Poland has achieved a moderate level of compliance with the *acquis* in the field of free movement of capital. While progress has been achieved, for example the adoption of the Foreign exchange law, further attention is required.

The liberalisation process in Poland is fairly advanced but substantial restrictions remain in place, in particular on direct investments from foreign entities in specific economic sectors, real estate acquisitions and short-term transactions. Since the last report, the most significant progress in terms of liberalisation was caused by the entry into force in January 1999 of the new Foreign Exchange Law of 18 December 1998, which liberalised in particular the vast majority of outward capital transactions by residents.

The remaining restrictions in foreign direct investments concern mainly the sectors of broadcasting, telecommunications, gambling, insurance and legal services. Furthermore, acquisition of real estate by foreign entities is still subject to the granting of an authorisation, especially in the case of agricultural land, with the exception of some specific transactions which may be freely carried out. According to the Polish authorities, there has been a moderate increase in the amount of land purchased by non-nationals. While there are still significant obstacles to foreign investment in the audio-visual sector there was some improvement during the last year. The Communications Act has been amended to allow foreign capital into the provision of radio services provided the transmission range extends beyond the Polish border.

As for short-term capital movements, they are still comprehensively restricted since money market securities transactions as well as short-term financial loans and credits are subject to an authorisation procedure.

The significant future progress required in these areas, would help to move Poland's financial markets towards more maturity in terms of product range, markets and institutional organisation, and allow for a full implementation of the Community *acquis* in the field of capital movements.

### **Free movement of services**

Poland has achieved a relatively high level of alignment in the field of free movement of services.

The new *Banking* Act entered into force on 1 January 1999. This act provides for branching from foreign banks, it also contains provisions on large exposures and on money laundering which have been strengthened. Some of the attributions of the National Bank of Poland have been devolved to a Council for Monetary Policy while the Banking Supervision Commission and the Ministry of Finance have been empowered to issue secondary legislation. Significant progress was achieved in a number of areas (own funds, solvency ratio, capital adequacy). However, progress is still awaited in supervision on a consolidated basis and the post-BCCI directive. In 1998 there was a small increase in the number of bank Inspections to 453 from 438 in 1997. (see chapter on administrative capacity).

The opening up of the banking sector has continued in 1999. The privatisations of Bank PEKAO and Bank Zachodni have taken place and at the start of the year the first mortgage bank licence was issued.

In the case of *insurance* services there has also been an opening up to foreign firms. This is on a reciprocal basis. Moreover, in line with the establishment and services provisions of the Europe Agreement, EU firms may now operate in Poland on an equal basis.

Poland has achieved a relatively high level of alignment in the field of *securities* markets. The 1998 Report recalled progress achieved with the adoption of the law on public trading of securities and a law on investment funds which appear to be functioning well. In the last year further progress has been achieved in alignment regarding financial prospectuses.

In the field of *payment* systems, Poland has achieved a relatively high level of alignment essentially with regards to the infrastructure of its system. Following progress achieved in establishing the basic features of the real-time gross settlement system, efforts will need to be continued in view of a later linking with the TARGET system.

### **Free movement of persons**

As regards the freedom of establishment and mutual recognition of diplomas and qualifications, Poland has achieved a limited level of alignment

In the field of professional qualifications there is a clearly limited level of alignment, there has been no progress over the last year and no proposals have been noted to improve this situation. The lack of mutual recognition represents a very real obstacle to the effective free movement of persons.

As regards rights of establishment, the adoption of a new Law on Economic Activity, the preparation of a Law on Telecommunication, the modification of the Law on Radio and Television and the revision of the Law on Games of chance and Betting are still required. Considering the economic importance of this issue for its further

economic integration, Poland should undertake serious efforts to fulfil the necessary legal requirements to grant freedom of establishment.

### *Competition*

Poland has achieved a reasonable level of alignment in the field of *antitrust* and *mergers*. Amendments to the Law on Counteracting Monopolistic Practices have entered into force in January 1999 and have improved the situation. Further alignment in particular regarding block exemptions remains to be completed. In 1998 there was an increase in the number of merger cases completed to 215. 132 firms were fined for non compliance with the merger notification requirements (see Administrative capacity)

In the area of *State aid*, Poland has undertaken to align its State aid award provisions with the *acquis* by way of adopting a comprehensive law on State aid. However, the adoption of this law is still pending which gives rise to concerns.

It would thus be well-timed that particular effort be made to ensure the adoption, implementation and enforcement of the state aids law, to ensure that Poland is prepared in good time to cope with the competitive environment required by the functioning of the internal market. Closer attention should be paid to distortion of competition arising from State aids, and particularly indirect aid (in the form of e.g. social security write-offs, tax-relief, debt write-off, and tax arrears write-offs) and aid given by sub-national authorities. It appears that these two categories of aid particularly lack transparency. Controls on the conditions regarding the granting of operating aid continue to be inadequate and require significant improvement. Closer scrutiny is required for the application of Community rules on public aid in sensitive sectors such as the steel and automotive sectors.

Special regimes in particular relating to certain aspects of the 17 Special Economic Zones established subsequent to the entry into force of the Europe Agreement need to be fully assessed with a view to ensuring alignment with Poland's existing international obligations and to ensure conformity with the *acquis*.

Transparency has improved through the 1997 State aid report. However, further progress is required to ensure the full comparability of State aid given in Poland with that given in the EU and the methodology of the Commission's surveys is followed more closely. Further efforts would also be needed to ensure the full gathering and flow of statistical data, particularly at the sub-national level. The 1998 report is awaited and Poland should also complete its State aid inventory.

Further progress would be required in the alignment of rules regarding state monopolies in the energy sector and the exclusive rights for international telecommunications services.

### **Conclusion**

There has been little progress since the last report in adopting and implementing certain key measures which are fundamental to the operation of the internal market.

The short term priorities set out in the 1998 Accession Partnership have only very partially been met and as a consequence important elements of the internal market remain to be completed. In particular, the notable failure to make progress in both conformity assessment, certification and technical regulations, and in State Aids underlines the fact that major shortcomings remain regarding the basic legal and institutional framework.

Poland should establish a legal and regulatory framework for the control of state aids to ensure full compliance with the *acquis* in order to prepare for the competitiveness of the internal market. The need for an effective public aid control and enforcement system remains an urgent priority for Poland. On specific cases, improved compliance with the *acquis* would be necessary.

However, good progress has been made in some areas, notably services.

Once again attention needs to be drawn to ensuring that the measures adopted, notably in the field of intellectual and industrial property rights (including border enforcement) and of data protection are effectively implemented as this issue has not yet been adequately addressed.

As reported in 1998, Poland continues to make a phased liberalisation of capital movements. The necessary administrative infrastructure for the financial services sector has been created with regulatory and supervisory authorities in place and functioning except those monitoring compliance with the Money Laundering directive. Elsewhere, significant efforts remain to be undertaken down to the level of programming approximation of the *acquis* concerning the mutual recognition of professional qualifications and diplomas.

### **3.2 Innovation**

#### *Information society*

Poland continues to play an active role in the Joint High Level Committee meetings between the Commission and candidate countries. Little progress in policy making has been made in this sector, which is important for the development of the industrial economy.

#### *Education, training and youth*

Over the last year there has been significant developments in the Polish education sector. The practical implementation of the reform started in September 1999. Reforms in the education sector aim primarily at raising the overall attainment level. Poland has opted for a secondary education system that puts greater emphasis on general technical and higher education aiming at increasing the school leavers' mobility on the labour market. In addition, the reallocation of management responsibilities to regional and local authorities (Voivodship, Poviat, Gmina) may eventually improve the redistribution of financial resources

Whilst the 1999 education reform focuses on the general and higher education system, continuing vocational training remains a fundamental issue with significant medium term consequences for Polish competitiveness, employability, inward investment and redevelopment of the rural economy. Considerable further attention is required in this area, in particular to address skills deficits in rural and remote regions and in regions where industrial restructuring will require new investment and employment.

Since March 1998, Poland has been successfully participating in the Socrates, Leonardo da Vinci and Youth for Europe Community programs and national agencies have been established to promote and provide information on each programme

In 1998-99, 4371 students have benefited from Erasmus mobility grants to study in EU countries and 9413 young Poles have taken part in the Youth for Europe programme. In 1998, 499 Poles participated in exchanges within the framework of the Leonardo programme (vocational training).

### *Research and technological development*

The present Community *acquis* does not require transposition into the national legal order. However, the compatibility of the general legal order with the Community *acquis* needs to be ensured.

The association of Poland with the 5<sup>th</sup> Framework Programme (1999-2002) has entered into force in September 1999. In order to prepare the successful association, several structures have recently been established in Poland. The real implementation capacity will be tested during the association with the 5<sup>th</sup> Framework Programme. Poland has also decided to open its corresponding research activities to enterprises, researchers and universities from the Member States.

### *Telecommunications*

Poland has achieved a reasonable level of alignment with the *acquis* but implementation has not been of a comparable level. Over the last year Poland has come closer to the *acquis* through the more rigorous implementation of already existing laws.

Despite significant growth in 1998, Poland's telecommunications sector grew more slowly than the economy generally. It now has the second highest GDP per capita of the CEEC candidate countries but has the second lowest density of telephone lines, i.e. 23 per 100 inhabitants. The growth in fixed lines, in modernisation and in mobiles (5 per 100 at the end of 1998) has been rapid but the scope for still more rapid investment is clear. Moreover, the fixed network price structure is too dependent upon excessive revenues from international services. Further progress in price rebalancing is becoming urgent along with measures to maintain the affordability of universal service through special tariffs.

Significant legislative progress has been achieved in the telecommunications sector in the last year. The adoption under the existing law of the new Interconnection Ordinance not only brings Poland more closely into line with the *acquis* but should also promote both competition and increased investment in the sector. It also provides for economic incentives to increase coverage in rural areas. Further legislative progress is however required to ensure that the regulatory regime is brought fully into line with the *acquis* most notably with regard to the establishment of an effective Telecommunications Regulatory Authority and the removal of the incumbent's statutory exemption from licensing.

The Government has adopted a more vigorous policy for the telecommunications sector favouring privatisation and wider liberalisation including of long distance services. Since the last Report, the privatisation process for the state-owned incumbent operator TPSA, was launched in late 1998 with the sale of 15% of the shares. Following the success of this process, the government announced early in 1999 that it was seeking a strategic investor for the next 25 - 30%. As a further 15% are being distributed to employees, the state will give up its controlling interest in the company.

Attention is required to ensure that public procurement procedures regarding telecommunications equipment do not discriminate or lead to privileged access to markets with negative consequences for competitiveness.

Although a new postal law is reported to be under development, no detailed information as to its content is available. A Postal Market Regulatory Authority is to be established separately from the telecommunications regulatory authority but no details are available. There has been no visible progress in this sector.

### *Audio-visual*

Poland has a moderate level of alignment with the *acquis*. Progress recorded since 1998 remains limited in the audio-visual sector. The amendment to the law for the Polish Broadcasting and Television Law, was vetoed by the President. Full legislative alignment in issues such as the promotion of European works, advertisement and teleshopping continue to remain areas of concern. Administrative and implementation structures (National Broadcasting Council) are in place and work effectively within the confines of existing legislation.

### **Conclusion**

Poland has achieved reasonable progress in the field of telecommunications, and telecommunications privatisation, a 1998 Accession partnership short term priority is underway. With regards to the audio-visual sector, significant efforts are required. Some progress in the sectors of education, training and youth has been achieved, but vocational education and training require further attention. Efforts need to be accelerated to promote co-operation between the administrative institutions concerned to develop an educational system which gives new perspectives to young people above all in regions most affected by economic and social transition. The

development of the Polish telecommunications sector will have an important impact on deepening competitiveness and concentrated efforts including further liberalisation and investment are required to achieve progress in the short term.

### **3.3 Economic and fiscal affairs**

#### *Economic and Monetary Union*

Poland has indicated that it accepts and will comply fully with Economic and Monetary Union *acquis* as defined by title VII of the EC treaty and the other relevant texts. Poland has also stated that the administrative structures to implement and enforce the *acquis* will be in place.

Poland has made some additional progress in its preparation for participation in the EMU. In particular, for the *acquis* that has to be implemented before accession, the Act on public finances adopted in November 1998 implements the constitutional prohibition of direct financing of the public sector by the central bank. In order to comply fully with the *acquis* on central bank independence, some technical amendments have to be made to the Act on the National Bank of Poland to guarantee the institutional and financial independence and to select an independent external auditor.

Compliance with the EMU *acquis* is conditional upon completion of the process of liberalisation of capital movements, which is examined under the section on free movement of capital.

#### *Taxation*

The Polish VAT and excise regimes have been gradually aligned with the *acquis* and particular efforts have been made to ensure equal taxation of imports and similar domestically produced products. This has resulted in tax regimes, which are quite similar to the general principles of the Community tax *acquis*.

Since the last Regular Report Poland has adopted provisions for a VAT refund scheme for tourists and VAT exemptions for imports of commercial goods not exceeding a value threshold of € 10. Further alignment is needed regarding VAT scope and rates and VAT imposition on agricultural products which are currently exempt. Discriminatory elements remain as regards certain imports which are taxed at a higher VAT rate than similar domestic produced products. In the field of excise duties the duty rates on cigarettes and motor fuels have been increased so as to adjust further to the Community's minimum levels, but more efforts are needed to meet minimum EU levels. The issue of fiscal discrimination with regard to alcoholic beverages and tobacco products has not been resolved.

#### **Conclusion**

Poland has continued its efforts to gradually align its tax legislation to that of the Community *acquis*. Poland has established a well-structured pre-accession strategy

but needs to pursue alignment in VAT and excise duties. Tax collection capacity at central and regional government level should be strengthened as should administrative co-operation and computerisation.

### *Statistics*

Poland has a high level of alignment with the *acquis*. The performance of the statistic sector in Poland, in principle, can be assessed positively. The Polish Central Statistical Office can be considered as a professional institution with a clear structure, experienced staff and an informatics system which has been substantially upgraded in recent years. Progress has been achieved in Consumer Price Index data collection, production statistics, national accounts and classification of statistics. In agricultural statistics methodological preparations for a major structural sample have been started. An acceleration of progress is required in preparations for the 2001 agricultural census. On regional statistics, the definition of level 3 units is an urgent priority in the light of the State Administration Reform. Sector-specific efforts are still needed in areas such as business register updating, macro-economic statistics, external trade, labour and transport statistics in order to fully meet EU requirements. Co-operation between the Central Statistical Office and other services involved (i.e. Ministries of Agriculture and Finance, National Bank, Labour Office) needs to be strengthened. The implications of the administrative reform on the regional statistical infrastructure require clarification.

## **3.4 Sectoral policies**

### *Industry*

Poland's industrial policy is based upon the same broad principles which guide the EU's own policy. Poland's latest industrial policy guidelines (1999 - 2002) adopted in February 1999 remain consistent with the same overall systemic approach, which has guided Poland through the transformation process. The policy thus endorses market-based rules of competition and free enterprise. The central objective of Polish Industrial Policy is thus to create a proper environment for industrial operators, to improve the international competitiveness of industry, and to facilitate and encourage its adaptation to the business environment and industrial structures of the EU.

The policy recognises that competitiveness in large measure arises out of the environment in which firms are situated. In this context, the prime importance of improving the broadly defined technical, legal, fiscal, systemic, and financial infrastructure for industry is recognised. The wide competitiveness gap between Poland and EU Member States is acknowledged and it is important that Poland meets the target date of 2001 for the completion of the privatisation process.

Poland has been very successful in creating an appropriate legal environment in which new dynamic businesses continue to be formed at an impressive rate and which has in recent years attracted high levels of foreign direct investment (see economic criteria). The consequent robust industrial performance has certainly contributed significantly

to Poland's ability to respond to external shocks and to maintain its economic growth rate.

However, there are areas where policy and practice have been divergent. The industrial policy guidelines highlight the need for early adjustment of industrial sectors and individual firms to the regulatory environment of the EU, in particular technical standards, product safety requirements, and rules of competition. In practice little has been done to adopt the necessary legislation. As a result Polish producers continue to produce according to two different systems. This prevents economic operators in Poland from gaining experience in taking full responsibility for the conformity of their products with EU rules, and from acquiring important skills which they will require in order to compete on the internal market, both before and after accession.

In addition it should be noted that an important element of any industrial policy is the control of State aid and that there are similar delays in the adoption of legislation in this area (see section on competition).

A similar situation exists as far as industrial restructuring is concerned. Poland continues to reaffirm its good intentions but achievements have been disappointing. A particular example of this has been the steel sector.

As reported in the last regular report the Polish government adopted the steel restructuring plan in June 1998. The plan contained a number of weaknesses which were addressed at the Association Council of November 1998 which set out a number of elements to be addressed if the restructuring plan was to have any chance of success. Firstly a more realistic view of the market was required. Secondly the Polish government had to develop a coherent restructuring and privatisation strategy, including identification of those assets which would remain in state hands. To bring Poland in line with its state aid obligations under the Europe Agreement the need for better quantification of state aid and an indication as to the corresponding capacity aids was identified. Finally in accordance with internal EU practice individual viability plans for the plants were to be developed.

The deteriorating market situation following the Russian economic crisis altered the entire prospect for privatisation of the sector. In 1998 there has been interested parties for both Huta Katowice and Huta Sendzimira which between them account for around 60% of total Polish steel production. By early 1999 the potential bidders had lost interest in Huta Sendzimira and only one potential bidder for Huta Katowice remains.

This has had serious implications for the restructuring of the sector as a whole as the strategy of the Polish authorities has been market based. While privatisation advisers have now been selected for both plants privatisation will not take place in 1999. In the absence of a rapid privatisation there appears to be no clear strategy for the industry. The State therefore faces the prospect of supporting the plants for at least the near future with further recourse to public aid in contradiction to Poland's obligations under the Europe Agreement.

Furthermore, the absence of a strategy also creates an uncertain environment for potential investors. Such a strategy is required to create a stable environment for

investors. In an attempt to rectify this situation the Polish authorities produced a progress report in September on the implementation of the restructuring programme. While a clear update of the situation it suffers from many of the weaknesses of the original programme, this is especially true of the lack of a clear view as to the future shape of the industry.

In the automobile sector, Poland has stated in its industrial policy guidelines that it intends to modify its system for car assembly from semi-knockdown kits. The business environment for producers remains unclear however since the Polish authorities have not yet publicly announced what will be the system for the year 2000.

Privatisation has continued to play a key role in industrial policy by increasing the percentage of industrial production in the private sector, and by bringing in strategic foreign investors. From the industrial policy point of view, the current preparations to complete privatisation in the banking and energy sectors is significant.

## *Agriculture*

A coherent long term strategy which treats in a global manner market and price policy, rural development, the social impact of restructuring, land issues and agro-food industry is an essential pre-requisite for the successful restructuring of the sector. The adoption of the *acquis* must be fully integrated into all of the relevant aspects of the strategy, for example veterinary and phytosanitary measures and the need to establish effective border controls. Such a strategy requires a clear prioritisation of objectives, a timetable for action including the sequencing of activities for maximum effectiveness and full budgetisation of the costs to allow for an appropriate spread of costs over time. This is necessary in order to give an indication as to when alignment with the *acquis* and the restructuring of the sector will be completed.

### **Agricultural situation**

In 1998, agricultural production grew by about 7% compared with 1997. Crop output increased by about 9 % and livestock production by 4%. In 1998 bilateral trade in agricultural and food products continued to increase. EU exports rose by 5% and imports by 2.5%, now accounting for €1.7 billion and €1.04 billion respectively.

In March, the Council mandated the Commission to open negotiations with the associated countries in view of new reciprocal concessions in the field of agriculture which will enhance the progressive and orderly liberalisation of bilateral trade.

In the last twelve months the crisis in the sector has deepened. Large surpluses of agricultural products, along with the impact of the Russian crisis, have led to market prices declining significantly resulting in a lower level of earned income, further compounded by a rise in input prices. One consequence is that farmers' unions have catalysed numerous protests around the country.

In 1998 for the Polish economy as a whole 67% of the total value added was generated by the private sector, this figure stood at 92 % in agriculture.

In 1998, 6 % of land was held by state enterprises, 2 % by co-operatives, the rest by the private sector. The Agricultural Property Agency of the State Treasury took over 4.6 million hectares of land in 1991 (about 25 % of the total arable land in Poland), mainly from liquidated state-owned farms. Of this total, 0.6 million, remains to be allocated. However, only 20 % has been sold, the large majority being leased.

Farm structure has not changed significantly. The agricultural land market remains to be developed. Even now 56 % of farms have a size of less than 20 hectares, and 21 % of farms consist of more than 6 plots.

### **Agricultural policy**

The developments described above have led the government to adopt an agricultural policy characterised by short term measures. Although attempting to alleviating the domestic impact of the difficulties in the sector, these have diverted resources away from the long term solutions.

To stabilise prices the government has extended its system of intervention prices. Minimal support prices were raised during 1998 for wheat, rye, sugar and milk by more than 10 %. However producers' prices only increased by 1% for milk and have been estimated to have declined by 6% for wheat. Additional import levies were decided in 1998 for milk, pork, wheat, maize and sugar. Intervention was opened for skimmed milk powder, wheat and pig meat. Access to preferential credits for purchases of agricultural inputs was maintained in 1998, as well as some credits for modernisation and restructuring of the farming and agro-food processing sector

Recent trade policy developments have shown a growing tendency to resort to protectionist measures such as, for example, the recent and contested short term application of tariff increases against Community yoghurts. More recently Poland has increased a range of tariffs to WTO bound levels without prior consultation as foreseen in the Europe Agreement. These developments will have a negative impact on the increasingly important trade relationship between Poland and the EU.

Basic *veterinary* legislation in Poland to implement the veterinary *acquis* exists, however some amendments are needed. A substantial part of the plants processing products of animal origin does not yet meet EU hygiene and public health requirements. The regional veterinary inspectorates have inspected all establishments for animal products in June 1999. A programme for restructuring of establishments is foreseen.

There has been further investment in the meat and milk sectors, in the upgrading of some food processing establishments and in certain testing and diagnostic facilities. However, further restructuring and investment is required to adjust to competitive pressure and to meet the hygiene standards specified in the *acquis*.

Border inspection posts are in the process of being brought into compliance with EU requirements. A detailed, fully costed plan is outstanding and is expected. The main priority is the border with Belarus, but improvements are also needed on the borders with Ukraine and the Kaliningrad oblast, as well as the other external borders including the maritime border.

As regards *phytosanitary* legislation, law on seed protection was amended in 1999. Polish legislation is well developed regarding seed and propagation material and Poland enjoys Community equivalence under Community legislation for a number of products. The approximation of legislation in the field of plant health should not create major obstacles, although proper implementation (control and inspection arrangements) is required. Concerns about enforcement of external border and disease control in the veterinary field are also largely valid in the plant health sector. With regards to pesticide residues and plant protection products, while there is a high level of compliance with EC requirements, implementation is again an issue.

Following a long public debate the Government adopted its “Coherent structural policy for Agriculture and *rural* development” in July. The policy, a 1998 short term accession partnership priority, was to be a first step in the process of developing a fully functioning regional and agricultural policy. It sets out priorities and identifies sources of funding, although unfortunately without a detailed costing of the exercise.

Both for the implementation of a coherent structural and rural development policy and of pre-accession funds (SAPARD), the Agency for Restructuring and Modernisation of Agriculture (ARMA) will play an important role. ARMA will be hosting the Paying Agency for pre-accession funds and later, for structural measures.

The Ministry of Agriculture and associated agencies have developed their knowledge of the mechanisms of the CAP and started to improve their capacity to implement and enforce the *acquis*, in particular the fundamental management mechanisms and administrative structures to monitor the agricultural markets and implement structural and rural development measures. However, as identified last year, considerable progress is still required in the establishment of sectoral *market organisations* and in the enforcement of the legislation which has been passed.

## **Conclusion**

The integration of Poland’s agriculture into that of the European Union presents many substantial challenges. A great transformation will be necessary to ensure that the restructuring process is carried through to the long term benefit of the economy and rural society as a whole. The “Coherent structural policy” is a first step in this direction. It needs to be costed, budgeted and programmed over time, as well as including the agri-food industry within its remit, to become a really effective instrument. Furthermore, the accompanying policies designed to support and transform rural society will require particular consideration. Price support and increasing protectionism draw both attention and resources away from the real issues and as a result worsen rather than enhance the future of the sector.

Progress has been made in the adoption of the *acquis*, notably in the veterinary and phytosanitary fields. The planning and budgetisation of the necessary institutional structures at the national and regional level remain outstanding. In particular, the essential modernisation of veterinary and phytosanitary facilities has not been budgeted. In summary, the short term priorities of the 1998 Accession Partnership have only partially been met.

## *Fisheries*

The fisheries sector accounts for 0,4% of the GDP. In 1996, approximately 40.000 people were employed in the sector. The yearly production accounts for around 39.000 tons. Poland imported about 160.000 tons and exported 290.000 tons representing a significant processing industry. In 1998, the fleet comprised about 33 vessels operating outside the Baltic Sea and 423 operating in the Baltic Sea.

Poland has achieved a very poor level of alignment with the *acquis* in the field of fisheries. There has been an almost total absence of progress on legislation, institutional capacity, market organisation and implementation structures over the past twelve months. There is a lack of a clear public set of objectives for the sector and as a consequence no realistic timetable for actions nor budget planning. The main problems remain an ageing fleet and inadequate administrative resources.

Responsibility for fisheries was transferred to the Ministry of Agriculture but there are only four officials currently working in the department. However, the fisheries inspectors remain attached to the Ministry of Transport until the end of the budget year. No progress has been achieved on the establishment of the General Inspectorate for Maritime Fisheries.

Poland has made no concrete progress in the implementation of the *acquis communautaire*. The adoption of a policy and restructuring programme remain a priority.

Significant efforts remain to increase adequate institutional resources so that some progress can be achieved in this important field.

## *Energy*

Poland has achieved a moderate level of compliance with the *acquis* in the field of energy. Poland has continued the process of alignment with energy *acquis* through amendments to the Energy Law and secondary legislation relating to the internal energy market.

The energy sector can not yet be said to be a fully functioning open market as it will be rather difficult to achieve full price liberalisation until the completion of restructuring of all energy sub-sectors as they are interrelated in terms of prices.

The power sector is largely adapted to the *acquis* and the privatisation process started when the power complex PAK and the power-and-heat company in Býdzin were privatised. Further privatisations are expected during the course of the year. As of January 1999, heating prices were liberalised with the condition that tariffs set by heat providers are approved by the Energy Regulatory Office. Liberalisation of electricity prices were effected with the upper limit of 13% for increases this year set by the Ministry of Economy.

In the coal sector the restructuring process continues and is entering a phase in which considerable social and economic challenges must be met. The redundancy package which was intended to meet some of these challenges has been placed under a considerable strain. Due to higher than foreseen demand, not all those wishing to claim redundancy payments can do so (priority has been accorded to those from closing mines).

In the oil sector, a new Polish Oil Concern SA (PKN), created from the merger of Petrochemia Pjock and Centrala Produktów Naftowych (CPN), was registered and started operations in July 1999, and is the biggest firm in the sector. It currently owns 1,937 filling stations and employs 12,000 workers. Due to production capacity of the Pjock company, PKN controls some 75 percent of Poland's oil market and has a 66 percent share in the domestic liquid fuel market. During the course of the year concerns have increased that non-tariff barriers remain in the sector through, inter alia, differentiated implementation of regulations.

Reform of the gas sector has been delayed. The first programme of restructuring of PGNiG was adopted by the Council of Ministers in April 1996. It is regrettable that, except for some formal moves, the transformation of the state-owned enterprise into a company 100%-owned by state, no real restructuring has taken place.

## **Conclusion**

Some progress has been made in the sector but further restructuring is required, especially in the gas sector. Further efforts are needed on: preparation of the internal energy market (electricity and gas directives), including the adjustment of monopolies; access to networks; energy pricing and the establishment of an appropriate and effective mechanism for regulation; emergency preparedness including the building up of mandatory oil stocks; a restructuring programme and state interventions in the solid fuels sector and improvement of energy efficiency.

No major difficulties are foreseen for compliance with Euratom provisions, although exchanges on the *acquis* including nuclear safeguards may be useful. The management of the spent fuel from the nuclear research reactor at Swierk requires attention.

## *Transport*

Poland has achieved a moderate level of compliance with the *acquis* in the field of Transport. Polish efforts in the transport sector have been, in general, determined by a slow transposition of the European *acquis*, and more tangible progress in ongoing infrastructure work.

For the time being, the *acquis* has only been partly transposed in *road* transport market access and fiscal harmonisation. However, significant progress has been made in the adjustment of legislation as regards road traffic as well as carriage of passengers and goods (Road Traffic Code, Law on conditions governing international road transport, Law on carriage of passengers by road). As regards technology, safety and environment, particular problems arise in accepting the 11.5 tonnes driving axle

weight for international transport, since this will require a lengthy construction and upgrading programme for the road infrastructure. As far as taxation is concerned, the ‘vignette’ system for road transport amended in April 1998 is still functioning. Although the price of the annual vignette is comparable to the Eurovignette, the prices of day-and week-cards are still relatively high, which has indirect discriminatory effects on non-Polish hauliers. Further efforts are also required regarding the transport of dangerous goods. Social legislation in the transport sector has been partially transposed.

Since the adoption of the 1997 road haulage legislation, little progress has been achieved in the alignment of the Law on Road Transport Inspection. Road safety issues have not yet been adequately addressed. Poland’s road accident rate is still one of the highest in Europe and enforcement capacity is noticeably lacking. The establishment of a Road Inspectorate remains in the planning stage, leaving Poland currently without an adequate road safety authority.

An amended law on *rail* transport has entered into force. A Regulatory Authority for infrastructure and operations of the railway sector does not yet exist, due to the current regulatory environment in that sector. By the end of 1998, the Transport Ministry had granted 7 concessions for the management of railway lines and 18 concessions for rail transport services. In effect, however, these concessions have mainly been taken by large enterprises for rail use in the area of their production plants. Major efforts still need to be made concerning the restructuring of the Polish state Railways. The modernisation and upgrading of the railway infrastructure remains a priority.

In the area of *inland waterways*, further attention needs to be paid to the development of competition on inland shipping enterprises on waterways in the Wisla and Odra river basins.

Little progress has been registered in the field of *maritime* safety. While safety offices, located in three Maritime Administration Offices are in place, continued alignment efforts are required regarding conditions of vessels registration. The safety record of Polish flagged vessels indicates the need for further strengthening of the state flag administration.

In the *air* transport sector, Poland’s legal harmonisation process has advanced. A General Inspectorate of Civil Aviation is in place, and the establishment of a Civil Aviation Office awaits the adoption of the new Aviation law. Polish policy has some protectionist features and a successful privatisation of the Polish flag carrier, LOT Polish Airlines would help contribute to a policy change. In April, an application and strategy was submitted by the Minister of the State Treasury. The privatisation plan foresees, private investment reaching 49%, leaving the decisive majority in the State Treasurer’s hands.

Priorities as developed in the Transport Infrastructure Needs Assessments (TINA) process include the expansion and modernisation of the motorway grid and the E-20 railway. Several Trans European Network projects in the rail and road transport areas were started in 1998. Following the priorities of the 1998 Accession partnership, Poland has continued to invest in its transport *infrastructure*.

## **Conclusion**

In the field of transport progress has been variable. Good progress has been achieved in road transport alignment with significant further efforts required in other sectors. The effective implementation of the *acquis* in road transport (access to the market, traffic safety, taxation matters) requires attention. Efforts remain to be undertaken in the modernisation of the transport infrastructure.

### *Small and medium-sized enterprises*

Poland has achieved a good level of compliance in the field of Small and Medium Sized enterprises. Small and Medium Sized enterprises continue to play a significant role in Poland's economic development. SMEs account for 99% of all Polish firms and over 90% of these employ between one and five workers. The SME sector as a whole accounts for 61% of employment and 45% of Polish GDP. Despite the establishment of the National Credit Guarantee Fund for the provision of guarantees to SMEs and other economic operators, access to guarantees is still underdeveloped for SMEs and the smaller the firm, the higher the cost of credit. The government has undertaken a number of measures to assist SMEs. The Small business development programme was established at the start of the year and the "Government programme for SMEs 1999-2002" which has a budget of €89 million was recently adopted. Poland has participated in the Third Multiannual Programme for SMEs since December 1998.

## **3.5 Employment and social cohesion**

### *Employment and social affairs*

Poland has achieved a moderate level of compliance with the *acquis* in the field of Employment and Social Affairs. Employment policy remains a high priority in Poland. The unemployment rate has returned to its upward trend and passed 12% in 1999. The regional distribution of unemployment remains uneven. On *employment policy*, a mechanism has been set up to upgrade the functioning of the Employment Offices System. Preparations for eventual participation in the European Social Fund are underway and the National Strategy for Employment and Human Resources is awaited.

Some progress has been made on Labour Legislation. The law on the protection of employees in the case of employer's insolvency has been further aligned with the *acquis*. Further attention is required on the issue of ensuring workers' representatives in undertakings where there are no trade unions.

Although some legislation is in place, further efforts are required to *strengthen social dialogue*. Developments in the field of social dialogue include the establishment, in January 1999, of a new national employers' organisation, the Polish Confederation of Private Employers. It was set up on the initiative of the Polish Business Roundtable and other business groups.

The principles of *equal opportunities* are reflected in Polish law but serious problems still remain in the implementation. Enforcement bodies need to be established.

The Labour code provides some *Health and Safety* legislation, although further efforts at alignment are required. The central administrative requirement is an adequate inspection capacity.

In the *health* sector, legislation has not yet been adopted on the tobacco directives. In January Poland started implementing the reform of the social insurance system and the reform of the health care system. The reform of the health service sparked widespread social unrest among medical professionals, which led to serious disruption of hospital and emergency care. The changes involve the organisation of health services, access to benefits, the definition of the new role of the state, in particular in the field of health policy, and strengthening citizens' responsibility for their health.

In order to bring the reform of *social insurance* into force, the government adopted the Act on the social insurance system (October 1998) and the Act on pensions from Social Insurance Funds (December 1998), which, should incorporate the requirements of directive 98/49/EC on supplementary pension schemes. The new system is based on three pillars: a compulsory pay-as-you-go system (the existing Fund); a compulsory capital system, (open-ended pension funds) which will eventually cover all insured pensions, and a voluntary capital system. (see Economy)

## **Conclusion**

Limited tangible progress has been achieved in transposition and enforcement capacity still represents a cause for concern. Particular efforts remain to be undertaken in the social field, in the areas of health and safety, public health, labour and equal opportunities. Considerable efforts are required to strengthen institutional capacity in the National Labour Office and with regard to labour inspection. The social dialogue continues to require strengthening particularly regarding employers organisations.

## *Regional policy and cohesion*

The Union supports the strengthening of cohesion, mainly through the Structural Funds. Poland will have to implement these instruments effectively whilst respecting the principles, objectives and procedures which will be in place at the time of its accession.

Starting from a low level of preparation, Poland has achieved major progress during the last year in strengthening the legal framework and in establishing institutional and budgetary structures to manage structural actions.

The regional GDP per capita ranged between 25% of the EU average in the region of Lubelskie and 55% in the region of Mazowieckie (Warsaw). National GDP per capita accounted for 37% of the EU average in 1998.

The territorial State Administration Reform, which entered into force on 1 January 1999 (see Political criteria), has defined 16 new regions in Poland, which could correspond to political level regions designated in accordance with EU methodology (NUTS II), and, once operational, this should have a significant positive effect on the development of a genuine regional policy approach in Poland. The definition of administrative level regions designated in accordance with EU methodology (NUTS – III) units is an urgent priority in the light of the State Administration Reform (see statistics). Clarification will be needed between the political (NUTS II) level and the administrative (NUTS III) level in order to ensure a smooth implementation of regional policy.

Although some institutional measures have been put in place, Poland's regional policy strategy is still at a conceptual stage. A co-ordinating body has still not been officially designated. The new Law on Public Finance now regulates the principles of budgetary commitment and expenditure control and as such will facilitate multi-annual programming, however budgetary provisions for regional interventions have not yet been identified. Progress is also required on monitoring and control procedures.

There are insufficient resources and experience to set up and manage a comprehensive framework addressing all the structural instruments. The administrative capacity of the newly established regions remains to be assessed.

Poland has only limited experience in appraisal and evaluation procedures.

## **Conclusion**

Poland has achieved some progress in developing the capacity to participate in EU structural policy. However, many problems remain and efforts need to be accelerated if Poland is to be ready for participation by the date of accession. Institutional structures and ministerial responsibilities need to be strengthened and clarified to ensure effective co-ordination and implementation. Furthermore the impact of the reforms of the state administrative structure on this process will have to be closely monitored.

## **3.6 Quality of life and environment**

### *Environment*

In the environmental field, Poland has a moderate level of alignment with the *acquis*. During the last year some limited legislative progress has been achieved, but the overall rate of progress is slow.

Poland lacks a comprehensive approximation strategy for environmental policy. The development of such a strategy is essential if the adoption of the *acquis* is to take place in an effective and manageable manner. Furthermore a directive specific financing plan would have to be developed to accompany such a strategy so as to ensure that the necessary costs of alignment are spread across a realistic time period.

The Accession Partnership identified the transposition of framework directives as a short-term priority. This was confirmed by Poland in the National Programme for the Adoption of the *acquis* which includes target dates for transposition. The main action to address these priorities has been the adoption of ministerial regulations partially transposing some directives. The fact that there has not been greater progress is largely due to the strong emphasis placed on the Act on Environment Protection and its complementary legislation that is still being drafted. As a result, more specific legislation has been significantly delayed. In addition where legislation has been adopted the general level of compliance is low.

In the field of *horizontal legislation and nature protection*, Poland has not achieved any concrete progress in the transposition of EU directives. The reform of its territorial organisation has significantly modified the institutional structure in this field. It is of particular importance to transpose the directives on Environmental impact assessment and Access to Information.

In the *water sector*, Poland has adopted ministerial regulations that allow partial transposition of the directives on urban waste water and nitrates. In this context, Poland should prepare to transpose the draft water framework directive. As regards *waste*, the framework directives on waste management and hazardous waste have also been partially transposed. The full transposition of these framework waste directives constitutes a priority.

Within the sector of industry, Poland has adopted a ministerial regulation that allows partial transposition of the large combustion plants directive. There should be further emphasis on transposing the IPPC directive and Seveso II. By contrast, in the field of air quality as well as of noise, there is no concrete progress. In this context, full transposition of the air quality framework directive should constitute a priority. While progress is limited in the sector of chemicals, GMOs and ozone depleting substances, a ministerial regulation allows partial transposition of the animal experiments directive. Within the field of nuclear safety and radiation protection, there is no concrete progress.

The strengthening of implementation and monitoring structures also constituted a priority identified in the Accession Partnership. Poland addressed these issues in the National Programme for the Adoption of the *Acquis* and included time-schedules for implementation and preliminary estimates of investment costs. Concrete progress has, however, been limited. The legislative basis for monitoring is weak and the monitoring infrastructure has not been strengthened, notwithstanding considerable investments needs in this field, particularly within the air sector.

Poland has continued to invest in environmental protection mainly through the National Fund for Environmental Protection. Nonetheless, the investment requirements are still considerable, in particular to implement the most costly EU directives and environmental investments therefore need to be intensified.

## **Conclusion**

Poland needs to accelerate its transposition of the environmental *acquis*. There has been some progress through the partial transposition of EU environmental directive.

In addition, the administrative reform that took effect on the 1<sup>st</sup> of January has improved the institutional structure at regional and local level. However, the overall level of compliance remains low. There should be particular emphasis on transposing all framework legislation. Poland should also introduce clear implementation programmes that address the implementation of specific directives. The monitoring structures should be further improved, notably within the air sector and the enforcement structures should be strengthened.

The new territorial organisation has modified the enforcement structure with the new regions (Voivodships) and counties (Poviats) responsible for permit and control. This needs to be further strengthened to ensure the effective implementation of environmental directives.

### *Consumer protection*

Poland has made little progress in the adoption and application of the *acquis* in the field of consumer and health protection since the 1998 Report. An Act establishing county consumer advocates entered into force in January 1999. The tasks of the consumer advocates will, according to the Act, include providing consumers with free advice and legal information, and instituting lawsuits on behalf of consumers. Delays in transposing the General Product Safety *acquis* continue to have a negative impact on the fulfilment of Poland's consumer protection policy. Existing legislation on Misleading Advertising and Price Indication requires further alignment. The Office for Competition and Consumer Protection has elaborated a programme of consumer protection for 1999-2000 which the government has approved. Consumer protection offices at regional level and consumers' education still need to be further developed.

Consumers are reasonably represented through a number of active consumer organisations but there is still a need to improve the regulatory basis of relations between government and consumer organisations, and to improve the efficiency of the institutional structures.

In view of the fact that consumer protection is a medium-term priority in the Accession Partnership, Poland will have to make substantial efforts in this field.

## **3.7 Justice and home affairs**

The challenges identified in the 1998 Regular Report in the areas of drugs, border controls, immigration, visa policy and international crime remain significant and the judicial process still requires extensive improvement.

The increasing need to institutionalise and improve co-ordination between the law enforcement services led to the inauguration of two inter-ministerial groups led by the Ministry of the Interior one for organised crime and one for border management. This is only the first step to properly co-ordinate the operational workings of the services themselves in particular the Customs, Border Guard and Police which still exhibit tendencies to be mutually competitive.

### *Immigration/Border control*

In respect of *immigration*, Poland is a transit country on the way to Western Europe for large groups of immigrants from the neighbouring region and Southern Asia. Significant progress had been made with the 1997 Aliens Act but over the past year only modest improvements have been achieved. Entry requirements for third country nationals for study or employment purposes are not in compliance with the *acquis*.

Poland should continue progressive alignment of visa legislation and practice with that of the EU. Poland still has to undertake efforts to align its visa policy to the EU line since nationals of states subject to visa obligation under EU rules may enter Poland without a visa, *inter alia*, Russia, Ukraine and Belarus. The 'official invitation' delivered by the local Polish Administration is not a substitute to the visa although it represents the first step towards a full control, since all such visitors are then registered.

Poland has now readmission agreements with Germany, France, the Netherlands, Belgium, Luxembourg, Italy, Greece, Czech Republic, Slovakia, Lithuania, Ukraine, Bulgaria, Croatia, Slovenia, Romania and Sweden. In addition agreements with Latvia, Austria, Switzerland and Estonia include readmission elements. However, readmission agreements or equivalents do not yet exist with Russia and six EU Member States (Denmark, Spain, Finland, Ireland, Portugal, United Kingdom). There is a need to continue efforts and to conclude readmission agreements with the countries from which the illegal immigration originates.

The improvements to the eastern *border* of Poland to make it comply with the requirements of an external EU border are seemingly proceeding in an '*ad hoc*' manner. It is of concern that no overall plan exists which can quantify either the budget required and the number of years needed for achieving even the minimum standards currently expected of an external EU border. Although the investment budget of the Polish Border Guard in 1999 has increased – and is devoted to beginning the construction of Border Guard stations on the eastern side – severe under-funding remains a major problem. Of the 24% budgetary increase (1998/1997), most is taken up by salaries and maintenance costs.

The number of border guards needs to be increased, but no additional funding for new recruitment was made available in 1998 and 32% of the posts remain vacant.

The statistics show over the last twelve months a net decrease in the numbers of illegal immigrants crossing the Polish German border – down from some 7 300 in 1997 to 2 800 in 1998. Nevertheless the overall numbers of illegal immigrants caught in 1998 in Poland remains high at 7 222 – indicating that a high level of penetration into Poland continues.

Aside from the purely JHA requirements due care is expected in safeguarding cross border and international relations with eastern neighbours and in establishing the proper sequential 'international co-operation' planning of the establishment of the future 'external border'.

### *Asylum*

A Refugee Council composed of independent persons has started its work as review body in February 1999. There is a need to improve the practical application of the Polish legislative provisions on asylum, e.g. the length of the procedure (first instance decision) clearly exceeds the period of three months laid down in Polish law. It currently takes about nine months although the numbers of asylum applicants diminished from 3531 in 1997 to 3100 in 1998, in comparison relatively low figures. A contributory factor in this regard is that the lists of safe countries of origin and third countries have not yet been drawn up although provided for in the Aliens Act. Poland does not fulfil the requirements for transposition of the Dublin Convention.

#### *Police*

Crime is up by 9% in 1998 as compared to 1997. Serious crime continues to rise although the Polish authorities have nevertheless been successful in keeping down the rate of increase and 'highway robbery' is less severe than previously. Compared with the situation as regards trafficking in human beings in the mid-90s, there is now some decline in the number of cases and victims although the number of offenders remains constant. As regards organised crime statistics are poor and it is difficult to obtain an accurate picture although some 644 gangs are believed to be operational.

The new Criminal Code which entered into force in September 1998 makes the organisation of illegal trafficking of aliens a criminal offence. Witness protection is now set up in accordance with the requirements of the criminal code and is already proving effective. The 1990 Council of Europe Convention on money laundering, search, seizure, and confiscation of the proceeds from crime has not yet been ratified. The operational implications of the new Criminal Code and the Code of Procedures introduced in late 1998 continue to work their way through the system but initially have been found to make the process heavier.

The structure of the Polish law enforcement agencies is characterised by a multiplicity of separate departments lacking the necessary degree of co-ordination. There exist a number of overlaps with other law enforcement agencies such as the Border Guards. No integrated computer-based investigation system yet exists and there is no access to police data at central level. Poland has recognised these problems and taken steps to remedy them by setting up an information co-ordination centre to combat crime, initiating a project aimed at improving co-operation between the different law enforcement departments and mandating specific offices for dealing with organised crime.

The already severe structural problems have tended to worsen over the past year with continued high staff turnover and a net decrease in police officers registered in 1998. Salaries remain poor. The police find it difficult to attract qualified applicants. There is a need to improve working conditions in this sector in particular as regards the salary structure. In addition financial and technical resources have to be improved. As experienced staff leave so the difficulties of dealing with sophisticated economic crime increase and the development of adequate criminal intelligence structures are hampered.

Day to day international co-operation with the Polish police is impaired by lengthy procedures, inefficiency and lack of transparency in decision-making and investigations. Particularly in the fight against organised crime, the role of the Secret Services can hamper co-operation with the EU since information often cannot easily be released by the Polish authorities without violating 'official secrets' constraints.

### *Drugs*

Poland remains a focus for international drug dealing and production of synthetic narcotics is moving towards an industrial scale. The fight against drugs represents a medium-term priority under the Accession Partnership. The last Regular Report noted the fact that a great deal still needs to be done to tackle drugs related problems more vigorously at the national level. Major seizures in the last few years have shown that Poland is also used for transit and deposit of heroin and cocaine. In 1998 this included nearly two tonnes of Cannabis and 67 kg of heroin. It is an important producer of home-made heroin bases and amphetamines. At the same time Poland is also a country of increasing drug consumption. The adoption of a balanced and integrated policy including 'demand reduction measures' is advisable and Poland has reacted by setting up a co-ordination unit for the prevention of drug trafficking.

In 1998 the full effects for the Act on Counteracting Drug abuse (October 1997) came into force which also penalised possession. The number of offences recognised more than doubled to reach over 16 000, legal proceedings began in 4 200 cases and 1 500 judgements were delivered by the courts.

### *Judicial co-operation*

Alignment to international conventions as well as the reinforcement of justice and home affairs institutions have been identified as medium-term priorities under the Accession Partnership. No progress was made as regards ratification and implementation of international conventions in the last year. However, Poland has already signed, ratified and (partly) implemented many of the conventions considered to be part of the *acquis*.

The system of Justice in Poland suffers *inter alia* from a large backlog of pending cases and a poor allocation of human resources. Comprehensive information is lacking on the state of co-operation and the application of Mutual Legal Assistance.

Corruption in the private sector has not been addressed by concrete legislative means. In April the Ministry of Internal Affairs and Administration presented for the first time a report on corruption in the public administration to Parliament. According to the report, public services most vulnerable to corrupt practices are public procurement, real estate, construction permits, industrial waste disposals, vehicle registration, health care, insurance, customs and the judiciary. A number of measures are envisaged to strengthen the fight against corruption such as the setting up of a hotline to anonymously report bribery cases, the adoption of a new electoral law, the introduction of tighter requirements for the financial screening of politicians. Regrettably, there is a general lack of a long term and integrated anti-corruption strategy in the public administration. The relevant provisions of the Criminal Code need to be amended in order to render the fight against corruption more efficient. The

1997 OECD Convention on combating bribery of foreign public officials in international bribery transactions has not been ratified.

## **Conclusion**

Although some important first steps have previously been recorded in its efforts to align to the EU *acquis* in the area of justice and home affairs, only very modest progress has been made in terms of legislative efforts over the last year. Poland needs to address key deficiencies in the short term in particular the comprehensive reform of the legislation on foreigners should remedy the deficiencies in admission requirements and visa policy. In addition efforts should continue as regards the conclusion of readmission agreements. Further efforts are required to ensure a more active policy in the fight against drugs.

The internal organisations of the law enforcement bodies and the judiciary requires considerable improvement. Human and financial resources and equipment should be improved. Particular attention should be paid to developing capacity for international co-operation both within law enforcement and the judiciary.

As regards implementation, some progress has been achieved by the Border Guard, especially in respect of the joint work with their EU partner, Germany on the common border. However, in the absence of any strategic overall plan for bringing the Eastern border up to the level of a future external EU border it is not currently possible to estimate when this can be achieved.

## **3.8 External Policies**

### *Trade and international economic relations*

Poland applied tariffs average 15.8 % on all products, 33.8 % on agricultural products 18.3 % on fishery products and 10.6 % on industrial products.

Poland is a member of the WTO and on accession it will have to align itself with the Communities multilateral as well as bilateral trade obligations. With regards to these multilateral obligations, Poland has not yet come to a decision as to when it will become a member of the WTO Government procurement agreement. Poland has expressed its willingness to work closely with the EC in the forthcoming New Round, with a view to aligning positions and policies as closely as possible

On the bilateral side Poland continues its negotiations on free trade agreements with a number of third countries (Estonia, Israel the Faeroe Islands and Morocco) with which the EU has Free Trade Agreements. The FTA with Turkey was signed in October.

### *Development*

As reported in 1998 Poland continues to play a constructive regional and international role in the field of development.

Poland is a member of the OECD but has not become member of its Development Assistance Committee.

### *Common foreign and security policy*

Poland continues to orientate its foreign and security policy towards the EU. It participates actively in the multilateral political dialogue within the framework of the Common Foreign and Security Policy (CFSP), including the regular meetings on Political Directors', European Correspondents' and Working Group level. It has regularly aligned its positions with those of the EU and, whenever invited, joined the Union's statements, declarations and démarches including in the context of the UN and OSCE. Thus it aligned itself with the Common Position on Kosovo, the ban on Yugoslav flights and the oil embargo on Yugoslavia.

In March 1999 Poland became a member of NATO and an associated member of the WEU. In respect of manpower, Poland has regularly committed significant forces for each international operation. Currently in the context of the Nordic-Polish Brigade 495 soldiers and civilians are provided to SFOR and 808 soldiers and civilians are provided to KFOR. In addition specialised units are provided for key tasks – an anti-terrorist unit accompanied the OSCE presidency in the Balkans.

Poland took an active role during its chairmanship of the OSCE during 1998, seeking to extend the OSCE scope of activity to encompass human rights, freedom of speech and early preventative action in areas of potential / actual difficulty.

Poland strives to contribute to regional stability through a policy of good-neighbourly relations and regional co-operation, *inter alia*, as a member of the Council of the Baltic Sea States (CBSS) and the Central European Initiative (CEI). It pursues a policy of close relations with its immediate neighbours, marked by high level meetings with Russia, Belarus and Ukraine over the last twelve months. A Polish-Ukrainian Standing Commission on European integration has been established to discuss issues of mutual interest regarding the integration process. Poland maintains good working relations with Belarus. With Lithuania, both sides have worked to solve difficulties as they arise in respect of minorities and relations are increasingly close.

### *Customs*

The Polish Customs Code entered into force in January 1998 and is broadly in line with the Community Customs Code. In the past year, some amendments were introduced, including in the field of intellectual property protection. However, legislative progress has been limited and the areas of duty relief, and customs procedures with economic impact remain only partially compatible with the *acquis*. Certain customs clearance fees were abolished, but unfortunately others remain. An informatic Integrated Tariff is gradually being developed. Binding Tariff Information is issued. In the field of Rules of Origin, Poland now participates in the pan-European system of cumulation, which has been applied since January 1999.

During 1998, the Central Board of Customs was reorganised and there was an upgrading of co-ordination structures to combat fraud. A new customs office began operation with jurisdiction over the entire border with the Russian Federation (Kaliningrad District). However, the implementation of an integrated pre-accession Development Strategy, for all customs services, has not yet taken place. The issue of fighting against corruption within the services has not yet been addressed. The uniform application of customs rules and procedures at central, regional and border levels remains an area of concern. Progress on computerisation has been limited.

In September the act on Customs services came into force. This act turns the customs service into a uniformed service. It also clarifies the employment conditions of the service ranging from basic requirements for candidates, through recruitment and selection for management posts to termination of employment. It is hoped that the act will make the service more professional and render it more effective.

## **Conclusion**

Many of the shortcomings identified in 1998, regrettably remain valid today. An important effort is still required to transpose and apply EU customs legislation, including the implementing regulations. Particular attention should be paid to implementing the pre-accession development/business strategy and to improving staff training. Greater efforts are also required on computerisation, and on the simplification of customs procedures. Further efforts should be made to combat fraud and corruption.

### **3.9 Financial questions**

#### *Financial control*

Poland has achieved moderate alignment in the field of Financial Control. With regard to *external* financial control no particular developments can be reported. The Law on Public finance adopted by the Polish Parliament on 26 November 1998 has not resolved the overlaps in mandate and controls between the Supreme Chamber of Control and existing public internal control organisations.

The Law on Public Finance, does lay down the principles of *ex ante internal* financial control, specifies the differences between controls of the Supreme Chamber of Control and internal financial control and states how budgetary resources are committed and expenditure executive. It also adopts the principle that pre-accession funds (and future structural funds) will be the subject of the same controls as Polish funds. This Law therefore provides a good start for an adequate administrative capacity for future internal financial control within the Polish public administration. It will however require further regulation to make internal financial control effective. In particular, it remains unclear how local and regional authorities' expenditure will be controlled.

There is at present no central independent internal control body. Each budget spending ministry or agency is responsible for conducting some sort of internal

control. However, the process of implementing public internal financial control systems needs constant attention by the Polish authorities.

The Administrative Co-operation arrangement with the Commission (September 1998) provides for co-operation measures on public internal control and will support preparations for accession.

## **Conclusion**

Some progress has been made in addressing the Accession Partnership short term priority regarding financial control. However, significant efforts are required to ensure that the implementation of the public finances act and the provision of an adequately resourced administrative capacity address this important pre-accession priority in the perspective of the management of pre-accession funds and Structural Funds.

### **3.10 General evaluation**

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

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

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

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

Progress has been made in the customs area but continued efforts are required in alignment and implementation capacity. Major efforts are necessary also as regards

financial control. Some progress has been achieved in justice and home affairs, notably as to the border guards. However, alignment remains limited and considerable improvement is required in law enforcement bodies and judiciary capacity, in particular at the eastern border.

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

## 4. Administrative capacity to apply the *acquis*

This chapter updates the information given in the Commission's Regular Report of 1998. The European Council in Madrid in December 1995 referred to the need to create the conditions for the gradual, harmonious integration of the candidates, particularly through the adjustment of their administrative structures. Taking up this theme Agenda 2000 underlined the importance of incorporating Community legislation into national legislation effectively, but the even greater importance of implementing it properly in the field, via the appropriate administrative and judicial structures. This is an essential pre-condition for creating the mutual trust indispensable for future membership. Administrative capacity has become a central issue in the negotiation process

For this year's report the Commission continued to work with the candidate countries to identify an illustrative list of enforcement bodies in key areas of the *acquis*. Wherever possible information is provided on the Ministry or organisation which is responsible for a specific part of the *acquis*, its legal powers, staffing levels and budget. As in the Member States each administration has to decide how to allocate scarce human and financial resources, ensuring that it has sufficient capacity to implement the *acquis*. There is no 'ideal' level of staffing and numbers alone are no indication of capacity to implement the *acquis* effectively. However, wherever they are available, staff numbers and changes in staffing levels are provided. It is clear that in areas where there is a heavy control and enforcement burden one or two people are not sufficient and in such cases very low staff levels can indicate a need to give greater priority to administrative capacity.

Many of the enforcement structures covered in this report have only recently been established. They are beginning to take decisions in *acquis*-related areas but it is often too early to assess the quality and compatibility of these decisions with the *acquis* or the information needed is not available. However, in some areas it is possible to provide data to illustrate that the *acquis* is becoming a living and integral part of domestic decision-making. During the coming year the Commission will continue to work with each of the candidate countries to build up a data base on administrative capacity and information on enforcement which will allow the Union to assess operational capacity to implement the *acquis*.

In the 1998 Regular Report, the Commission concluded that :

"Poland has experienced difficulties in implementing planned public administration reforms which are needed to lay the foundation for further improvement of administrative capacities in specific sectors of the *acquis*. Progress in strengthening the capacity of the judiciary has been limited. Efforts need to be made to enhance the capacity of the Polish administration to implement and enforce legislation in key internal market areas (standards and certification, intellectual property protection) and customs. Progress has been made in the regional development and financial control areas. There is a need to consolidate the functioning of administrative structures in a sustainable manner."

### 4.1 Administrative structures

Most of the weaknesses identified in 1998 concerning the public administration persist. The lack of a coherent integrated pre-accession strategy for the establishment of a professional public administration at central, regional and local level, frequent staff changes and lack of foreign language skills remain problems which Poland urgently needs to address. Low quality control in staffing and performance has lingered and unjustified differences between institutions have prevailed.

Important progress has been made with the adoption of the new Civil Service Law which entered into force in July 1999. In August 1999 the Prime Minister nominated the Civil Service Council, an advisory body with decision-making powers in certain areas of the new law. Preparatory works on important implementing acts to the law (qualification requirements, competition procedures, recruitment, remuneration) have begun as well as the recruitment to the civil service under the 1999 quota. The new law will allow a transition to a professional civil service where selection will be competitive and based on merits and personnel management will be co-ordinated.

After lengthy debates the territorial and administrative reform entered into force in January 1999 replacing existing sub-national structures with three levels of democratically elected self-government at regional, county and municipal level (see Political criteria). One consequence of the still uncomplete decentralisation is that important elements for a smooth implementation of the reform such as the transfer of financial resources and fiscal and institutional tools are still awaited.

Poland needs to pay particular attention to a clear distribution of responsibilities and procedures between and within the central and the self-governmental administration. An assessment of the results is still premature since the new structures have been installed only some months ago and the reform process is still on-going. However, the ambitious scope and dimension of these territorial and administrative reforms represent a notable commitment to address the issues outlined in the Commission's Opinion and 1998 Regular Report. The manner in which these reforms are implemented and resourced will determine their impact on these fundamental issues. Issues that require further efforts are the distribution of responsibilities, the consolidation of special administrative units, organisational, human resources and equipment questions at all administrative levels.

#### **4.2 Administrative and judicial capacity: key areas for the implementation of the *acquis***

**The uniform application of EC law :** The Central Administration of the Ministry of Justice, which includes 600 staff, has a specific department responsible for European Law, beside departments for International Law and International co-operation.

This “Department of Law and Legislation” which is responsible for the uniform implementation of EC Law as well as Justice and Home Affairs *Acquis* is staffed by 45 persons and has separate offices for Civil, Criminal, Economic, Administrative and Constitutional Law.

Some progress has been made to remedy the difficulties and constraints in the judiciary identified in the Opinion, as indicated by the planned introduction of the system of borough courts to deal with petty claims. Also the modest decrease in the long waiting times at the Voivod level for Criminal and Civil proceedings, in 1998 compared with 1997, is a positive sign – which should be tempered with the slight increase in the much shorter waiting times for appeals. This rate of progress needs to be increased, however, to ensure that Poland meets the requirements of accession.

To illustrate the progress made, during 1999 Poland has continued to increase the number of judges, up to 8 013. Public prosecutors were already increased by over 500 up to 5538 in 1998.

The share of Justice in the State budget is equal to 2.2 % in 1998. The judicial levies in civil and commercial matters exceed the running costs of the system by 50% so that the civil/commercial court system could theoretically be self-financing but owing to poor administration many of these funds are not recovered.

The average number of cases dealt with by every judge on a yearly basis is as high as 500. The average length of civil/commercial as well as criminal cases has dramatically increased since 1989 and is only slowly showing signs of improvement. The average waiting time both for civil and criminal cases varies from about 4.5 months at the district level to around 8 months at the Voivod level.

Reforms have been launched such as the introduction of court officials (referendarz sadowy) and the creation of an additional “borough court” level for dealing with small disputes but the inefficient use of poorly paid staff and the under-mechanisation of the heavy 'bureaucratic' procedures hamper a quick improvement of the situation.

There is no national training scheme for judges and prosecutors which is generally taken care of by courts and tribunals. *Training therefore is both sporadic and lacks uniformity.*

**Single Market:** Created in January 1995 and staffed with 60 people working in five different departments, the Office of *Public Procurement* is the central and independent policy-making and co-ordinating body for the Polish public procurement market under the direct responsibility of the Prime Minister. Among its key duties are: the publication of the Official Public Procurement Bulletin in which unlimited tenders above € 30.000 must be announced; the issuing of administrative decisions concerning motions to use different procedure than unlimited, the shortening of the minimum-time limits for submission of bids and waiving or approving the usage of national preferences; the preparation of training programmes, organising and inspiring training sessions; the organisation of review hearings. In 1998 the Office issued 211 issues of the bulletin. The number of published announcements increased from 44.500 in 1997 to 53.100 in 1998. The number of administrative decisions went up from 8.700 in 1997 to 12.800 in 1998. The number of appeals lodged with the Office increased from 1.000 in 1997 to nearly 1.200 in 1998.

*The functioning of the public procurement system, in general, meets EU requirements in many respects. Further improvements are required in some areas including strengthening dispute settlement arrangements, and an extended use of electronic*

*information systems. If properly implemented, the current system should present few constraints regarding the sound and efficient procurement of goods, services and works contracts in the context of the pre-accession funds.*

Institutionally located in the Ministry of Culture and Arts the enforcement of *intellectual property* lies in the legal department and needs to be strengthened at administrative and judiciary levels, currently four lawyers are employed in the copyright and neighbouring rights division

*Appropriate staff training in the field of intellectual property rights legislation and enforcement for courts, public prosecutors, police, border guard and customs services will have to remain the main focus of activities in order to significantly improve the level of protection offered the public services involved.*

The enforcement of *industrial property rights* is carried out by the Polish Patent Office. It employs 380 staff, including around 60 patent examiners and around 30 trademark examiners. In 1990 – there were around 5.000 patent applications filed, while in 1997 – over 28.000 . A marked increase in trademark applications was also recorded: in 1990 there were 6.100 applications, while in 1997 (together with notifications on international registrations) 34.000. On 31 December 1997 there were 13.700 patents and 78.600 trademarks registrations in force in Poland. Due to the restrictive governmental employment policy preventing central administration agencies from recruiting a higher number of staff than officially permitted, the Patent Office has and will have to handle a continuously growing number of applications with the number of examiners remaining at the same level. Examiners lacking experience often replace those who are highly experienced and educated, who leave the Office for higher paid opportunities elsewhere.

*The present structural, organisational and technical conditions facing the Polish Patent Office result in delays in the processing of applications. To accelerate the granting of patents and the registering of trademarks the institutional capacity of the office will need to be substantially improved.*

The General Inspector for personal *data protection* was appointed in 1998 by the Parliament. The law of August 1997 lays down measures ensuring his independence in the exercise of his functions. The General inspector is endowed with investigative and intervention powers, like the power of inspection to assess the compliance of processing activities with the law; the power to demand written or oral explanation and the power to take a variety of administrative actions to rectify breach of law. He has the obligation to submit an annual report to the Parliament.

The *accounting* system in Poland, including accounting standards, is based on a law on accounting of 29 September 1994 and law on statutory auditors of 13 October 1994. The system takes into account, to a large extent, the 4<sup>th</sup> EU accounting directive. The government has recently approved amendments to the law on accountancy, planned to take effect as of January 2000. The modified accounting standards are supposed to be much more (than so far) based on the international accounting standards (IAS).

In line with the law on statutory *auditors*, persons and units performing this activity are authorised by the professional federation – National Chamber of Statutory Auditors. The authorising process is based on the 8<sup>th</sup> EU accounting directive and is considered very restrictive (currently there are 4738 candidates for statutory auditors under various stages of the authorising procedure).

*The performance of the system of accounting and statutory audits in Poland may be assessed as satisfactory. The existing formal standards, their implementation and the high professional level, guarantee reliability and transparency of information about companies. However, in light of the very restricted number of authorisations granted to new statutory auditors; there might be a risk that their number (7,600 in Poland vs. 110,000 in UK) may soon become insufficient in comparison to increasing needs.*

The main responsibilities of the Polish Committee for *Standardisation* include organising a public standardisation system, creating a modern set of voluntary Polish standards, participating in the activities of international standardisation organisations and arranging a proficient standardisation information system. The Polish Committee for Standardisation is the only standards body in Poland operating on the national level. The standardisation system consists of the Polish Committee for Standardisation headed by the President, an executive body called the Committee Office and the Committee Office for Technical Commissions responsible for programming and conducting standards work and for drafting Polish Standards. In 1998 the Polish Committee for Standardisation employed 300 persons. In 1998 the structure of the Polish Committee for Standardisation (PCs) was reorganised in order to increase the adjustment of PCs divisions to the sectoral structure of CEN/CENELEC and to better adaptation of Polish Committee of Standards to the operation in the market conditions (development of information, training, marketing and publishing divisions). Activities concerning development of a system of standardisation information points in several towns have been continued in order to ensure direct and quick access to information, especially for SMEs. Presently there are approximately 1256 Polish Standards that are harmonised with the European Standards.

As provided for by the Law on Testing and *Certification*, the Polish Centre for Testing and Certification combines the function of *accrediting* the testing laboratories and certification bodies with the function of quality systems certification and auditors certification. The Polish Centre for Testing and Certification also carries out product testing and certification. The December 1998 Statutes of the Polish Centre for Testing and Certification, introduces the internal separation between accreditation and certification activities, although the implementation of the law has been problematic. Three new offices have been created on the basis of the Resolution: Bureau for Accreditation, Bureau for Testing and Certification of Products and Bureau for Certification of Quality Systems. The Polish Centre for Testing and Certification employs 248 persons. In 1998 it organised around 100 training courses and seminars during which about 2500 representatives of industry and related bodies were trained. The number of 'B' certificates issued increased from 8594 in 1997 to 11810 in 1998. By the end of 1998 70 certification bodies have been registered (59 in 1997) and 232 certificates for testing laboratories were issued.

*There are several parallel conformity assessments systems for different products and obligatory certification for a considerably bigger number of products than is the case in the EU. In addition, the Polish system is slow, costly and its administration is non-transparent. Further effort is required in publicising the new legal regulations (fully harmonised with the EU law) among the staff of the PCBC and the ministries concerned.*

The Central Office of Measures is the Polish central *metrology* institute competent in the field of research, technical, legal and supervision activities in the area of measures and hall-marking. It is subdivided into 13 specialised laboratories and the Department for Foreign Co-operation and European Integration. The Central Office supervises nine Regional Verification Offices with 62 Local Verification Offices, 2 Regional Assay Offices and 10 Local Assay Offices. The statutory duties of the Central Office include the establishment, maintenance and development of National Measurement Standards (Etalons) which are traceable to International Standards, the application of the Laws on legal metrology, the accreditation of calibration laboratories performing verification or calibration of measuring devices or instruments (especially to EN 45000) and the Hallmarking of precious metals. The Central Office of Measures employs 382 persons, while regional and local offices employ about 1406 persons.

The competent authority for supervision of *banks* is the Commission for banking supervision whose Chairperson is the President of the NBP. The decisions of the Commission, together with the responsibilities it assigns, are carried out and co-ordinated by the General Inspectorate for banking supervision, a separate organisational unit within the structure of the NBP. The number of people working in these services was 499 at the end of 1998. The object of the supervision is to ensure the safety of funds held on bank accounts and the compliance by the banks with the prudential regulations. The number of inspections was 438 in 1997 and 453 in 1998.

A National Centre of Criminal Data was established 1998, with the objective of investigating the financial data related to suspected *money laundering* transactions. This step was taken to facilitate the creation of a Financial Intelligence Unit (FIU) in Poland

Supervision in the *securities* markets field is performed by the Securities and Exchange Commission, a governmental body responsible to the Prime Minister, who is also responsible for the nomination or dismissal of its Chairman upon a joint proposal from the Minister of Finance and the President of the National Bank. Financing comes from the State budget and from registration and other fees to be paid by companies trading in securities. It controls the respect of fair trading, spreads information on the functioning of the securities market and prepares legal acts related to the functioning of the securities market. The Securities and Exchange Commission is empowered to carry out on-site inspections. It can impose financial sanctions and withdraw or suspend licences. Investment firms are obliged to provide it with periodical reports on their activities.

**Competition:** The Office for Competition and Consumer Protection (OCCP) is Poland's national competition authority. At the end of 1998, 192 persons were employed in the Office. During 1998, 215 formal proceedings were completed by way of an administrative decision, including 189 proceedings conducted by the Branch

Offices. As of December 31, 1998, 108 proceedings to be completed in 1999 were in course. As regards mergers, the vast majority of the notified mergers was favourably assessed by the Office. The Office imposed 132 fines on entrepreneurs who had not respected the notification procedure. The number of merger control proceedings has grown rapidly, with more than 60 % of all case handlers now engaged in merger control. More qualified staff are furthermore needed in the *anti-trust* area (including mergers).

Once the Law on State aid is adopted, training is urgently needed for the officials dealing with state aid matters in all the ministries and local administrations. Furthermore, while five posts have been allocated in the *state aid* area in the Office for Competition and Consumer Protection, the Office, as the state aid monitoring authority, will need significantly increased financial and human resources.

The number of cases, the activities undertaken by the OCCP and foreseen for the Office indicate that without reinforcing the administrative capacity and increasing the OCCP budget, the implementation of very important legislation (antitrust, state aid,) will continue to face serious problems.

*To ensure that competition policy and competition rules are being fully enforced, it would be opportune to raise awareness and expertise at different levels in Poland. Without these increased resources the capability of the OCCP to fulfil its increased functions will be compromised. The current legislative situation means that there is a lack of efficient institutions and procedures for monitoring state aid (ex ante and ex post control).*

**Telecommunications:** The Ministry of Post and Telecommunications continues as both a regulatory authority and a policy maker. The Department of Regulation of the Telecommunication Market employs over 30 persons out of 180 of all the Ministry staff. In anticipation of the new Telecommunications Law the Ministry established the Committee which is to work out the more detailed structure and internal regulations of the future Regulatory Authority. This body groups the Ministry officials and other key institutions like the National Radio-communications Agency and the State Inspectorate of Post and Telecommunications. The latter is an existing inspection body monitoring the technical and operational activities of TP S.A. national telecom operator and the Polish State Post and deals also with customers complaints. The State National Radio-communications Agency is in charge of spectrum management and monitoring as well as type approvals of radio-communications equipment. Technical aspects and in particular type approval procedures of the telecommunications equipment are performed by the Institute of Telecommunications.

**Audio-visual services:** Acting under the Broadcasting Act of 29/12/92 the National Broadcasting Council (NBC) is the independent supreme state organ in Poland in charge of broadcasting matters. The NBC consists of 9 members, 4 of which are appointed by the Sejm, 2 by the Senate and 3 by the President for a six years term. Its executive body is the Council office with a total staff number of 138. Among the main tasks of the NBC are the elaboration of the state policy in the field of radio and television (after consulting the Prime Minister), adopting regulations and resolutions on the basis of existing legislation, defining conditions of carrying out activities by

broadcasters, fixing subscription fees and charges for granting licenses, monitoring and supervising broadcasters' activities with the law, giving opinions on draft legislative acts and international agreements concerning radio and television. NBC competencies include all broadcasters. Approximately 400 actions per year (adopting regulations, opinions, resolutions, other decisions) are undertaken by the NBC.

**Taxation:** In spite of a staffing level of approximately 40,000 people, the development of the Polish tax administration remains hampered by organisational, technological and legal constraints. The computerisation of tax services is still not completed. In consequence, tax administrators focus on small, clerical mistakes and extremely rigid interpretation of regulations while evasion remains very high due to lack of communication between tax offices and coherence in processing of different kinds of taxes. Changes in the administration and collection of taxes remain subject to intense national political debate. The current Polish taxation system remains complex to administer (in 1997 there were, for instance, 125 types of tax exemptions in personal income tax, 40 types in corporate income tax and 17 types of exemption in VAT). In spite of high employment, the Polish tax administration still does not seem able to execute their functions in an efficient way. Knowledge of business principles and modern accounting by most tax administrators is poor. Training is rare and concentrates on interpretation of new regulations. Moreover, the turnover of staff is high as salaries are not competitive.

**Agriculture:** A co-ordination unit has been established in the Ministry of Agriculture supervised by an inter-ministerial Committee. Both for the implementation of a coherent structural and rural development policy and for implementation of SAPARD, the Agency for Restructuring and Modernisation of Agriculture (ARMA) will play an important role. It will be hosting the Paying Agency for SAPARD and later on for structural measures. It should however be noted that its Paying Agency is required to be operational in 2000 and preparations need to be accelerated.

Progress is being reported in the development of a unified cadastral system putting together the existing legal register, land and building register and the fiscal register. An Inter-ministerial unit has been created for co-ordinating the implementation of the programme. The existence of an efficient cadastre is certainly an important element of a market economy, which will have a positive effect in fostering investment in agriculture. The process is likely to be costly and long, completion being planned for 2005. Since January 1999, some responsibilities have been transferred to the local level. It is regrettable that the Agricultural Census is now scheduled to take place in 2001 instead of 1999 as originally planned.

*Given the very severe shortage of qualified and motivated staff and the extremely sensitive nature of some of the issues, the Ministry has performed its duties as well as can reasonably be expected. However, a comprehensive review of current institutional capacity and a needs assessment is required to assess a range of issues such as organisation, attribution of competences, procedures, staffing policy, internal co-ordination, political independence of civil servants, salary levels, promotions and recruitment policy.*

The State Veterinary Administration is split into two levels: at headquarters, the Veterinary Department is attached to the Ministry of Agriculture and Food Economy.

At regional level there is a veterinary inspectorate in each Voivodship. At the beginning of this year, the State Veterinary Administration became a separate administrative body subordinated to the office of the Prime Minister. The Chief Veterinary Officer was appointed by the Prime Minister. The department has 25 staff in headquarters, of which 16 are veterinarians. At regional level there are a further 5677 staff, of which 2112 are veterinarians.

*At headquarters, the department is seriously understaffed. Staff training is essential. It is necessary to upgrade laboratories and border inspections posts. Consultation mechanisms between the administration, the food industry, farmers' organisations and other concerned bodies need to be strengthened.*

Existing control systems are not in conformity with Community requirements. The system for the financing of controls takes into account the basic elements of the *acquis*. A new regulation will ensure that payments cannot be made directly to the inspectors. No problems are envisaged to the co-financing of expenditure with regard to serious outbreaks and eradication measures. The new Veterinary Act empowers the minister to block imports from specific countries or to close specific regions by decree, but it is foreseen to amend the procedures in order to ensure that Community measures can be rapidly implemented. Currently no general system exists for identification and registration of bovines. National Reference Laboratories currently cover only certain of the required diseases.

The State *Phytosanitary* Administration reports to the Ministry of Agriculture and Food Economy. It has 34 employees in headquarters and a further 1779 employees in its regional inspectorates.

*To facilitate implementation, it may be useful to strengthen the consultation mechanisms between the administration, the seed industry, plant protection companies, farmers' organisations and other concerned bodies.*

**Fisheries:** The Fisheries Department was created on 22 April 1999 within the existing structure of the Ministry of Transport. On 10 September it was transferred to the Ministry of Agriculture. Currently 4 civil servants are employed there. Additionally, the Ministry is supervising the fishing control services that employ some 15 inspectors in three maritime offices (Szczecin, Slupsk, Gdynia). There is no clear division of tasks between the offices. The inspectors being overloaded, cannot exclusively focus their tasks on fisheries control.

*The administrative capacity in this sector is well below EU standards.*

**Energy:** Poland's key administrative structure for the energy sector is the Ministry of Economy. Other central government bodies involved in the energy sector are the Ministry of Treasury and the Office for Consumer Protection and Competition. The National Atomic Energy Agency is in charge of the regulation of the nuclear sector. The energy sector is under the supervision of the Department of Energetics in the Ministry of Economy. The Department with a staff of 32 persons is responsible for the overall policy in the energy sector as well as for specific aspects of power, gas and oil sub-sectors. Coal sub-sector is excluded from the scope of responsibility of the Department of Energetics and is covered by the Department of Industry Restructuring.

Under the Energy Law, the Energy Regulatory Authority (ERA) was created, responsible for establishing and controlling rules governing the energy sector such as licensing, schedule of prices and development programmes. The President of the ERA directly reports to the Prime Minister. It employs about 250 persons including 8 local branches.

*The energy administration is weak and ineffective. After recent reorganisation, its structures are still unstable. The departments responsible for the energy sector within the Ministry of Economy are inadequately staffed and have very limited knowledge of requirements. All administrative structures require significant improvement. Main weaknesses persist, in particular for licensing procedures and for the enforcement of standards.*

**Transport :** A new national passenger *road transport* division was established within the Ministry of transport and Maritime Economy and Road Transport Department, covering the preparation of regulations regarding national transport of passengers by road and co-operation in the implementation of adjustments to the Polish transport system to meet the requirements of the Europe agreement. Furthermore a European Integration Division has been established within the Road transport department, dealing among other things, with monitoring the changes to meet EU standards.

Since 1 January 1999, licence issuing for national commercial transport of passengers by road has been transferred to the local administration agencies.

In terms of the day to day management of the road/motorway sector two key institutions are the General Directorate of Public Roads and the Agency for Motorway Construction and Operations. Following recent administrative reforms the structure and scope of responsibilities of General Directorate of Public Roads has changed. This institution is now in charge of only so called national roads (around 18.000 km long), i.e. the most important for international transit as well as key inter-regional ones. The structure has changed from 17 semi-independent Regional Directorates to 9 Branches and 7 Offices and there has been a significant loss of staff. The Agency for Motorway Construction and Operations plans and prepares motorway development but is not allowed to act as an investor. Therefore, all main TEN road and motorways projects are implemented by the General Directorate of Public Roads

*Due to the administrative reform and the structural changes in General Directorate of Public Roads the capacity to absorb significant EU aid in infrastructure has potentially been weakened. General administration problems, for example relatively low salaries, will also make it difficult to cope with the increasing workload related to more EU funds for infrastructure development. This may become a serious problem in the accession process, in particular due to the underdevelopment of the Polish road transport infrastructure. Without strong and capable road administration, Poland would not be able to make full use of the larger amounts of EU assistance planned for the next few years.*

There is no specific administration in charge of *road transport safety*, however there are specialised institutes authorised by the Ministry to test and certify/type-approve new models of vehicles (including safety aspects). They are also in charge of licensing the network of regional and specialised control stations in charge of

roadworthiness tests of individual vehicles. The Ministry is planning establishment of a Road Inspectorate, which should be capable of coping with enforcement of EU legislation in this field. There is also no transport services inspectorate, which would be in charge of licensing and monitoring road transport services, carrying out inspections of cars on the roads and weighing trucks on the roads. On a very limited scale such tasks are performed by the Police, which has its own structural and staffing problems.

In order to cope with the problems of road safety the Prime Minister re-established last year the Council of Road Safety, a strategic advisory and co-ordination body composed of representatives of the appropriate Ministries together with some renowned experts from the relevant fields. It is chaired by the Deputy Prime Minister for Internal Affairs and Administration.

The recently (1998) created General *Railway Inspectorate*, with 40 employees, has started its activities to monitor and enforce the technical standards of infrastructure (track and rolling stock), as well as to inspect ongoing railway construction sites. The Railway Department of the Ministry of Transport regulates of the railway services in Poland.

The institutional infrastructure for *inland waterways* in the Ministry and the relevant technical administrations are located in main activity areas, i.e. in the basins of the two biggest rivers: Wisla and Odra. The structures are called Inspectorates of Inland Waterways and are in charge of all technical matters, whereas the Ministry of Environment and Water Resources is responsible for maintenance of inland waterways their safety and navigation tools. *The administration is sufficient to deal with all issues including safety of inland waterways. This sub-sector seems to be well organised and does not create an institutional problem.*

The *maritime* administration employs around 2000 persons. The Safety Offices located in the three Maritime Administration Offices in the coastal area deal with safety issues in maritime transport. These Offices are reporting directly to the Minister of Transport and Maritime Economy. Policy is prepared and co-ordinated by the Maritime Administration Department of the Ministry. In practice the Safety Offices follow all the international safety requirements standards.

The General Inspectorate of *Civil Aviation* deals with all technical issues in air transport. These cover in particular safety issues including technical inspection of aeroplanes but also access to the profession and staff qualifications. The department of Civil Aviation of the Ministry of Transport is in charge of policy making and international agreements.

Preparatory work is continuing on the establishment of the Civil Aviation office. This includes drawing up the statute and organisational regulations, as well as the financial provisions of the office. *Poland appears to be prepared for the application and enforcement of the acquis in the area of air transport.*

**Employment and social policy :** The organisation of Public Employment Services has been reformed in 1999 as part of the broad decentralisation reform. The number

of regional offices has been reduced to 16 and district employment offices have been attached to each of the Poviats and endowed with large self-governing powers. In 1998 training seminars were organised in co-operation with the British, Danish and French employment services. A national Job Offers Database was established nearly on the whole area of Poland. This database will constitute a basis for future services within EURES (European Employment Services), as will the implementation of an electronic system named PULS, which should cover all labour offices by the end of this year. The National Labour Office has also embarked on activities preparing for setting up in Poland the National Resource Centre for Guidance and establishing the network of regional Centres for Career Planning and Psychological Diagnosis. The Ministry of labour and Social Policy created in September 1998 a new Department competent for human resources development, managing the future ESF funds and regional policy.

The National Labour Inspectorate employs 2194 officials and in 1998 carried out 81500 inspections. In 1997 (1998 data not available) there were 19877 accidents at work.

**Regional policy and cohesion :** The territorial state administration reform in Poland became effective in January 1999, when a new three-tier administrative division of the country came into operation, introducing new levels of self-government and significantly reducing the central government administrative presence at the sub-national levels (see political criteria)

The Government has decided to decentralise public financing by giving Voivodships and Poviats part of the revenue from the central budget (50% is likely to be administrated at local and regional level). The remainder of the finance will come from local revenue sources, (a share of income and corporate tax revenues). Given the dependency of revenues on income and corporate taxes, it is worth noting that the lowest income taxes per capita situated in eastern border regions such as Podlaskie (Bialystok), Lubelskie (Lublin) and Podkarpackie (Rzeszow), are approximately 40% of identical resources per capita available to the wealthiest regions of Mazowieckie (Warsaw) and Slaskie (Katowice).

In September 1998, the Council of Ministers' Committee for Regional Policy and Sustained Development was established. The Committee's tasks include dealing with drafts of normative acts and programmes, analyses, reports and other government documents concerning the regional and spatial policy of the state, as well as compatibility of the socio-economic development of the country with the principles of sustainable development.

On 1 December 1998, a Department of Regional Development was established at the Ministry of Economy. At present, the Department's staff consists of 21 persons. At the end of 1998, departments to co-ordinate the regional policy and to prepare pre-accession and structural funds were established.

*The new regional administrations in Poland are not yet sufficiently prepared to implement the EU structural instruments. The regional policy responsibilities and inter-ministerial co-ordination rules, budgetary mechanisms, control and monitoring functions remain to be defined.*

**Environment:** The Ministry of Environment, employing 300 persons, is responsible for most aspects of the environmental accession process. It includes a Unit for European Integration, which is part of the Ecological Policy department. The unit consists of 6 persons and is responsible for all EU related issues. *At present, the unit is not fully staffed. The Ministry of Environment, and in particular the unit dealing with European integration, needs to be significantly strengthened.*

The Ministry is supported by the National Fund for Environmental Protection (250 employees), which is a financial institution set up to promote investments projects aimed at environmental protection. Its main revenues originate from fees and penalties from emissions, repayment of loans and financial transactions. In 1998, the National Fund's total expenditure amounted to €286 million.

Moreover, some important aspects of the environmental *acquis* fall within the remit of other ministries or agencies. This concerns chemical control, quality of drinking and bathing water (Ministry of Health) and radiation control (National Atomic Energy Agency). The co-ordination between the ministries involved in environmental protection needs to be strengthened and greater mutual transparency and coherence is necessary. Poland should also clarify which ministry will be responsible for water management. At present, the Ministry of Environment oversees the seven regional directorates for water management (210 employees).

The reform of Poland's territorial organisation that took effect in January 1999 has significantly modified the institutional structure within the field of environmental policy. In general, the territorial reform has significantly clarified the distribution of tasks between the different administrative levels. The new regions (Voivodships) and counties (Poviat) are now responsible for issuing permits, inspection and monitoring. The Poviats and, in special circumstances, the Voivodships grant the approval for investment projects assessing their environmental impact. The Voivodship laboratories carry the main responsibility for monitoring the quality of the environment and the regional inspection bodies control the implementation of environmental regulations. The State Environmental Inspectorate is now responsible for general guidelines and co-ordination. Nonetheless, it seems necessary to further strengthen the Voivodship and Poviat administration and, in particular, their implementation capacity in the environmental field. In this context, it is important to involve them more actively in the preparations for EU environmental policy and to grant them the financial means needed to carry out their tasks.

**Consumer Protection:** The Office for Competition and Consumer Protection is also responsible for consumer protection in Poland. In 1998, the Consumer Policy Department of the OCCP proceeded 334 consumer complaints. The majority of these complaints related to the following issues; warranties and guarantees, telecommunications, postal services, banks and insurance companies, cable television operators. Apart from complaints filed in writing, there were also several hundred complaints expressed orally or by phone. The branch offices received nearly 450 complaints in 1998.

*Implementation of the new legislation in the consumer protection area will require an increase in the controlling functions of the OCCP in order to execute the observance*

*of those provisions and to protect the consumers' interest properly. It will be necessary to strengthen the competence and potential of the OCCP by legislative changes and by increasing the budget resources.*

When the Act on General Product Safety comes into force the Office for Competition and Consumer Protection will also become the authority exercising supervision over safety of products and services (market surveillance authority). Significant attention will be required to ensure that sufficient numbers of suitably qualified staff are provided with the necessary budgetary provision. Further effort is also required in dissemination of knowledge among the staff of the ministries and other governmental institutions, courts, entrepreneurs and consumers.

**Justice and Home Affairs :** The Central Administration of the Ministry of Justice include 600 officials. The Public Prosecutor's Office has 200 prosecutors and with the territorial reforms, 17 regional prosecutors offices were established, one for each of the 16 Voivod plus 1 in Jelenia Gora. During 1999, Poland has continued to increase the number of judges, up to 8013.

Request for mutual assistance do not fulfil the conditions set by the Vienna Convention on Mutual Assistance in Judicial Matters. As a result, few of them are acceptable under EU Member States law, both formally or in terms of evidence before the court. A great majority of requests for mutual assistance are simply denied because they are held to be secret by the Polish authorities. The threshold beyond which a matter becomes secret in Poland is much lower than in EU Member States and these 'procedural' impediments characterise and inhibit much of the international dialogue.

A multi-disciplinary committee responsible for Border Management was set up in 1998 by directive of the Prime Minister. This committee is composed by ten relevant ministries including Economy, Finance, Treasury, Environment, Defence, Agriculture, European Affairs, Foreign Affairs and six services under the lead of the Ministry of the Interior. Its tasks are mainly to develop long-term strategies integrating all aspects affecting border management in Poland. The range of ministries represented and the need to concentrate on the operational aspects would tend to encourage a more 'co-ordination' role for this structure – leaving the operational strategy to the individual services. A lighter more 'operational' body would be preferable.

The main tasks of managing the border are in the hands of the Border Guard which is staffed with 18.000 officers including 10.500 full-time officers (68%) and 3000 conscripts. Of these, 8.300 are assigned to the Eastern border. Whilst the Border Guard has been fortunate in having continuity in its upper management and structures, the move to transform the service into a more civilian, cost-effective, well managed professional body still needs to be taken.

The Border Guard 1999 budget amounts to €132 million compared with €107 million in 1998. This is encouraging although only some €7 million are for new investments and the €400,000 allocated to staff training seems inadequate. Since the investments needed on the future external border to the east, even to bring it up to Schengen'

standards are considerable, a much greater budgetary effort is required at the national Polish level.

Currently the Border Guard is under performing owing to a lack of adequate equipment, infrastructure, and operational budget. Insufficient budget is also hampering the deployment of adequately trained, managed, equipped and housed staff on the Eastern borders.

On the Western border, however, as a result of an increasingly close co-operation with the German side and the equipment / infrastructure upgrades, the efficiency of the services has resulted in a reduction of 40% of illegal crossings – which indicates the potential for development elsewhere.

Following the Aliens Act of June 1997, the *border* guard service is responsible, at the port of entry / land border crossing, for carrying out the checks on immigration and visas. The border guard must check the invitation registered by the provincial governor (Voivod) to see whether the person has the necessary amount of money to cover the costs, entry, transit, stay and exit. The border guard may also decide to shorten the person's stay in Poland depending on the amount of their financial resources. The border guard may also execute the procedure to initiate refugee status, apply to the provincial governor for the decision to expel an alien from Poland, apply to the provincial governor for imposing administrative fine on carriers for bringing passengers who are refused entry to Poland and keep and update a list of aliens whose stay in Poland is undesirable.

The Department of Migration is currently staffed by 52 permanent officials supported by 20 additional staff on a contractual basis as well as by 20 interpreters on a ad-hoc basis. It remains that the current level of staffing is insufficient to cope with the workload and the challenges ahead.

On the basis of the New Aliens Law adopted in 1997, a Council of Refugees has been established in January 1999. It started its activities in March 1999. Its main task is to function as an appellate instance competent for reviewing decisions issued by the Department of Migration on asylum and refugee status in 1<sup>st</sup> instance. Its decision can in turn be challenged before the High Administrative Court. The Council is composed of 12 members including the President, appointed by the Prime Minister on the proposal of the Ministry of Foreign Affairs, the Ministry of Justice as well as the Prime Minister's Service. Its members are not full time officials. They are mostly well-known academics or former officials. There is no regime of incompatibility between being a Council Member and other professional activities. The Council enjoys full independence from the Government in general and in particular from the Ministry of Internal Affairs and Administration.

In 1998, the number of applications totalled 3150. By mid-1999, the number of Asylum applications totalled 1184. It is likely that the 1999 figure will be slightly below 3000. This could be the consequence of the introduction of the new aliens law provisions which are precisely meant to reduce the number of applications by tightening the criteria of eligibility.

Within the Ministry of Justice, the Bureau of Organised crime is staffed with 12 prosecutors and 3 officials. It has an extensive mandate and actively pursues international co-operation. Internally, the Bureau has specialised units dealing with the different types of crimes : drugs, forgery, financial frauds, money laundering, car theft, arms trafficking, terrorism etc. In 1998, 1200 dossiers have been treated leading to the arrests of several large organised crime groups.

During 1998 a number of measures were adopted for strengthening the fight against organised crime both at the level of the Police and at the level of the Judiciary. These included the setting up of an International Police Co-operation Bureau replacing the old National Central Bureau of Interpol and the setting up of a new section for witness protection as a result of the entry into force of the new Criminal Code in September 1998. However the latter provision is hampered by inadequate financing.

*These measures are currently insufficient to seriously stem the tide of increasingly violent organised crime - even taken together with the introduction of the new Criminal Code. As well as introducing new instruments, the new Code has made the judicial process increasingly complicated,. Nevertheless, certain targeted efforts to curb specific activities such as truck hi-jacking on the East-West transit have been successful.*

As organised crime has become better established, Poland is increasingly being used as a base from which to conduct operations – as for example in the case of trafficking in stolen vehicles for which Poland has become the European centre.

The administrative structures are essentially inadequate to deal with the problems. There is a lack of sufficiently motivated, experienced and adequately paid staff, lack of management continuity, lack of co-ordination, lack of modern 'intelligence' methods and technology and an overall absence of strategy for combating organised crime. These problems are of a structural nature requiring reinforcement of the budgetary allocations and a fundamental reform of the Ministry of the Interior and the dependent law enforcement services themselves.

In 1998, there were around 100,000 police officers and about 17 000 civilians working in the Polish police. Following the territorial reforms of 1999 up to 800 police officers are being re-deployed in the 16 newly established Voivod. The average salary of a police officer is €427. The staffing situation is rather critical with overall numbers dropping steadily over the past years. It is characterised by high turnover and low wages coupled to inefficient recruitment, training, promotion and deployment policies.

Working conditions are poor. The quantity and quality of the equipment is inadequate and severely hampered by budgetary constraints. International co-operation is complicated by missing counterpart 'criminal intelligence' databases and by the use of the Security services in combating organised crime and by consequence a lack of transparency.

Corruption in the Police force, whilst widespread, is essentially currently confined to the lower ranks.

**Customs :** Under the responsibility of the Ministry of Finance, the Polish customs administration is divided into a Central Board of Customs with a total staff of 645 and 19 regional customs offices with a total staff of 13,863 people.

In Customs there has been very modest progress in management structures. The Central Board of Customs was reorganised, and the structure of internal organisation units was adjusted to the new tasks and procedures provided for by the Customs Code. On 15 September the new Act on Customs Services (Administration) came into force. It creates good legal foundations for the functioning of customs services in Poland. The law gives special powers and a special status to customs services. However, the recent establishment of a National Customs Inspectorate is a step in the right direction. Regular training of the customs officers does not follow changes in the customs provisions and tariffs. The computerisation of customs services is not completed.

*The lack of uniform implementation of the customs legislation, especially at the borders remains a problem. There are serious deficits in implementation capacity and corruption is prevalent.*

**Financial control :** Financial control functions are performed in Poland both at central and at regional level. There are 16 ministries, including the Office of the Prime Minister, and 30 other central government bodies. The Ministry of Finance has a staff of approximately 1000. In addition, there are some 8500 staff working in the regional units of the Treasury Control of the Ministry. Within all ministries and in a few other central government bodies there are internal control units. There are altogether 18 such units with a total of 50 people working in them. This, however, does not include the internal control units of the Ministry of Defence and the Ministry of Interior. In addition, there are 32 people working in the central office of the Control Department of the General Board of Customs and some 140 people in 19 regional units.

*Poland has shown an increased capacity for financial control tasks. Its administration is partially in line with good practices in EU Member states. Priority should be given to improve co-ordination and quality of internal audit, to implement financial control requirements for the pre-accession instruments including audit trail and follow-up of irregularities.*

## C. Conclusion

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

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

Macroeconomic stability in Poland is well established and has withstood the Russian crisis. The widening of trade and current account deficits needs to be closely monitored and controlled. There has been some progress in privatisation, including in the banking sector, and in social sector and territorial reforms.

The biggest economic challenge which Poland now faces is to press ahead with reform and privatisation, particularly in agriculture, while pursuing fiscal consolidation in the medium term. Continuing economic reform will be required in order to foster private sector growth. This process of privatisation and restructuring of the many remaining state-owned enterprises should be accelerated, in particular in sectors such as steel.

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

Industrial policy gives raise to serious concern, in particular in the absence of a clear strategy for steel restructuring and in the automobile sector. As regards taxation, the well-structured strategy which has been adopted needs to be implemented effectively. In the agriculture sector, although progress has been made in the veterinary and phytosanitary acquis, the cost of implementation has not been adequately budgeted. Overall, Poland has not yet launched the substantial transformation which is needed, in terms of policy, acquis and structures, in the agriculture and fisheries sectors. Given the importance of these sectors to the domestic economy and within the EU, it is essential that a strategy be developed which will facilitate necessary adjustments prior to accession.

Some progress has been made in the energy sector. In the environment; framework legislation has not been transposed. This combined with a lack of an implementation programme and financial strategy and weaknesses in monitoring point to the need for very substantial efforts in this sector. Good progress has been achieved in road

transport alignment. Although the reform of territorial State administration provides a good basis. for regional policy, the legal framework and related structures still need to be established. In the social field, efforts have been limited and legislative enforcement is a matter of concern, in particular the capacity of labour institutions.

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

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

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

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

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

Each candidate country was invited to adopt a National Programme for the Adoption of the *Acquis*. This sets out how it would deal with the Accession Partnership, the timetable for implementing its priorities and human and financial resources implications. Both the Accession Partnerships and the National Programme for the Adoption of the *Acquis* will be revised regularly to take account of progress made and to allow for new priorities to be set.

### **1. Accession Partnership: Assessment of short and medium-term priorities**

#### *Short-term priorities*

The short-term priorities of the Accession Partnership<sup>5</sup> and an assessment of the progress made concerning their fulfilment are indicated below.

- **Economic reform:** *establishment of medium-term economic policy priorities and joint assessment within the framework of the Europe agreement; acceleration of the privatisation/restructuring of state enterprises (including telecoms), and the sound development of the financial sector, including acceleration in a transparent manner of banking privatisation and improving bankruptcy proceedings.*

**Assessment :** Poland has elaborated a medium-term economic strategy and a joint assessment with the Commission is nearly completed. The privatisation and restructuring process of some state enterprises has been continued. Considerable further efforts in enterprise restructuring will be needed for several years to come, however. The financial sector has been strengthened by the framework legislation, while progress is being made in the privatisation of banking. As regards telecommunications, legislation has just been adopted on the issue of interconnection but not the regulatory authority. The privatisation of TPSA has been started, but no progress has yet been made on the establishment of a regulatory authority. There has been no apparent improvement on bankruptcy proceedings. Poland has partially fulfilled the short term priorities.

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<sup>5</sup> Council Regulation 622/98, OJ L85 of 20 March 1998

- **Industrial restructuring:** *adoption by 30 June and start of implementation of a viable steel restructuring programme, pursue restructuring in the coal sector.*

**Assessment:** the steel restructuring plan was adopted in June 1998. However, key elements of the programme, privatisation of Huta Katowice and Huta Sendzimira, have not taken place as foreseen and the government lacks a strategic view of the process. The implementation of the steel plan has therefore not made progress. A coal sector restructuring plan has been adopted and implementation is underway including a reduction in the size of the workforce and pit closures. Overall, this priority has been partially met.

- **Internal Market :** *including certification and standardisation (further alignment of legislative measures and conclusion of a European Conformity Assessment Agreement), further alignment in the areas of intellectual and industrial property, public procurement and liberalisation of capital movements, the adoption of a law on state aid, and strengthening of monitoring authority, finalisation of inventory.*

**Assessment :** In the standards and certification area, there have been significant delays in adoption of the new approach and related institutional structures. In the area of state aids, the necessary legislative framework and an independent state aid monitoring authority have not yet been put into place. No progress has been noted on intellectual and industrial property rights. The national preference clause with regards to public procurement remains in force. Poland has not adopted the necessary legislation to ensure the liberalisation of capital movements sufficient to fulfil its Europe Agreement obligations. Therefore, progress in the meeting the short term priorities aimed at the adoption of internal market legislation has been limited.

- **Agriculture :** *establish a coherent structural and rural development policy; adoption of implementing regulations and implementation and enforcement of veterinary and phytosanitary requirements particularly with regard to the inspection and control arrangements for protecting EU external borders. In particular, upgrading of certain food processing establishments (milk and meat sectors) and certain testing and diagnostic facilities.*

**Assessment :** Some progress has been made with the reorganisation of the veterinary and phytosanitary services. The agricultural structural policy document, adopted by the Government in July 1999, represents a first step towards a rural development policy but significant further attention is required to ensure that this policy adequately addresses the fundamental requirement for the preparation of Polish agriculture for membership. Little progress has been made regarding upgrading of certain food-processing establishments or diagnostic facilities. The short term priorities have only very partially been met.

- **Environment :** *continue transposition of framework legislation, establishment of detailed approximation programmes and implementation strategies related to individual acts. Planning and commencement of implementation of these programmes and strategies.*

**Assessment :** Little progress has been achieved in the field of Environment. Detailed approximation and/or implementation strategies have not yet been drawn up and little additional legislation has been transposed. Only to a very limited extent have the short term priorities been met.

- **Justice and Home Affairs :** *develop more effective border management and control systems in particular of the borders with Belarus and the Ukraine and align visa regimes with the EU.*

**Assessment :** The adoption of the aliens act represents an important step forward, but Poland needs to continue to align its visa and immigration policy. Poland needs to increase its financial and technical resources on the administrative reinforcement of border management. Important weaknesses continue to exist regarding control of Poland's eastern border, as regards both staffing, facilities and equipment. There has been little progress in meeting the short term priorities.

- **Reinforcement of institutional and administrative capacity:** *in particular improvements in the areas of customs, state aid controls, justice and home affairs ministries and services, financial control, veterinary and phytosanitary controls, (particularly as regards facilities at the external borders), environment, taxation and regional policy.*

**Assessment :** Little progress has been made by Poland in increasing its institutional and administrative capacity. On regional policy, the newly devolved administration, created in January 1999, represents an important step forward. Significant attention is required to improve the operations of the customs service, particularly in the application of a uniform declaration processing system. Regarding state aids, financial control, fisheries, justice and home affairs ministries and services, veterinary and phytosanitary controls (external border facilities) environment, and taxation, there has been little progress in terms of defining administrative and regulatory responsibilities or in setting up enforcement bodies. As a consequence the short term priorities have only partially been met.

In general, Poland has made little progress in addressing the short term priorities of the Accession Partnership with a notable lack of progress regarding some long-standing issues such as Certification, State Aids and the restructuring of the steel sector. Progress has been notable in the maintenance of steady macroeconomic development, the establishment of a new state administration, and the implementation of social security reforms. Although some progress has been made in Justice and Home Affairs, significant attention is required to address the upgrading of Eastern Border management. Finally, much remains to be done in the adoption and implementation of the internal market *acquis*, and in major sectors such as Agriculture, Fisheries and Environment.

### *Medium-term priorities*

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

- **Economic reform:** *regular review of the joint assessment of economic policy priorities ... focusing on satisfying the Copenhagen criteria for membership ... avoidance of excessive deficits ... it is expected to pursue policies ... compatible with the ultimate goal of adoption of the euro.*

**Assessment:** Poland has completed its first joint assessment and has elaborated a macro-economic strategy which aims to achieve a balanced budget. Significant progress has been made on the compatibility of central bank legislation with the *acquis*. The new legal framework enhances the central bank's independence, but further preparation for membership of the NBP is required.

- **Internal market:** *alignment of public procurement legislation ... further development of standardisation and conformity assessment bodies and establishment and operation of a market surveillance system ... further improvements in the field of competition ... reinforcement of the anti-trust and state aid authorities ... alignment with the *acquis* in the fields of the internal energy market.*

**Assessment:** The new act on public procurement should enter into force in 2000 but further amendments to the law are required. Draft legislation on Standardisation and certification is before Parliament. There has been progress in the area of antitrust law, and further legislative alignment is under consideration by the Government in order to fully harmonise Polish competition law with the *acquis*. State aids legislation is pending adoption but further progress is needed regarding the alignment of rules of state monopolies in certain sectors. There has been some progress in aligning with the internal energy market *acquis*.

- **Justice and Home Affairs :** *including development of ... fight against organised crime ... implementation of reforms of legislation on aliens ...*

**Assessment:** having adopted the Aliens Act, Poland had made considerable progress during the past year in completing the process legislative framework. Co-ordination of crime fighting services (police, border guards, immigration, and customs) has been instigated and specific measures to combat organised crime, notably the introduction of 'witness protection', in line with EU practice, are showing results.

- **Agriculture:** *including alignment with the agricultural *acquis* ... veterinary and phytosanitary matters.*

**Assessment:** Little progress had been made in terms of the adoption of veterinary and phyto-sanitary *acquis*.

- **Fisheries:** *development of capacity to implement and enforce the common fisheries policy.*

**Assessment:** Limited progress is being made with the preparation of a fisheries policy and restructuring programme, and the administrative capacity for administration and inspection is virtually non-existent.

- **Transport:** *alignment to acquis in particular on road transport ... extension of trans-European networks.*

**Assessment:** There has been progress in aligning with the road transport *acquis*. Trans European network priorities have been identified.

- **Employment and Social Affairs:** *further development of social protection.*

**Assessment:** Significant developments have taken place regarding the long-term provision of social insurance.

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

The Polish NPAA is a wide-ranging document addressing many of the issues set out in the Accession Partnership. However, the inclusion of many other issues in the Programme often obscures the real priorities.

Poland's NPAA should provide clearer timing, budgetary impact and institutional requirements of Poland's accession trajectory. The NPAA will need to ensure coherence between Poland's commitments in the framework of Screening, its Europe Agreement obligations and Poland's own legal and institutional strategy of preparation for accession.

In view of this and to assist budgetary, legal, institutional, and financial preparations, greater clarity will be required as to how the NPAA will materially meet the specific priorities set out in the Accession Partnership. This would provide an invaluable guide for the programming of national, Community and IFI inputs into this process. For example, in areas such as the free movement of goods and transport (waterways) there is a lack of detail and no clear deadlines. The information included in timetables is inaccurate. The same applies to regional policy and financial control.

The preparation of a budgetary impact analysis for the approximation process is an essential issue to be addressed to ensure that both further revisions and Poland's pre-accession strategy will be sustainable. Currently there is a lack of clarity with regards the financing in a number of areas, for example Social Dialogue.

In particular, the Polish NPAA, while providing a good overview of actions already undertaken in the past, (for example in the insurance sector) remains unclear regarding the steps to be undertaken in the short and medium term and how these will be financed. This is particularly of concern in high cost areas such as the development of the future external border up to EU requirements, environment and agriculture. As such, the document is not sufficiently forward looking and is not a sufficient guide for the programming of Community assistance in the immediate future.

Within the NPAA there is a need for a more detailed analysis of the state administration reform and the impact which this will have upon the implementation of the programme in both administrative and budgetary terms.

By the end of October 1999, the Polish Government should produce a preliminary National Development Plan as an annex to the NPAA. This should make proposals for Phare funding in a limited number of regions of the country, and co-financing and implementation mechanisms, covering the period 2000-2002.

On this basis, the Polish Government should formulate a Proposal for Phare Support in 2000, covering the three aspects of the Phare programme: Institution Building (including participation in Community programmes), Investment in the *Acquis* (including participation in the 5<sup>th</sup> Framework Programme), and Economic and Social Cohesion.

**HUMAN RIGHTS CONVENTIONS RATIFIED BY THE CANDIDATE COUNTRIES,  
JUNE 1999**

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

X = Convention ratified

O = Convention NOT ratified

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

## **Annex**

### **STATISTICAL DATA**

## STATISTICAL DATA

	1994	1995	1996	1997	1998
<b>0 Basic data</b>	in 1000				
<b>Population (average)</b>	38544	38588	<b>38618</b>	<b>38650</b>	<b>38666</b>
<b>Total area</b>	Km <sup>2</sup>				
	312 690	312 690	312 690	312 690	312 690
National accounts	<b>1000 Mio Zloty</b>				
<b>Gross domestic product at current prices</b>	223.9	306.3	385.4	469.4	551.1
<b>Gross domestic product at current prices</b>	82.9	96.6	112.6	126.3	140.7
<b>Gross domestic product per capita<sup>6</sup> at current prices</b>	2100	2500	2900	3300	3600
<b>Gross domestic product at constant prices (nat. currency)</b>	5.2	7.0	6.0	6.8	5.0
<b>Gross domestic product per capita<sup>1</sup> at current prices</b>	5600	6100	6700	7300	7800
<b>Structure of production</b>	<b>% of Gross Value Added<sup>7</sup></b>				
- Agriculture	6.9	7.0	6.5	5.6	4.8
- Industry (excluding construction)	31.1	31.9	30.3	29.5	27.9
- Construction	7.4	7.3	7.5	8.0	8.6
- Services	54.6	53.8	55.8	56.9	58.7
<b>Structure of expenditure</b>	<b>as % of Gross Domestic Product</b>				
- Final consumption expenditure	80.1	77.8	79.6	79.6	78.7
- household and NPISH	63.4	61.2	63.1	63.5	63.7
- general government	16.7	16.6	16.5	16.1	15.0
- Gross fixed capital formation	18.0	18.7	20.9	23.6	25.3
- Stock variation <sup>8</sup>	-0.3	1.1	1.1	1.1	1.1
- Exports of goods and services	23.8	25.5	24.4	25.7	23.7
- Imports of goods and services	21.6	23.2	26.0	30.0	28.8
Inflation rate	<b>% change over the previous year</b>				
<b>Consumer price</b>	33.3	28.1	19.9	14.9	11.8 <sup>9</sup>
Balance of payments	<b>Mio EURO</b>				
- Current account	802	653	-2571	-5065	:

<sup>6</sup> Figures have been calculated using the population figures from National Accounts, which may differ from those used in demographic statistics.

<sup>7</sup> Including FISIM.

<sup>8</sup> These figures include changes in inventories, acquisitions less disposals of valuables and the statistical discrepancy between the GDP and its expenditure components.

<sup>9</sup> As reported by CSO Poland. The average rate calculated by Eurostat is 11.6.

<b>-Trade balance</b>	-483	-1258	-5739	-8661	:
<i>Exports of goods</i>	15431	19144	21703	27099	:
<i>Imports of goods</i>	15914	20403	27442	35760	:
<b>-Services, net</b>	2388	2704	2681	2797	:
<b>-Income, net</b>	-2155	-1525	-847	-996	:
<b>-Net current transfers</b>	1053	732	1334	1794	:
<i>-of which government transfers</i>	108	187	65	106	:

	1994	1995	1996	1997	1998
<b>1 Public finance</b>	<b>% of Gross Domestic Product</b>				
<b>General government deficit/surplus</b>	-2.4	-2.1	-2.4	-2.6	:
Financial indicators	<b>% of Gross Domestic Product</b>				
<b>Gross foreign debt of the whole economy</b>	34.7	28.4	23.4	24.8	15.9
Monetary aggregates	<b>1000 Mio EURO</b>				
- M1	9.2	11.5	13.7	18.6	19.9
- M2	25.9	32.1	38.0	45.5	53.9
- Total credit	27.7	30.5	36.1	42.4	49.1
Average short-term interest rates	<b>% per annum</b>				
- Lending rate	32.8	33.5	26.1	25.0	24.5
- Deposit rate	33.4	26.8	20.0	19.4	18.2
Euro exchange rates <sup>10</sup>	(1EURO=..National currency)				
- Average of period	2.702	3.170	3.422	3.715	3.918
- End of period	2.980	3.247	3.601	3.880	4.089
	December 1990=100				
- Effective exchange rate index	46.9	40.4	37.3	33.7	31.9
Reserve assets	<b>Mio EURO</b>				
- Reserve assets (including gold)	4924	11369	14388	18741	23463
- Reserve assets (excluding gold)	4775	11230	14248	18502	22648
External trade	<b>Mio EURO</b>				
<b>Imports</b>	18133	22209	29247	37307	41972
<b>Exports</b>	14493	17504	19248	22707	25180
<b>Balance</b>	-3639	-4706	-10000	-14600	-16792
	corresponding period of the previous year = 100				
<b>Terms of trade</b>	101.3	101.7	97.3	99.4	104.3
	as % of total				
<b>Imports with EU-15 (EU-12 in 1994)</b>	57.5	64.6	63.9	63.8	65.9
<b>Exports with EU-15 (EU-12 in 1994)</b>	62.7	70.0	66.3	64.2	68.3
Demography	<b>per 1000 of population</b>				
<b>Natural growth rate</b>	2.5	1.2	1.1	0.8	0.5
<b>Net migration rate</b>	-0.5	-0.5	-0.3	-0.3	-0.3
Infant mortality rate	<b>per 1000 live-births</b>				
	15.1	13.6	12.2	10.2	9.5
	at birth				
<b>Life expectancy :</b>	<b>Males</b>				
	67.5	67.6	68.1	68.5	68.9
	<b>Females</b>				
	76.1	76.4	76.6	77.0	77.3

<sup>10</sup> The new polish Zloty occurred in 1995 (1 old Zloty divided by 10000 is 1 new Zloty).  
 Exchange rates before 1995 have been recalculated on the base of the New Zloty.

	1994	1995	1996	1997	1998
<b>2 Labour market (ILO methodology)</b>	<b>% of labour force</b>				
Economic activity rate	60.2	58.8	58.2	57.7	57.3
Unemployment rate, total	16.5	15.2	14.3	11.5	10.6
Unemployment rate of persons < 25 years	32.5	31.2	28.5	24.8	23.2
Unemployment rate of persons >= 25 years	11.9	10.9	10.1	9.3	8.8
Average employment by NACE branches (LFS)	<b>% of total</b>				
- Agriculture and forestry	:	22.6	22.1	20.5	19.1
- Industry (excluding construction)	:	25.9	25.5	25.3	25.0
- Construction	:	6.1	6.2	6.6	7.0
- Services	:	45.4	46.2	47.5	48.9
<b>3 Infrastructure</b>	<b>Km per 1000 Km<sup>2</sup></b>				
Railway network	78	77	75	75	74
Length of motorways	:	246	258	264	268
Industry and agriculture	<b>previous year = 100</b>				
Industrial production volume indices	113.1	110.2	109.0	111.2	104.8
Gross agricultural production volume indices	90.7	110.7	100.7	99.8	106.0
Standard of living	per 1000 inhabitants				
Number of cars	185	195	208	221	230
Telephone subscribers	130	148	169	197	228
Number of Internet connections	:	:	:	:	2.57 <sup>11</sup>

: not available

## Methodological Notes

### National account

Gross domestic product per capita in PPS. Revised data use the PPP figures from the International Comparison Project.

### Inflation rate

Consumer price .The EU Member States have designed a new consumer price index in order to meet the obligations in Treaty of the EU, as a part of the preparations for the common currency. The aim was to produce CPIs comparable between Member

<sup>11</sup> Source: United Nations.

States. The main task was to harmonise methodologies and coverage. The result was the Harmonised Index of Consumer Prices (HICP).

A similar exercise has been started with Candidate Countries. In respect to enlargement, it is equally important that their economic performance is assessed on the basis of comparable indices. Some progress has already been made towards adapting the new rules. However, it will still take some time before genuine HICPs will be available in Candidate Countries, and it must be emphasised that the figures reported in the table are based on national CPIs, which are demonstratively non-comparable.

### Balance of payment

Source: National Bank of Poland.

Balance of payments on a transaction basis.

### **Finance**

#### Sources

Where possible, Eurostat questionnaire on monetary and financial statistics has been used as the source. Candidate Countries are asked to supply regularly an update of tables contained in the questionnaire. The statistics covered include foreign official reserves, monetary aggregates, interest rates, and exchange rates. Failing this, the IMF's 'International Financial Statistics' publication has been used as the source. The European Commission is used as the source for exchange rates against the EURO, where available.

Concerning gross foreign debt, the OECD External Debt Statistics publication has been used as the source for 1994-6. The data for 1997-8 are the result of closer cooperation between BIS/ IMF/ OECD/ World Bank, and published jointly by them. Debt is of the whole economy, and includes both short- and long-term. According to the convention, the stock of outstanding debt is converted from US dollars into EURO at end-year exchange rates, whereas GDP is converted into EURO using annual average exchange rates.

Concerning general government deficit / surplus, Candidate Countries are presently unable to provide reliable data on a national accounts basis. Given the lack of reliable data, an approximation for general government deficit / surplus is derived from the IMF's Government Finance Statistics Yearbook (for an explanation of methodology, see below).

### **Method**

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

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

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

the government (net of deposits, including non-financial public enterprises), plus the private non-financial sector, plus other non-monetary financial institutions. It should be noted that the problem of measuring the circulation of foreign currency in some Candidate Countries may affect the reliability of the data.

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

Exchange rates Where available, the EURO exchange rates are those officially notified. The effective exchange rate index is weighted by major trading partners, with a base year of December 1990.

### **External trade**

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

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

Imports and exports with EU-15. Data declared by the republic of Poland.

### **Demography**

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

### **Labour market**

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

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

The employed: all persons aged 15+, who during the reference period worked at least one hour for wage or salary or other remuneration as employees, entrepreneurs, members of cooperatives or contributing family workers.

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

- (i) have no work,
- (ii) are actively seeking a job and
- (iii) are ready to take up a job within a fortnight.

Members of armed forces living in private households are included into economically active population. Women on maternity leaves are included while persons on child-care leaves are not included.

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

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

## **Infrastructure**

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

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

- (a) is provided, except at special points or temporarily, with separate carriageways for the two directions of traffic, separated from each other, either by a dividing strip not intended for traffic, or exceptionally by other means;
- (b) does not cross at level with any road, railway or tramway track, or footpath;
- (c) is specially sign-posted as a motorway and is reserved for specific categories of road motor vehicles.

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

## **Industry and agriculture**

Industrial production volume indices. Data on industrial production relate to sold production (sales) for domestic and external destination as well. Data cover all entities with more than 5 employees.

Gross agricultural production volume indices. Indices based on evaluation of all individual products of gross agricultural production in constant prices of the year preceding the examined one. The indices of the gross agricultural production are calculated on the basis of the previous year.

### **Standard of living**

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

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

Telephone subscribers. Excluding mobile phone subscriptions.

## Sources

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

National accounts, inflation rate, finance, demography: Eurostat.

Balance of payment : IMF.