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**REGULAR REPORT**

**ON**

**POLAND'S**

**PROGRESS TOWARDS ACCESSION**

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**REGULAR REPORT**

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**POLAND'S**

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## A. Introduction

### a) Preface

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

The European Council in Luxembourg decided that

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

On this basis, the Commission presented a first series of Regular Reports in October 1998, a second series in October 1999, and a third in November 2000. The Commission has prepared this fourth series of Regular Reports with a view to the Laeken European Council in December 2001.

The structure followed for this Regular Report is the same as that used for the 2000 Regular Report. In line with previous Regular Reports, the present Report:

- describes the relations between Poland and the Union, in particular in the framework of the Association Agreement;
- analyses the situation in respect of the political criteria set by the 1993 Copenhagen European Council (democracy, rule of law, human rights, protection of minorities);
- assesses Poland’s situation and prospects in respect of the economic criteria defined by the Copenhagen European Council (a functioning market economy and the capacity to cope with competitive pressures and market forces within the Union);
- addresses the question of Poland’s capacity to assume the obligations of membership, that is, the *acquis* as expressed in the Treaties, the secondary legislation, and the policies of the Union. This part gives special attention to nuclear safety standards, as underlined by the Cologne and Helsinki European Councils. It encompasses not only the alignment of legislation, but also the development of the judicial and administrative capacity necessary to implement and enforce the *acquis*, as emphasised by the Madrid European Council in December 1995, and confirmed by the Gothenburg European Council in June 2001. At Madrid, the European Council underlined the necessity for the candidate countries to adjust their administrative structures, so as to create the conditions for the harmonious integration of those States. The Gothenburg European Council emphasised the vital importance of the

candidate countries' capacity to effectively implement and enforce the *acquis*, and added that this required important efforts by the candidates in strengthening and reforming their administrative and judicial structures.

This Report takes into consideration progress since the 2000 Regular Report. It covers the period until 30 September 2001. In some particular cases, however, measures taken after that date are mentioned. It looks at whether intended reforms referred to in the 2000 Regular Report have been carried out, and examines new initiatives. In addition, this Report provides also an overall assessment of the global situation for each of the aspects under consideration, setting out for each of them the main steps which remain to be taken by Poland in preparing for accession.

In accordance with this approach, the assessment of progress in meeting the political and *acquis* criteria (including Poland's administrative capacity to implement the *acquis*) focuses on what has been accomplished since the last Regular Report, complemented with a view of the global situation for each of the aspects discussed. The economic assessment, for its part, provides, besides an assessment of progress made over the reference period, also a dynamic, forward-looking evaluation of Poland's economic performance.

The Report contains a separate section examining the extent to which Poland has addressed the Accession Partnership priorities.

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

The Report draws on numerous sources of information. The candidate countries have been invited to provide information on progress made in preparations for membership since the publication of the last Regular Report. The National Programmes for the Adoption of the *Acquis* of each of the candidate countries, as well as the information they have provided in the framework of the Association Agreement and in the context of the analytical examination of the *acquis* (screening) and the negotiations<sup>1</sup>, have served as additional sources. Council deliberations and European Parliament reports and resolutions<sup>2</sup> have been taken into account in the preparations. The Commission has also drawn on assessments made by various international organisations, and in particular the contributions of the Council of Europe, the OSCE and the International Financial Institutions, as well as that of non-governmental organisations.

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<sup>1</sup> As in previous years, the Report does not mention any commitments undertaken or requests made in the context of the accession negotiations

<sup>2</sup> For the European Parliament the *rapporteur* is Jas Gawronski.

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

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

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

The Association Council met in October 2000 in Brussels. An Association Committee meeting was held in Warsaw in May 2001. 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 Parliaments met in November 2000 in Brussels and March 2001 in Warsaw.

Bilateral trade continues to grow. In 2000 EC exports to Poland stood at €3.6 billion, with EC imports from Poland amounting to €2.1 billion. The EC trade surplus of €0.5 billion shows a further decrease on the 1999 surplus (€1.4 billion) and continues the decline in the surplus first noted in the last Regular Report. Poland's share in total EC exports fell slightly to 3.6% while Poland's share in total EC imports, remained constant at 2.6% EC imports continued the trend since 1997 and grew faster than EC exports and in consequence the trade gap when expressed as the ratio of exports to imports continued to decrease in 2000. Concerning trade by product, machinery and electrical goods represent the largest sector for both EC exports to and imports from Poland. On the import side, machinery and electrical goods (56% growth), transport equipment (43% growth), and base metals and articles (38% growth) all grew strongly.

Regarding agricultural products, a new agreement on reciprocal concessions with Poland entered into force in January 2001 on an autonomous basis, pending the conclusion of an Additional Protocol to the Europe Agreement. As a consequence of this agreement, approximately 91% of traditional EC agricultural imports from Poland is duty-free while 43% of the EC agricultural exports to Poland is exempted from duties. A second round of bilateral negotiations for trade liberalisation is presently being prepared and would cover more sensitive sectors, in which current trade is low, in particular due to a high degree of tariff protection. In the fisheries sector negotiations with Poland on mutual concessions were concluded between negotiators in July 2001. Negotiations concerning processed agricultural products are ongoing.

There remain a number of outstanding issues with regard to the implementation of the Europe Agreement, from complex long-standing issues such as steel restructuring and Special Economic Zones, to product-specific trade issues. There is a general willingness to seek solutions through the functioning of the various joint institutions although in some instances satisfactory solutions have been a long time coming.

Although the Europe Agreement provides for entry into its second stage from February 1999, a number of legal requirements have yet to be fulfilled to permit this transition. These were covered in the 1999 regular report. While some of the remaining impediments to transition have been removed others remain. The issue of transition is of increasing importance as it is only in the second stage of the Europe Agreement that capital movements from the EC to Poland will benefit from national treatment.



During the reporting period there have been a number of high-profile disputes between the Polish administration and investors in Poland. In some instances mutually satisfactory solutions have been reached, others remain unresolved. While difficult to quantify it is clear that, irrespective of the individual circumstances, such cases have had a negative impact on perceptions of Poland as a location for investment. The EU notes with concern the difficulties which EU investors have faced in a number of high-profile cases in Poland. Transition to the second stage of the Europe Agreement would be an important indicator of efforts to rectify this perception.

There have been renewed efforts to clarify and resolve a number of outstanding trade issues. The general level of co-operation is good but some issues have proved to be more difficult to resolve than others and the difficulty in ensuring that solutions to specific or general problems have been fully implemented persists. Some difficulties remain with regard to the implementation of the Custom's Code, and the disputed safeguard measures on yoghurts have been extended without the opening of quotas.

The progress noted in the last regular report with regard to progress in the area of certification has, by and large been maintained. There have been reports of difficulties with regard to the automatic issuing of certificates requiring either mandatory certification or producer certification as a result of the non-implementation of the new procedures by some of the certifying bodies. At this stage it is not possible to determine whether this represent teething troubles or a genuine weakness in administrative capacity. A further obstacle to EC producers is the fact that the Polish list of products for which mandatory certification is required, while having been amended to remove products which require no certification in the EC, still contains products subject to producer certification inside the Community.

The Regulation imposing definitive anti-dumping duties on imports of ammonium nitrate originating *inter alia* in Poland was published in January 2001. A review of the measures imposed in December 1994 on imports of urea ammonium nitrate was initiated in December 1999; this resulted in a decision to continue measures with the necessary Regulation being published in May 2001. With regard to bailer twine, the Regulation was amended in August 2001. Concerning wooden pallets, the Regulation imposing definitive anti-dumping duties published in 1997 was further amended in August 2001, following what is termed a "newcomer" review of the anti-dumping measures.

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

A revised Accession Partnership was adopted in December 1999. Its implementation is reviewed in chapter D of this Report. This Regular Report is accompanied by a proposal from the Commission to update the Accession Partnership.

In June 2001 Poland submitted a revised National Programme for the Adoption of the *Acquis* (NPAA) to the Commission, in which it outlines its strategy for accession, including how to achieve the priorities contained in the Accession Partnerships (*Chapter D below*).

### *Community aid*

There are three **pre-accession instruments** financed by the European Community to assist the applicant countries of Central and Eastern Europe in their pre-accession preparations: the

**Phare** programme; **SAPARD**, which provides aid for agricultural and rural development; and **ISPA**, which finances infrastructure projects in the fields of environment and transport. These programmes concentrate their support on the Accession Partnership priorities that help the candidate countries to fulfil the criteria for membership.

For the years 2000-2002 total financial assistance to Poland amounts annually to €98 million from Phare, 186.6 million from SAPARD, and between €12 and €85 million from ISPA.

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

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

During the period 1990 – 2000, the Phare programme allocated € 534 million to Poland. The **2001 Phare Programme** for Poland consists of a national allocation of €96 million, concentrated on the following priorities:

- the reinforcement of institutional and administrative capacity in the fields of public finance, the cadastre, tax administration, transport, insurance supervision, energy market regulation, promotion of NGOs, SME and export development, regional policy, and statistics (€45 million)
- internal market (customs, certification and standards, competition and consumer protection, medicines and medical devices, food safety, audio-visual policy, public procurement, and chemicals) (€4 million)
- the strengthening of co-operation in the field of Justice and Home Affairs (border management, fight against organised crime, visa and migration policies, justice co-operation, police co-operation, border infrastructure) (€0 million)
- institution building in agriculture and fisheries (for common market organisations, agricultural advisory services, organic farming, animal feeds control, IACS, FADN, agricultural information systems, veterinary administration, and preparation and training for CAP instruments) (€3 million)
- institution building in environment (for water resources protection, Natura 2000, biological safety system, control of Seveso II, radiation protection, and strengthening of the local environment administration) and air quality monitoring systems (€2 million)

- economic and social cohesion (human resources development and SME development sectoral programmes and business related infrastructure in eight target regions of the country)(€170 million)
- Participation of Poland in Community programmes (€42 million).

An additional €56 million has been allocated for a cross-border co-operation (CBC) programme with Germany, the Czech Republic, Slovakia, and for a special action within the Baltic Sea region.

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

Furthermore, Poland participates in the following Community programmes: Fifth Framework programme on Research and Technological Development, Leonardo, Socrates, Youth for Europe, SAVE II, SME, FISCALIS, IDA, and CULTURE 2000. Negotiations were concluded regarding Poland's participation in the European Environment Agency and, following the ratification and entry into force of the agreement, the formal participation of Poland in the Agency will start in January 2002

In order to streamline Community legal procedures and thereby facilitate future participation of Poland in Community programmes, a Decision has been adopted by the EU-Poland Association Council establishing the general principles for such participation.

Overall, the impact of Phare has been positive. Effective transfer of know-how, equipment and financial resources has taken place in a number of important fields such as industrial restructuring and privatisation, SME development, trade and investment promotion, energy, land registration, veterinary and phytosanitary administration, environmental investments and institution building, etc. Phare support to transport, environment, agriculture and SME development has succeeded in developing sector strategies and initiating essential institutional and financial mechanisms servicing enterprises in these sectors. In other sectors, such as customs, taxation, justice and home affairs, fisheries, coal and steel, and employment, Phare support contributed to the establishment of sector development, institutional or restructuring strategies and plans.

In Poland, Phare for example played a particularly important role in:

- the transport sector, selected sections of construction and renovation of the A4 Motorway Wroclaw-Katowice-Krakow project (126 km) were financed by Phare (€105 million) together with the EIB (€375 million). In the railways sector, Phare funding (€38 million) contributed to the renovation of the E30 railway line in the South of the country, following the 1997 floods, together with the EIB (€61 million) and the Government (€156 million)
- privatisation, where preparatory work, the vouchers for the mass privatisation programme and bad debt work-outs prior to the privatisation of commercial banks, were funded by Phare (€20 million) together with the EBRD
- a regional development programme, where SME development was funded by Phare (€50 million) which co-financed nearly 200 municipal SME infrastructure projects and co-funded over 1,000 SME investment projects through a grant scheme along with commercial banks.

This created over €50 million of public and private investment and generated more than 11,000 jobs in the regions concerned

- institution building in the veterinary administration, regional policy administration, and the judicial sector were funded by Phare (€10 million) to reform the sectors concerned and bring these up to the standards in the EU
- social alleviation of restructuring of the coal and steel sectors, where Phare funding (€ 61 million) in particular provided for the counselling and retraining of the unemployed, for SME development and for reconversion measures in Silesia.

The Phare Review for 2000 confirmed the accession-driven approach and emphasised the importance of helping countries to prepare for the Structural Funds. The Review foresees the possibility that management of the Phare funds can be fully decentralised from 2002 if the strict pre-conditions set down in the Co-ordination Regulation 1266/99 are met. Second, Phare programming can be moved onto a multi-annual basis if supporting strategies are in place. Third, the trends introduced in 1997 continue with an increased role for Delegations, further streamlining of procedures and, lastly, increasing emphasis on raising the verifiable and quantifiable impact of Phare projects in institution building, investment in compliance with the *acquis* and economic and social cohesion.

As regards **SAPARD**, the Polish Rural Development Plan was formally approved by the Commission in October 2000. The Multi-Annual Financing Agreement in January 2001 and the Annual Financing Agreement in March 2001, thereby formally committing the EC financial contribution for the budget year 2000 amounting to €71.6 million.

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

The average annual outlays would amount to €80 million during the period 2000-2006, of which €71.6 (in 1999 prices) million contributed by the European Community.

The Polish authorities submitted in September / October 2001 the act of accreditation to the Commission. The act is presently under consideration by the Commission.

As concerns the **ISPA** programme, the Polish Government has drawn up strategy papers for transport and the environment and the priorities for ISPA support expressed in these documents have been integrated into the Polish Government's December 1999 preliminary National Development Plan. The Commission and the Polish authorities have together established a shortlist of priority projects for ISPA funding in the transport and environment sectors over the period 2000-2006. For transport, these concern the construction and renovation of motorways, national roads and railways on the Trans-European transport network according to European standards. In the case of the environment, the main ISPA priorities for Poland are related to drinking water and waste water, and solid waste treatment for the major cities of Poland. All financial memoranda for ISPA projects for the year 2000, amounting in total to €48.2 million, were signed. Sectoral Authorising Officers were appointed by the Polish Government and in the case of a number of these projects, tenders are currently in progress and contracts for implementation are being concluded. It is expected that Poland will receive the same amount of funding from ISPA in the year 2001.

Implementation of the ISPA projects will follow the same institutional framework as for the Phare programme, with the National Fund at the Ministry of Finance being in charge of overall financial management and a number of Implementing Agencies being responsible for the technical implementation, subject to prior endorsement by the Commission. For Phare and ISPA, it is however planned to further decentralise running of the programmes to the Polish authorities (EDIS).

For the programme and financial management of SAPARD, a different system will apply which reflects the EAGGF (European Agricultural Guidance and Guarantee Fund) rules and is based on a fully decentralised approach through an accredited paying and implementing agency.

### *Twinning*

One of the main challenges the candidate countries continue to face is the need to strengthen their administrative capacity to implement and enforce the *acquis*. As of 1998, the European Commission proposed to mobilise significant human and financial resources to help them in this respect, through the process of twinning of administrations and agencies. The vast body of Member States' expertise is now being made available to the candidate countries through the long-term secondment of civil servants and accompanying short-term expert missions and training.

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

A total of 372 twinning projects, primarily in the fields of agriculture, environment, public finance, justice and home affairs and preparation for the management of Structural Funds, have been funded by the Community between 1998-2000. These represent the principal priority sectors that have been identified in the Accession Partnerships. Other important sectors of the *acquis* have also been addressed through twinning. For example, social policy, fight against drugs, transport, and telecommunications regulation.

Thanks to the strong support and response from EU Member States 103 twinning partnerships, funded by Phare 1998 and involving all candidate countries and almost all Member States are coming to an end or have been concluded. Under Phare 1999 a further 124 projects are being implemented and the programming exercise for Phare 2000 includes a further 145 twinning projects. The 2001 programming exercise foresees 131 twinning projects in all Phare beneficiary countries as well as Cyprus and Malta. Furthermore, the candidate countries are being offered the possibility of drawing on Member States' expertise through Twinning light (projects of up to 6 months' duration), to address well-circumscribed subjects of limited scope, which emerge during the negotiation process as requiring adaptation. It is estimated that around 250 twinning projects are operational throughout the candidate countries at any one time.

In Poland, the eight 1998 twinning projects are nearly completed and 17 twinning projects under Phare 1999 are on-going. New areas covered are *inter alia*, financial control, tax and customs, civil service development, and road transport. For Phare 2000, there are 44 twinning projects with Poland, of which a considerable number have started in the meantime, including twinning between regional administrations in order to prepare Poland for regional policy and the management of future structural funds. For Phare 2001, there will be 39 twinning projects, of

which 5 are "twinning light" projects. Statistics show that a considerable range of both Member States involved and policy sectors covered in Poland. Nearly all Member States are or will be engaged in twinning, allowing Poland to benefit from the variety of administrative models and cultures in the European Union.

### *Negotiations / screening*

The analytical examination of the *acquis* (screening) has taken place in the context of meetings of the Association Committee and the sub-committees.

Since the opening of the accession negotiations, substantial discussions on the individual chapters of the *acquis* started, and by June 2001, negotiations on all chapters (with the exception of chapter 30 - Institutions and chapter 31 – Other) had been opened.

By the end of September 2001, the following 17 chapters had been provisionally closed: Free movement of goods, Free movement of services, Energy, Economic and monetary union, Statistics, Social policy and employment, Industry, Small and medium sized undertakings, Science and research, Education and training, Telecommunications and information technologies, Culture and audio-visual policy, Consumers and health protection, Customs union, External relations, Common foreign and security policy and Financial control. Negotiations continue for the remaining chapters.

## **B. Criteria for membership**

### **1. Political criteria**

#### *Introduction*

The political criteria for accession to be met by the candidate countries, as laid down by the Copenhagen European Council in June 1993, stipulate that these countries must have achieved “stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities<sup>3</sup>.”

The 2000 Regular Report on Poland’s progress towards accession, the Commission concluded, as previous reports have done, that:

“Poland continues to fulfil the Copenhagen political criteria.

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

The section below aims to provide an assessment of developments in Poland since the 2000 Regular Report, as well as of the overall situation in the country, seen from the perspective of the political Copenhagen criteria, including as regards the overall functioning of the country’s executive and its judicial system. Developments in this context are in many ways closely linked to developments regarding Poland’s ability to implement the *acquis*, in particular in the domain of justice and home affairs. Specific information on the development of Poland’s ability to implement the *acquis* in the field of justice and home affairs can be found in the relevant section (*Chapter 24 – Co-operation in the field of justice and home affairs*) of part *B.3.1.* of this report.

#### *Recent Developments*

Parliamentary elections were held on 23<sup>rd</sup> September 2001. These have resulted in a government being formed by the electoral grouping led by the Social Democratic alliance in coalition with the Polish Peasants party (PSL).

Throughout the changes, Poland’s political institutions have continued to function properly and in a stable manner. The 1997 Constitution has proved to be a stabilising factor since its introduction.

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These principles have been emphasised in the Charter of Fundamental Rights of the European Union, that was proclaimed at the Nice European Council in December 2000.

The new government continues to support EU membership as a top political priority and a broad consensus on this issue exists among a majority in the parliament.

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

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

### *The Parliament*

In April last, the Sejm adopted new election regulations and an amendment to the Act on Political Parties. The new election law has made major changes in relation to the old regulations.

The counting of votes to parliamentary seats is now conducted in line with a modified St. Lague's method rather than the previous d'Hondt system. The new system is also one of proportional representation, but based on a different method of allocating seats to votes. It is considered to give a more accurate reflection of voter preferences and so diminish the over-representation of large parties which characterised the previous system. Elections to the Senate are now on the basis of a majority system.

The national list has been abolished: as a consequence, all deputies will be elected by voters in their constituencies. This coincides with the redefinition of constituencies within the act to correspond to the changes brought about by the territorial reform of 1999. The law defines 41 Sejm electoral districts, comprising 7 to 19 seats. Elections to the Senate will be conducted in 40 constituencies with 2 to 4 senators elected in each district.

The amendment to the Act on Political Parties has also introduced a number of significant changes relating to the conduct of elections. The most important changes are aimed at regulating the issue of party financing with a view to curbing possible corruption.

Under the new regulations, parties will receive substantial public funding, amounting in total to around 55-60 million PLN (€13.75-15 million) annually. If they obtain at least 3 percent of votes in the next elections parties will be entitled to a budget subsidy. The amount will depend on the number of valid votes cast for the party.

In parallel, party financing will be subject to increased scrutiny. Parties will no longer be allowed to conduct public collections and companies will no longer be able to finance political parties in any form whatsoever. Contributions from private persons cannot exceed 11 000 PLN (€2750) annually. All payments have to be registered. In addition, parties are now banned from earning income from real estate rental or commercial activity.

These provisions mark an important step towards ensuring the transparent working of the political system. At the time of writing it is too early to draw any conclusions as to the efficiency of the measures, some of which will in any case only come into effect at the end of 2001.



## *The Executive*

The most significant development has been the adoption of the law on public information, which codifies the freedom of information provisions set out in the constitution. The reporting period also saw the implementation for the first time of the new Presidential Elections Act. This has resulted in some initial difficulties but demonstrates that the new procedures are a significant advance. Further efforts have been undertaken to strengthen the civil service.

In May 2001 the State Elections Commission (PKW) completed the verification of presidential campaign reports. This was conducted, for the first time, in accordance with new, stricter rules governing campaign financing introduced by an amendment to the Presidential Elections Act adopted by the Sejm in April 2000. The examination proved that all election committees have, in various ways, breached the Act. As a result, the PKW decided to reject the statements of all twenty-one candidates.

Some of the breaches were relatively minor, others were more significant (notably with regard to accepting donations from companies with foreign capital or which were financed from public funds, which did not derive from companies' profits or which came from individuals with unknown or false identities).

In line with the new regulations each election committee has seven days to appeal the PKW's resolution to the Supreme Court. If the Court upholds the decision or it is not appealed, the PKW decides if it will refer the case to the prosecutor's office or the "kolegium" (a body of citizens having jurisdiction over minor offences). A court may sentence an election committee to pay a fine of between €1000 PLN (€250) and 100 000 PLN, (€25 000) while a "kolegium" may impose a fine up to 5000 PLN (€1250). At the time of writing the Supreme Court had upheld the PKW's decision in all 15 cases where an appeal was made and the next steps were awaited. The verdicts suggest that the difficulties have arisen in large part out of an unfamiliarity with a new system as well as the complexity and difficulty of the system itself.

Nonetheless, it should be recalled that the new legislation is a significant step in strengthening democratic procedures. Following the 1995 elections only 10 out of 17 candidates submitted election campaign reports, and there was no provision for sanctions for non-compliance with this requirement.

Previous Regular Reports commented on developments with regard to the territorial reform which took place in 1999. In overall terms, the transition to the new system appears to have been completed without undue difficulties and the new administrations are now fully operational. The long term financial situation remains to be determined, as the legislation on the budgetary provisions has again been rolled over.

The law on public information was signed by the president at the start of October 2001. It sets out a clear definition of the right to public information, based around the entitlement to information which is in the public interest, the entitlement to review official documents and the entitlement to access to the sittings of elected government bodies. As always with such legislation, effectiveness will in large part be determined by the exemptions from the law and its interpretation. With regard to the exemptions, these are largely taken from existing legislation. The success of implementation will become apparent over time.

The legislative framework defining the civil service and its functioning is largely unchanged since the 2000 Regular Report. Workers in the civil service at national and regional level fall into a number of categories; "Civil servants" as defined by the 1999 law form the managerial corps, while the most numerous category at the national level is that of "civil service employees." The most significant change has been the adoption of an ordinance on the remuneration of civil service employees and an ordinance on the determination of official positions requiring professional qualifications, professional grades of civil servants and issues of remuneration and benefits.

The major point of concern continues to be the number of civil servants (i.e. those who passed the selection procedure) in relation to the total civil service corps. By the end of September 2001, the number of civil servants was 831, i.e. some 0.7% of the total of about 116 000 employees of the central administration. This number represents an increase of around 270 on last year as a result of graduation from the National School of Public Administration (in 2001, 58 alumni were appointed as civil servants) and the conclusion of the annual competition, from which 218 were selected. This compares to 161 civil servants appointed under the 2000 exercise.

As was noted in the 2000 report, the increase in the number of civil servants, despite some acceleration last year compared to the first year of operation of the law, is still too slow to produce an independent, stable and competent civil service in the immediate future.

The risk of political instability attached to more senior posts in the public administration has been exacerbated by the expiry at the end of June this year of the transitional period for the provision of the Law on Civil Service. This imposed an obligation to organise open competitions for the top posts in the administration (from directors-general upwards, including the head of the civil service himself). As a consequence, all those who were appointed to their posts without a competition were formally dismissed on 1 July 2001. Pending the completion of the necessary competition, 16 of the 69 director-general level posts are vacant. In the meantime these vacancies are being filled by managerial staff from the department as "acting" directors-general.

The civil service is under the constitutional supervision of the Prime Minister, who appoints the Head of Civil Service, assisted by the Office of Civil Service. The Office is composed of 5 basic structures: the Secretariat of the Head of the Civil Service (including press service and editors of the Civil Service Bulletin), the Office of the Director General, the Department of Recruitment and Selection, the Department of Civil Service Corps Management, and the Department of Training and Development of Civil Service Corps. Besides, the Prime Minister can call on an advisory body, the Civil Service Council, consisting of 16 members (half of them representing the Parliament and half chosen by the Prime Minister himself).

The position of the Civil Service Office requires some strengthening, as its key function is the supervision of the civil service. The role and functions of the Office within the governmental structure are perhaps not fully understood or appreciated. It is generally associated with training programmes and recruitment procedures instead of being perceived as the supervisory body and the institution which addresses policy issues, sets the direction for the development of structures and builds the culture of the civil service as such. As a result, some of the Office's proposals for structural change have had a rather weak response from the bodies to which they were directed.

While further efforts have been made over the last year through legislation but also notably through information campaigns, to improve the profile, status, standing and rewards of the civil service, the long-standing disincentives to a civil service career remain. These disincentives will continue to need to be addressed in the years ahead to ensure the recruitment and retention of a body of independent, experienced officials.

### *The Judicial system*

The 2000 Regular Report noted a range of developments in the structure, staffing and training of the judiciary. These changes and reforms have been followed through during the reporting period as part of a long term approach to improving the functioning of the judiciary. In some areas, notably the court structure, new legislation has been adopted.

Actions to rationalise the court structure and improve its functioning have continued over the reporting period. As of July 2001, the number of regional courts in operation was thirty eight. Furthermore, the territorial jurisdiction of common courts has been harmonised with the administrative borders of the new voivodships. This harmonisation is intended to facilitate better co-operation between the judicial administration and other public bodies functioning under the territorial structure which was put in place in 1999.

The number of civil-criminal chambers (courts dealing with consumer rights cases, and fiscal offences of up to 2 years of imprisonment) has reached 254.

The law on the Common courts system which entered into force in October 2001 has transferred competence for "petty" cases - civil claims below 5000 Zloty (around €1250) - from the civil criminal chambers to the *grodzki* chambers (courts of justice)

The November 2000 amendment to the law on the national court register entered into force in January 2001. The amendment provides the legal framework for the functioning of the computerised National Court Register. In January, 2001 14 regulations executing this law, issued as ordinances of the Minister of Justice, entered into force. The National Court Register is a centralised, fully computerised register of companies, associations, other social and professional organisations, foundations, public health care institutions and insolvent debtors.

The law on the National Penal Register referred to in the 2000 Regular Report entered into force in June 2001. The law sets forth detailed rules of organisation, operation, and scope of the National Penal Register. The Register arises out of the transformation of the Central Register of Convicts.

In May 2001 legislation amending (i) the law on land registers and mortgage, (ii) the law on the Civil Procedure Code, (iii) the law on court costs in civil cases and (iv) the Law on the notariat was adopted. The amendments are intended to improve the court registration system by accelerating proceedings related to real estate registration, and to fully introduce the modernised and computerised real-estate register. As a part of this process, staffing levels at the real-estate register departments have been reinforced by increasing the number of *referendarz* to 390, an increase of 100 over the reporting period.

There has been a slight increase in the number of judges (up to 8 335), and prosecutors (up to 5 313). The increase in the number of judges (+348) has in large part taken place in order to meet the expected increase in cases following the introduction of the code of minor offences.

The 1999 Strategy on computerisation continues to be implemented, although considerable needs remain. The total number of computers within the judiciary was increased to 7,500 by end of 2000 with the bulk of these machines situated in the courts rather than the prosecutor's office services. In parallel, networking at national level is being completed for both the courts and the prosecutor's offices. Work is under way on the creation of a specific software package and network for prosecutors dealing with organised crime.

Training, notably with regard to European Community law, has steadily increased. Community Law is compulsory in the last 6 months of training, together with International Law. In addition to this initial training, there are a number of vocational training courses organised on general and specific areas of EC Law.

The backlog of cases is an issue which the previous Regular Report dealt with in some detail. The efforts listed above represent positive steps to improve the efficiency of the judicial system, leading to a reduction of the backlog. At this early stage in their implementation such measures have helped to stem the tide but have not yet managed to reverse its flow. This holds equally true for the regional disparities in the length of the backlog, with the situation in Warsaw remaining more difficult than for the country as a whole.

During 2000, the courts settled almost 10% more cases than in 1999: the total number of cases settled being almost 7.37 million. However, as a result of the increase in cases referred to the Court there was a very small increase in the backlog to 1.81 million cases.

It should be noted, however, that in some categories of cases, the average duration of the legal procedure has been reduced. This is particularly true for real-estate registration cases, which lasted an average of 3.3 months in 2000 compared to 3.7 in 1999, and for civil cases in district courts ( 4.3 months in 2000, 4.7 months in 1999) and in regional courts (5.6 months in 2000, 5.9 months in 1999). Initial figures indicate that this trend has continued into the first half of 2001

Concerns about corruption within the system persist. To some extent there is a divergence between perception and reality. Reports suggest that some 20 cases were reported in 2000, while the Central Bureau of Investigation indicates that three cases were investigated last year. Efforts have been made by the government to increase the remuneration of court employees, judges and administrative staff so as to counteract one factor often linked to corruption.

Concerns about corruption in the judiciary have led to a broader reflection as to the functioning of the judiciary and in particular the issue of judicial independence. Article 173 of the Polish constitution ensures the independence of the courts, and article 178.1 provides for the independence of judges. According to article 180, judges cannot be dismissed against their will, and according to art. 181 they enjoy near total (both professional and personal) criminal immunity. Such immunity can only be lifted by a disciplinary tribunal which is made up of judges and which meets in closed session. The lack of transparency of this system is a source of concern and makes a precise assessment of corruption problematic.

Complaints continue to be received and dealt with by the Ombudsman for Citizens' Rights, who has specifically criticised citizens' lack of access to justice (length of procedures and cost of legal action) in his report for 2000 presented to the Sejm in May 2001.

### *Anti-Corruption measures*

The issue of corruption has been covered in detail in the two previous Regular Reports. It is an issue which remains high on the political agenda and in the public consciousness, not least as a result of the spate of recent prominent allegations. Irrespective of whether the specific allegations turn out to be true or not, there is a general perception that corruption is widespread. This is damaging both domestically and internationally.

The last Regular Report underlined that while efforts were being made to fight against corruption, there appeared to be a lack of a clear overall strategy. A recently constituted government task force on corruption is a first step in drawing together the various strands of policy and the actors involved in the fight against corruption.

Some progress has been made in adopting legislative measures to combat corruption. Legislation on money laundering was adopted in December 2000. The law creates the legal framework for the establishment of the office of General Inspector of Financial Information, which will oversee financial transactions with a view to curbing money laundering. In parallel, the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime has been ratified. The convention entered into force in April 2001.

On the ground, a sustained effort will be required to step up the fight against corruption both by the police and the border guard service. Recent data suggest that in 2000 there was a marked increase in the number of cases detected: up to 1899, compared to 1357 in 1999. Convictions also increased, rising from 408 in 1999 to 581 in 2000.

The law on public information is an important administrative development in the fight against corruption. Further measures are being undertaken to reduce the incidence of corruption in the civil service. Anti-corruption training has been upgraded and 200 people have benefited from this revamped approach in 2001. Work on the code of ethics continues.

Poland signed the Council of Europe Civil Law convention on Corruption in April 2001. Poland also participates in the Council of Europe Group of states against corruption (GRECO) and continues to participate in the monitoring of anti-corruption measures effected by the OECD working group on bribery in international commercial transactions.

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

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

Since the ratification in October 2000 of Protocol no. 6 to the European Convention for the Protection of Human Rights and Fundamental Freedoms on the abolition of the death penalty, and the ratification in November 2000 of the Council of Europe Framework Convention on the protection of National Minorities (entered into force April 2001), Poland has ratified most of

the major Human Rights conventions (see Annex). Poland has an established track record of providing appropriate international and constitutional legal safeguards for human rights and protection of minorities.

The concept of non-discrimination is enshrined in the Constitution, but to date the transposition of this principle into legislation, including the anti-discrimination *acquis*, has been limited (see Chapter 13 - Social policy and employment).

### *Civil and Political Rights*

Basic rights continue to be respected, and some notable developments have been registered since the 2000 Report. In contrast there are some areas which continue to give cause for concern, notably custody.

With regard to the *death penalty*, following formal abolition in May 2000, Poland in October 2000 ratified additional Protocol no. 6 of 28 April 1983 (concerning the abolition of death penalty) to the European Convention for the Protection of Human Rights and Fundamental Freedoms. This entered into force in November 2000 and along with previous legislative changes brings Poland into line with the *acquis* in this important field.

Over the last year there have been increasing concerns raised about *degrading treatment* by the Police and abuses of the power of *custody*. With regard to the former there is no evidence that this is either systematic or systemic: human rights groups have, however, expressed concern about the lenient punishments given to officers in cases where such treatment has taken place. As far as custody is concerned, there does appear to be a deeper problem. During the last year the European Court of Human rights has found Poland to be in breach of article 5 of the European Convention of Human Rights relating to deprivation of liberty.

Another frequently mentioned problem has to do with the “sobering-up stations” (Izba Wyrzeczewien). These are establishments where the police may place drunk people under a regime which is not formal custody to “sober up”. A number of outside observers have expressed their concerns about the system (notably problems associated with the rights of detainees, mistreatment of foreigners and a lack of access to a lawyer). The law on sobriety which was adopted in July 2001 amends the system. It provides for a right of complaint and a requirement of notification of detention, elements intended to reduce the abuse of the system.

The situation with regard to *trafficking in human beings* is a complex one. Poland is simultaneously a source, a host and a transit country. The Polish authorities have increased efforts to combat trafficking, and as a result the number of persons indicted increased from 24 in 1999 to 119 in 2000. One other consequence is a sharp increase in the number of victims. In the overwhelming number of cases indictments result in prosecutions: over the period 1995 to 1999, of the 156 people who went to trial only 5 were acquitted. Of the persons sentenced, one third received suspended sentences and there was only one sentence of greater than 5 years.

Conditions in Polish *prisons* have, if anything, deteriorated over the last year, with an increase in the number of prisoners and a 14% reduction in budgetary resources compared to 2000. The Ombudsman warned in his annual report for 2000 of the possibility of violent disturbances if the situation did not improve.

As concerns *asylum*, the new aliens law was adopted. In addition, amendments made to the education act give free access to secondary education both to refugees' and asylum seekers' children.

Article 53 of the Polish constitution enshrines the principle of *freedom of religion*. One issue which received much attention domestically and internationally in 2001 was the 60<sup>th</sup> anniversary of the Jedwabne massacre. The position of the mainstream state representatives has been a further indication, along with the previous handling of the protection of former Nazi concentration camp sites, of their desire to address the diverse concerns expressed and to seek solutions which take such concerns into account as sensitively and as fully as possible.

As far as *free speech* is concerned, the situation remains as described in the 2000 Regular Report, with continued concerns expressed about the use of the slander laws and the protection this affords politicians relative to the general public.

With regard to the right to *privacy*, the 2000 Regular Report underlined concerns arising out of the adoption of the Classified Information law. During the reporting period, the Constitutional Court found in favour of the Ombudsman, who brought a case against a provision of the Law relating to the denial of clearance to a specific individual without the right of appeal. Both the police and the border guards have been subject to new legislation which provide for a greater regulation of the use of wiretaps.

Poland continues with the Vetting or *Lustracja* process, which provides for the vetting of Government members, senior officials, officers of the state and members of the judicial system regarding the nature of their involvement with the former communist regime. Concerns persist about the use and possible abuse of the system and the lack of transparency of the process.

The issue of *property ownership* continued to be sensitive. Legislation relating to the restitution of property seized between 1944 and 1962 did not complete its passage into law. As a result, individual cases for compensation must now pass through the Polish legal system.

The role assigned to the *Ombudsman* is to monitor the protection of civic and political rights guaranteed by the Constitution. The office is widely used, with almost 50 000 letters received in 2000, 31 000 of them formal submissions. The Ombudsman can sue public authorities, and appear before the courts and tribunals in support of individuals who are victims of violations of their basic rights. In just under 20% of cases, a positive settlement was arrived at. This compares with just 1% where the ombudsman's suggestions were not acted on or where no remedy could be found. The remainder of the complaints, 70%, could not be substantiated. The Ombudsman also has an important political role, as he can raise awareness of public opinion and state authorities on any issue. The Ombudsman has declared his willingness to use any means to enhance the transparency of public life, to guarantee the right to information in order to contribute to fighting corruption effectively. To this end he has taken cases before the constitutional court. (see *privacy* above)

### *Economic, social and cultural rights*

The issue of *equal opportunities* has been increasingly debated over the reporting period, and received a specific reference in the Ombudsman's annual report, and there has been some legislative progress over the reporting period. The recent parliamentary elections have seen a

marked increase in the number of female elected representatives in both houses. In the Sejm, 20% of members are female (previously 13.5%) and in the senate 23% (previously 12%).

In respect of *children's rights*, a new Ombudsman was appointed in February 2001 following the departure of the original Ombudsman, who had taken up office in 2000. It is too soon to judge the effectiveness of this newly created position. A country – wide campaign called “Childhood without violence” was launched.

No major change was made to the law protecting the *disabled*. However the companies employing mostly disabled persons (*zakłady pracy chronionej*) saw their tax reduction partially cancelled and changes to the law on telecommunications revoked the provision of price reductions for the disabled.

### *Minority rights and protection of minorities*

In Poland, respect for, and protection of, *minorities* continues to be assured, and as noted above, during the reporting period Poland ratified the Council of Europe Framework Convention for the Protection of National Minorities

The administrative infrastructure for addressing minority issues is now well developed. At the national level there is the Interministerial Team for National Minorities, which includes among others the ministries of the interior, justice, foreign affairs, education, employment and social affairs. The team is mandated to oversee minority issues, including the development of policy, the co-ordination of actions and the prevention of the infringement of minority rights. The Unit for National Minorities within the Citizenship Department of the Ministry of Interior and Administration provides support for the interministerial team, as well as maintaining contacts with local authorities and minority groups and examining complaints. Independently of these government bodies, a Unit for the Protection of Foreigners' and National Minorities' Rights was set up in the Ombudsman's Office specifically to deal with minority rights issues. Such issues have traditionally accounted for less than 1% of the complaints received and it is hoped that the specific unit will provide a clearer contact point for complaints.

With a specific focus on the Roma, in February 2001 the Council of Ministers adopted a *Pilot government programme for the Roma community in the Malopolska province for the years 2001-2003*. The plan identifies the priority areas of education, the fight against unemployment, health, living conditions, security, culture, and knowledge within and about the Roma minority. The project is a first step by the government to combat the precarious situation of the Roma minority in Polish society: as noted in the 2000 Regular Report there are frequent reports of wide-spread discrimination, and the economic and social circumstances of the Roma are poor, falling below those of the population in general.

### **1.3. General Evaluation<sup>4</sup>**

In its 1997 Opinion, the Commission concluded that Poland fulfilled the political criteria. Since that time, the country has made considerable progress in further consolidating and deepening the stability of its institutions guaranteeing democracy, the rule of law, human rights and respect for

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<sup>4</sup> See "Making a success of enlargement: Strategy Paper and Report of the European Commission on the progress towards accession by each of the candidate countries", COM (2001) 700.



and protection of minorities. Over the past year, further efforts have been made in this direction. Poland continues to fulfil the Copenhagen political criteria.

In the area of public administration progress in the implementation of the 1999 Civil Service Law continues. Further efforts are required to speed up the pace of implementation and ensure that an independent, well trained and motivated civil service is in place by the time of accession.

Poland has continued to make progress in reforming the judiciary and in reducing the most pressing bottlenecks. The pace of reform needs to be accelerated and issues relating to judicial immunity further addressed.

Additional steps have been taken, including the adoption of much needed legislation, in the fight against corruption, which remains a source of serious concern. The focus must now be on ensuring a coherent approach to corruption, implementing the legislation and above all on developing an administrative and business culture which can resist corruption.

There has been some progress in establishing the legal framework for equal opportunities and further work needs to be undertaken in this regard.

A new element which has come to light has been the abuse of custody, which has been reported in certain cases. This needs to be addressed and the first steps have already been taken in this respect.

The reinforcement of administrative and judicial capacity, improving the operation of the judiciary and its training in EC law were Accession Partnership priorities. Work is underway but further efforts are needed.

## **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.”

In its 1998 and 1999 Regular Reports, the Commission while acknowledging that progress has been made, confirmed its Opinion.

In its 2000 Regular Report the Commission found that:

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

In examining the economic developments in Poland since the 1997 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 pressures and market forces within the Union.

In the analysis below, the Commission has followed the methodology applied in the Opinion, as well as in the 1998, 1999 and 2000 Regular Reports.

### **2.2. Economic developments**

*Poland is experiencing a significant slowdown, primarily attributable to domestic factors.* Real output expanded by 4% in 2000, with economic activity slowing markedly in the second half of last year and slow growth continuing into this year. In the context of strong export performance, the deceleration of output reflects a slowdown in domestic demand, and in particular private consumption, in the face of tighter monetary policy, moderate growth in real wages and rising unemployment. Consequently, a number of macroeconomic imbalances identified in last year's Regular Report have receded. On the one hand, although annual average inflation was 10.2% for the year 2000 as a whole compared to 7.3% for 1999, it is now dropping quickly. On the other hand, the current account deficit contracted to 6.3% of GDP in 2000, down from 7.5% in 1999. This is happening, however, at the cost of higher unemployment and a growing fiscal deficit.

Main economic trends							
Poland		1996	1997	1998	1999	2000	2001 latest
Real GDP growth rate	per cent	6.0	6.8	4.8	4.1	4.0	0.9 Q2
Inflation rate <sup>5</sup>							
- annual average	per cent	19.9	14.9	11.8	7.2	10.1	6.9 <sup>6</sup> September
- December-on-December	per cent	18.6	13.3	8.5	9.8	8.4	4.3 <sup>7</sup> September
Unemployment rate, end-year							
- ILO definition	per cent	12.3	11.2	10.6	13.9	16.1	18.2Q1
General government budget balance	per cent of GDP	-2.3	-4.3	-2.4	-2.1	-3.5	:
Current account balance	per cent of GDP	-2.3	-4.0	-4.4	-8.1	-6.3	:
	million ECU/Euro	-2,571	-5,065	-6,156	-11,716	-10,788	-5,660 <sup>8</sup> Jan-August
Foreign debt							
- debt export ratio	per cent	118.9	110.7	96.3	119.0	87.7	:
- gross foreign debt	million ECU/Euro	32,711	35,884	38,308	45,267	46,739	:
Foreign direct investment in flow							
- balance of payments data	per cent of GDP	3.1	3.4	4.0	4.7	5.3	:
	million ECU/Euro	3,542	4,328	5,677	6,821	8,996	4,015 <sup>9</sup> Jan-August

*Privatisation and structural reforms are progressing.* The on-going privatisation of large state-owned enterprises is encouraging, in various industrial sectors (including the power sector, the petroleum and chemical industries, alcohol production, shipbuilding). 165 firms were sold through direct privatisation in 2000, and already 15 in the period to the end of March 2001. Privatisation receipts continue to finance the four large social reforms of 1999 (pensions, health, education, together with the territorial reform leading to a greater degree of decentralisation). These have been costly and some implementation difficulties remain (as in the case of the reform of the pension system), but the reforms are laying the basis for sustainable growth.

<sup>5</sup> PROXY HICP since 1997 (see methodological notes).

<sup>6</sup> Moving 12-month average rate of change, national CPI

<sup>7</sup> National CPI

<sup>8</sup> Source: Website of National Bank

<sup>9</sup> Source: Website of National Bank

<b>Main Indicators of Economic Structure in 2000</b>		
Population (average)	thousand	38,646
GDP per head <sup>10</sup>	PPS	8,700
	Per cent of EU average	39
Share of agriculture <sup>11</sup> in:		
- gross value added	per cent	3.3
- employment	per cent	18.8
Investment-to-GDP ratio <sup>12</sup>	per cent	25.3
Gross foreign debt/GDP <sup>13</sup>	per cent	27.3
Exports of goods & services/GDP	per cent	31.2
Stock of foreign direct investment	Million Euro	25,956 <sup>15</sup>
	Euro per head <sup>14</sup>	671 <sup>16</sup>

P: provisional data

*Poland is catching up in real terms; the growth slowdown, however, is compounding the problem of high and rising unemployment.* Poland is one of the few transition economies which has experienced substantial and sustained growth. GDP per head in purchasing power standards (PPS) represented 39.2% of the EU average in 2000, steadily increasing from less than 34% in 1995. There are significant regional disparities. Polish regional GDP data shows that 4 Eastern Voivodships are on a per capita basis below 77% of the national average and that their highest unemployment rate was 24.5% in 2000, against virtual full employment in Warsaw. Economic activity rates (2000: 56.6%) and employment rates for both men and women are still decreasing, and were 61.2% for men and 49.3% for women in 2000. Unemployment has rapidly increased from some 12.5% in 1999 to 16% in 2000 and 18.2% in

<sup>10</sup> Figures have been calculated using the population figures from National Accounts, which may differ from those used in demographic statistics.

<sup>11</sup> Agriculture, hunting, forestry and fishing.

<sup>12</sup> Data refer to Gross fixed capital formation as % of GDP.

<sup>13</sup> Estimated.

<sup>14</sup> Figures have been calculated using the population figures from National Accounts, which may differ from those used in demographic statistics.

<sup>15</sup> Data refer to 1999.

<sup>16</sup> Data refer to 1999.

the first quarter of this year, with particularly high rates for young people (35%) and for low-skilled workers.

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

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

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

*There is broad political consensus on policies geared towards entrenching the transition process and preparing for EU accession, but in the past year there has been a deterioration in the co-ordination of economic policies.* There is a growing difference of views between policy-makers on the nature of recent macroeconomic difficulties, and the balance of risks looking into the future. This is at the root of a breakdown in the economic policy co-ordination process between monetary and fiscal authorities. Divergences between the two sides prevented a correction in the imbalance of the policy mix. Poland is in breach of its OECD commitments for the final liberalisation of capital movements. In October 2001 Poland submitted its Pre-accession Economic Programme (PEP) to the Commission for the first time, for assessment and debate in the framework of the newly established economic dialogue with EU Member States.

*Economic activity has slowed sharply since the second half of 2000,* bringing growth for the full year 2000 to an estimated 4%. Private consumption, which accounted for some 67% of GDP in 2000, increased by only 2.4% in 2000 compared to a buoyant 5.4% in 1999. The growth of investment is estimated to have slowed down from 6.5% in 1999 to 3.1% last year. The investment ratio, however, remains high at more than 25% of GDP. The deterioration in enterprise profitability is a hurdle for the recovery in output. GDP rose by 1.6% in the first half of 2001 compared to the same period in 2000. Fixed investment spending even fell by 3.4% in the first half of 2001 compared to the same period in 2000. Consumers and investors' confidence has suffered as a result of rising unemployment, high interest rates, the slowdown in growth and a certain degree of policy uncertainty.

*The main imbalance in the Polish economy is the high level of unemployment.* The ILO-compatible unemployment rate is now above 18%. Since the Russian crisis, a new round of labour shedding has taken place, helping to preserve competitiveness, but at the cost of continuously rising unemployment and a resulting decrease in domestic demand. A large number of unemployed receive no unemployment benefits. In 2000, total employment decreased by 3%. The labour market has not been stagnant: many jobs have been created, but have not compensated for job destruction in the presence of skill gaps and low mobility. The phenomenon, however, is compounded today by growth in the working-age population, and will be compounded tomorrow by the prospective shift of labour out of agriculture. The participation rate was in 2000 at a low, at 56.6%.

*Inflation has been consistently dropping.* In September 2001, the consumer price index (national CPI) fell to 4.3% over the corresponding period in 2000 from 8.5% in December.

This reflects the weakness in domestic demand, but also a reversal of exogenous rises in food and fuel prices that negatively affected price developments in the first half of last year. Average inflation last year was 10.2% (proxy Harmonised Index of Consumer Prices).

*The appropriateness of the monetary policy stance has therefore become one of the main policy issues.* After a significant tightening of rates in the course of last year, the Monetary Policy Council has initiated a new cycle of gradual cuts (450bp since the beginning of the year). Since the floatation of the Polish currency, the exchange rate has appreciated, primarily due to the high real interest rates. This has contributed to a tightening of monetary conditions, although a downward correction on the Zloty took place since July 2001.

*Poland had achieved in 2000 a commendable degree of consolidation of its public finances during the more recent stages of its transition, but the budget situation has worsened in 2001.* General government net borrowing (the general government deficit according to harmonised EU standards - ESA 95) had been brought down since the mid 1990s, but was estimated to have increased again to 3.5% of GDP last year<sup>17</sup>. However, on a different accounting basis (GFS-compatible basis), the authorities announced in May 2001 that they had substantially revised downwards their estimates of the fiscal out-turn for last year. This would imply that a fairly significant degree of fiscal consolidation has actually taken place in 2000. This year, the budgetary deficit has widened further, mainly because of the effect of lower growth and lower inflation on revenues. In July, the government revised the deficit target for the State budget to 3.9% of GDP. In 2000, the large number of off-budget funds and agencies have not had the same negative impact on the overall fiscal stance as in the past, but the need to better integrate their financial management within the procedures used for State budget expenditure remain.

*There are other medium-term structural challenges on the fiscal front: reducing the tax burden, defining an appropriate degree of deficit reduction by cutting current spending, and making room for increased capital expenditures.* At this stage in the reform process, this requires a profound reform of the social security systems in Poland (in order to free up what are termed “fixed elements” of the budget). Transfers to households represent broadly half of total general government expenditure, or around 20% of GDP. Within social spending, there should still be room for the tightening of eligibility rules on disability and sickness benefits. Initial reforms in these two areas have already produced savings, but further parameter changes could be envisaged. The agricultural pension system (KRUS) also suffers from targeting and incentives problems (the contribution is at a flat rate while benefits are generous and not adjusted to means). The budget subsidy to KRUS remains stable at around 2% of GDP.

*The policy mix needs re-balancing.* In 2000, tighter fiscal policy should have allowed for a further loosening of monetary policy, so as to avoid the present slowdown in domestic demand becoming self-perpetuating. This is still the case in 2001 provided budget targets are adhered to on the expenditure side and the revised deficit reflects automatic stabilisers on the revenue side.

*External trade performance has remained remarkable.* In 2000, the increase in export volumes was estimated at 15%. In the first quarter of this year, real export growth remained

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<sup>17</sup> Two figures are given for the government balance. One is based on the most commonly used national concept, and the other is calculated according to the European System of Accounts (ESA 95), which was reported by the candidate countries for the first time this year.

very impressive at 18% over the first quarter of 2000. Together with slowing imports, this has allowed a current account correction. Last year, the current account deficit contracted to a more comfortable level of 6.3% of GDP, down from 7.5% in 1999. In addition, to date, the current account deficit has been largely financed by non-debt creating inflows of capital in the form of direct foreign investment.

*Prices are broadly liberalised, and the private sector is responsible for the vast bulk of wealth creation.* The private sector accounts for more than 70% of GDP and 72% of employment (but only half of the economy's fixed assets). The only prices that are subject to regulation are the prices of pharmaceutical products, electricity and heating fuel, and house rents, but with cost recovery or maintenance (in the case of housing) taken into account in price setting. Although still in need of restructuring, agriculture has also been widely privatised. By the end of March 2001, the Agricultural Property Agency had sold or leased 95% of the land that it took over at the beginning of the transition.

*There are no significant legal or institutional barriers to the establishment of new firms in Poland, and property rights are clearly established and transferable.* Although a certain degree of bureaucracy and difficulties with the enforcement of court decisions constitute obstacles to business activity, the entrepreneurial climate is generally good. In 2000 there was a net creation of more than 12 000 registered commercial companies, or some 9% of the total number of such firms. The framework for enterprise creation is adequate, with the entry into force since last year of the law on economic activity, the law on the simplification of registration of new firms and simplification of the customs duty law.

*The main remaining problem is the implementation of the framework for bankruptcies and the exit of firms.* In 2000, the number of bankruptcy procedures filed in the courts increased by 41% (more than 4000 new cases), but problems remain with the protection of creditors and the ability to seize collateral. Commercial courts still suffer from a lack of resources and training to become more efficient. Aside from bankruptcy, the new commercial code in force since 1 January 2001 is beneficial for large firms and their consolidation through mergers or acquisitions.

*The new commercial code should also contribute to improved corporate governance.* There have been a number of legal conflicts between various stakeholders on the strategic direction of individual companies, in particular in cases where a strategic investor holds a minority stake but where the State remains a majority passive owner or maintains special rights. In banning the use of stocks with multiple voting rights and increasing the prerogatives of the annual shareholder meetings, the new commercial code contributes to higher standards in this area. Further efforts to protect minority shareholder rights are nevertheless needed, and should be helped by the progressive development of the stock market and the role of pension funds.

*The financial sector is developing quickly, but from a low base.* Commercial banks dominate the banking market (with 72% of assets and 73% of net loans in 2000). The government maintains ownership in only 7 institutions, but the role of PKO Bank Polski SA and Bank Gospodarstwa Krajowego (BGK) SA remains significant (they hold more than 30% of total bank deposits). One of the main characteristics of the sector is the high degree of foreign ownership. There are now 46 banks with majority foreign equity, representing 69.6% of the total assets of the sector at the end of last year.

*Financial intermediation remains low.* Banking assets represented some 62% of GDP at the end of 2000, while the credit to GDP ratio is still around 28%. The Polish equity market is embryonic, with a capitalisation of less than 19% of GDP. The corporate bond market (as well as other fixed income markets) is also small, but should develop in parallel with the growth of institutional investors.

*Greater competition is now taking place, and is putting pressure on earnings in the banking sector.* Banks are also facing increasing competition for retail deposits from non-bank financial firms. The interest rate spread in 2000 was still relatively high at 6.7%.

*There is no immediate threat to stability of the financial sector in the short run.* Bank capitalisation has so far been adequate, and the regulatory and supervisory framework has been substantially upgraded in the recent past. This year in particular, the submission by the government to parliament of the amendment to the banking law has been an important step in the right direction, in particular to empower supervisors to conduct consolidated supervision. The only source of concern at this stage for the banking sector is the sharp deterioration in asset quality witnessed over the last two years. At the end of 2000, total classified loans (i.e. comprising the three categories of irregular claims: substandard, doubtful, loss) had risen to 14.7% of total loans, from a ratio of around 10% before the start of the Russian crisis.

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

The ability to fulfil this criterion depends on the existence of 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 before accession. Both the volume and the range of products traded with EU Member States provide evidence of this.

*A sufficient degree of macroeconomic stabilisation has now been sustained for a sufficient period of time to avoid distortions in the decisions of economic agents.* Poland is a functioning market economy.

*Poland is giving itself the means to build up an adequate level of human capital to compete in the global economy.* In terms of education, gross enrolment ratios have increased over the decade for both secondary and tertiary education, as a percentage of the relevant age group. For tertiary education, nevertheless, that ratio was a relatively low 28% in the 1999/2000 school year. More importantly, Poland continues to invest in the education and the training of its future workforce. The share of public expenditure on education as a percentage of GDP (above 5%) and as percentage of total public expenditure (above 11%) has been maintained throughout the period at adequate levels in international terms. In the last few years, there has been more specifically a marked increase in the capital expenditure share in total public spending on education, mostly directed at the primary level. Labour force restructuring and the emergence of a demand for new skills does, however, require a greater effort on higher education. Only around 7% of the population hold a university degree and the share of higher



education in total public education expenditure has remained fairly stable (around 16%). The higher education system is not however under any immediate stress from sheer numbers, as evidenced by a still relatively low ratio of students to teachers (14.6 in 1998). The overall impact that the 1999 reform of the education system will have on the overall adequacy of skills to labour market demands in the Polish economy remains to be judged.

*There is a need, however, to improve the functioning of labour markets to accommodate the rapid pace of labour shedding associated with enterprise restructuring. Tackling the unemployment problem requires measures to enhance job creation.* The skills gap and the lack of labour mobility due to constraints on housing and transport feature among the underlying obstacles to reducing unemployment, alongside the issues relating to the cost of labour (tax wedge, lack of differentiation in the minimum wage) on which there seems to be a broad consensus. However, even though there is some agreement on the causes, policy-makers differ on remedies, and legislative changes needed to increase flexibility in the labour code (one of the possible targets for reform) have not found a constituency in Parliament.

*Poland has by now experienced more than half a decade of investment boom, but an improvement in transport and other physical infrastructure is needed to avoid growth bottlenecks.* The investment ratio was 25.3% of GDP in 2000, a ratio that has remained broadly steady since 1998, but up from levels closer to 20% in the middle of the last decade. Taking into account progress in enterprise restructuring and structural reforms over the recent years, it seems that the efficiency, and therefore their rate of return, of these investments is adequate. State capital expenditure in 2000 represented some 2.9% of GDP, a somewhat lower level than in previous years (3.6% of GDP in 1997 and 1998, 3.2% in 1999). For 2001, the budget law contained a target of 3.1% of GDP. This would situate Poland above the EU average, but below EU countries with a lower than average GDP per head. Telecommunications infrastructure is still catching up, with rapid growth in mobile telephony and a continued increase in the number of main lines per head (283 for 1000 inhabitants). Last year, motorway construction also picked up significantly.

Foreign direct investment (FDI) inflows are high, and play a key role in lifting the level of technology and the competitiveness of the Polish economy. In 2000, net inflows recorded on a cash basis came close to €9bn, slightly less than in 1999. Due to its size and the potential of its domestic market, Poland has captured – albeit belatedly - the largest share of inflows to the region. The stock of accumulated inflows stood at the end of last year at €26bn. This is still not particularly high on a per capita basis. In addition, a large share of these investments has so far been privatisation-related. The challenge will be to maintain inflows after the completion of the big bulk of the privatisation programme, with possible difficulties in selling off the less attractive sectors. So far, the level of green-field investment has been small compared to total FDI inflows. A strategy for increasing investment was adopted in March of this year by the government and a draft law on investment support has been sent to Parliament, but it is difficult to estimate whether these initiatives will be either of a sufficient scale or devoid of distortions.

*On the restructuring of state-owned enterprises, some progress is evident* with coal. The restructuring of the steel sector is awaited although the adoption of the steel restructuring law in July 2001 and the restructuring plan for the steel industry by the Polish government in June of this year are steps in the right direction. A further test looking into the future will be the implementation of the restructuring of PKP, the railways, after a long and protracted parliamentary process to put in place the necessary legislative framework. The restructuring of

the farm sector is also lagging, and will require, in the near future, policy responses to help the economy absorb shed labour in rural areas. Now, obstacles to the smooth functioning of the markets for land and labour in rural areas are lowering labour mobility, delaying land consolidation and an increase in agricultural productivity. Some of these obstacles also relate to social policy, and in particular the negative incentives embedded in tax and benefits systems (for example in the agricultural pension system, KRUS).

*Small and medium-sized enterprises are the driving force in the economy, but still suffer from a low level of innovation and difficulties in accessing finance.* The SME sector accounts for two thirds of total employment and half of GDP and exports. For most Polish firms, investment is still mostly financed through retained earnings. Commercial bank lending to SMEs is particularly limited: more than 10% of total credit from banks is directed to the ten largest publicly listed companies. This, however, seems to be changing as a result of increased competition between banks, forcing many of them to enter new, more risky segments of the market. For SMEs, guarantee schemes and other access to finance support mechanisms have yet to reach a critical mass and do not appear to reach micro-enterprises in rural areas sufficiently well.

*Government interference in Poland's markets remains low. However, a few problems remain.* The biggest source of market distortion remains the presence of *state aid* in both private and *state-owned* firms, even though the entry into force in January 2001 of the new State aid law is bringing Poland closer to international standards in this area. Hidden subsidies to the State-owned sector take the form of sizeable tax and social security arrears. Inter-enterprise arrears between State-owned firms suggest the need for tighter financial discipline in the sector. The presence of non-tariff barriers is also extensive. Remaining problems range from the complexity and lack of transparency in standards and certification matters to the failure to apply in a uniform fashion some provisions of the customs code.

*Poland is a larger and therefore more domestic-oriented economy than other candidate countries, but trade integration with the EU is very high.* As an indicator of trade integration, the ratio of exports and imports of goods and services to GDP increased to 69.3% in 2000, up from an average of 26% in the previous four years. Merchandise exports to the EU represent 70% of total exports.

*The share of high value-added products is still low in Poland's export portfolio, but the evolution is positive* and suggests a shift towards capital and skilled labour intensive goods. Manufactured goods in the electrical and mechanical industry group account for 37.4% of exports to the EU, against 32.8% in 1999. New areas of export specialisation are emerging (e.g. motor engines) and the existing level of intra-industry trade reflects the impact of FDI on the upgrading of Poland's manufacturing and export capacity. This, together with a strong increase in labour productivity since the onset of the Russian crisis, has allowed Poland to maintain external competitiveness in the face of real exchange rate appreciation against its main trading partner. In 2000, the zloty's real effective exchange rate (deflated by the CPI) appreciated by about 9%.

## 2.4. General evaluation<sup>18</sup>

Poland is a functioning market economy. Provided that it continues and intensifies its present reform efforts in a consistent policy environment, it should be able to cope with the competitive pressure and market forces within the Union, in the near term.

In the first part of the reporting period, it maintained adequate macroeconomic stability, and its growth performance was again solid, before growth experienced a significant slowdown starting in the second half of last year. Privatisation continued and there has been further restructuring in sensitive sectors such as the coal and power industries. The legal framework for business has been strengthened with the adoption of the new bankruptcy law and the new Commercial Code.

The sharp decline in growth reflects in large parts problems in the macroeconomic policy mix – the co-ordination of fiscal and monetary policy. Already high unemployment has risen further and the budget deficit is on a rising path. Fiscal adjustment must take place in order to contribute to a more suitable policy mix and not to endanger the medium-term sustainability of public finances. This would also help to reassure markets and boost business confidence. The authorities should speed up privatisation and restructuring in some key sectors, such as in some traditional industries or in agriculture. They should proceed with clear plans to remove obstacles to market exit and indirect state aid in the form of tax or social security arrears, which hinder the functioning of market forces. The implementation of bankruptcy procedures must improve. Further measures need to be taken to improve Poland's infrastructure and the response of the labour markets to changing economic conditions.

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<sup>18</sup> See "Making a success of enlargement: Strategy Paper and Report of the European Commission on the progress towards accession by each of the candidate countries", COM (2001) 700.

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

#### *Introduction*

This section aims to update the Commission's 2000 Regular Report on Poland's ability to assume the obligations of membership - that is, the legal and institutional framework, known as the *acquis*, by means of which the Union implements its objectives. Alongside an evaluation of relevant developments since the 2000 Regular Report, this section seeks to provide an overall assessment of Poland's ability to assume the obligations of membership, and of what remains to be done. This section is structured to follow the list of twenty-nine negotiating chapters, and incorporates an assessment of Poland's administrative capacity to implement the *acquis* in its various aspects. Poland's progress in translating the *acquis* into its official language is assessed in a separate section.

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

The European Council in Santa Maria da Feira and in Gothenburg in June 2000 and June 2001 respectively recalled the vital importance of the applicant countries' capacity to implement and enforce the *acquis*, and added that this required important efforts by the applicants in strengthening and reforming their administrative and judicial structures. Building on the assessment of Poland's administrative capacity provided in the 2000 Regular Report, the present Report seeks to add further depth and detail, focusing on the main administrative structures which are required for implementing the *acquis* in its various aspects.

In the 2000 Regular Report, the Commission concluded that :

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

In contrast to the 1999 regular report, there has been progress in adopting legislation in key areas of the internal market *acquis*, standards and certification and state aid. In both cases the necessary framework legislation has been adopted. The emphasis must now turn to the secondary legislation necessary to implement the *acquis* in these areas and the accompanying administrative capacity. The adoption of new intellectual property legislation is a welcome step although difficulties with the industrial property law remain to be resolved. Legislative progress has also been made in the area of consumer protection. It is still necessary to strengthen the

capacity and competence of the relevant structures for enforcement as well as the dissemination of information on the new regulations.

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

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

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

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

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

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

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

This is reflected in the extent to which the short-term priorities of the accession partnership have been addressed. There has been progress in meeting the acquis based elements, notably

certification and state aids but continued efforts are needed to set up or strengthen capacities in intellectual property protection, certification, state aids, agriculture and regional policy, the social field, customs and justice and home affairs.

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

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

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

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

Since the last Regular Report, Poland has made some progress in this domain.

In the area of **horizontal and procedural measures**, some further progress has been made over the last year in the implementation of *New and Global Approach principles*. The Law on Conformity Assessment entered into force in January 2001, establishing the legal framework for the further adoption of a large part of the industrial products *acquis*. In terms of legislative alignment, the most important achievement has been the adoption of the amendment to the 1993 Standardisation Act in October 2000 (entered into force in December 2000). This amendment allows for the implementation of European standards through the so-called ‘cover-sheet method’ (endorsement of European standards in one of the official languages of the European standards organisations without translation into Polish). This, together with the adopted “Programme of Standardisation Works for the years 2001-2003”, has speeded up the entire process of standardisation. As of June 2001, the Polish Committee for Standardisation has adopted 45% of the total amount of European standards (80% is the minimum to be admitted as a member of the European standardisation organisations CEN and CENELEC). Last year the figure was 30%. The Committee for European Integration adopted, in February 2001, the ‘Schedule for limiting the number of obligatory standards’ which indicates June 2002 as the end date by which all standards will have gained a voluntary character. Regarding market surveillance, in July 2001 the Committee for European Integration adopted a strategy on the future organisation of market surveillance and appointed an interministerial working group that will be responsible for its implementation. No particular developments can be reported regarding the preparation for the application of the regulation on safety checks on external borders, the regulation on free movement of goods between Member States (‘strawberry’ regulation), the notification procedure and the interchange of data between administrations.

In July 2001, the Geological and Mining Law was adopted. This law will enter into force in January 2002 and provides for the legal basis for the transposition of the New Approach directive on equipment being used in explosive atmospheres (the ATEX directive) (not transposed yet) and part of the machinery directive (transposed in July 2001).

Some progress can be reported on the adoption of **sector specific legislation**. In the areas covered by *New Approach Directives*, the Polish Committee for European Integration approved a 'Schedule of Implementation of New Approach Directives' in March 2001. The entry into force of these directives, once adopted, is foreseen for July 2002. As of July 2001 two directives (low voltage and machinery) have been transposed. The *acquis* on medical devices was transposed in September 2001 by the adoption of the Law on Medical Products. No legislative alignment has yet occurred regarding simple pressure vessels and pressure equipment, gas appliances, lifts, toys, electromagnetic compatibility, radio and telecommunications terminal equipment, personal protective equipment, explosives for civil uses and recreational crafts.

Regarding legal metrology, the framework Law on Measures was adopted in May 2001. Certain provisions of this law entered into force in July 2001, the remaining provisions will enter into force in January 2003. On the basis of this law, specific Ordinances will be adopted transposing the entire *acquis* on legal metrology, including the New Approach Directive on non-automatic weighing instruments (not transposed yet). In September 2001, a Law on packed goods transposing the EC *acquis* on pre-packaging was adopted. The major part of the law will enter into force in January 2003, the remaining provisions upon accession.

The Construction Law was amended in September 2001, allowing for the transposition of the New Approach construction products directive.

While there have been no developments regarding the transposition of the *acquis* on firearms and the return of cultural goods, there has been progress in other areas falling under the old approach

Progress can be noted regarding alignment in the field of motor vehicles. The Law on Road Traffic was adopted and signed in September 2001. This law will enter into force as from January 2002 onwards.

In the field of chemicals, the framework Act on Chemical Substances and Preparations was adopted in January 2001. The major part of this law entered into force in February 2001. As regards fertilisers, the law adopted last year entered into force in January 2001 and an executive regulation was issued in May 2001. Legislation on drug precursors entered into force in October 2000.

In the field of pharmaceuticals, the framework Law on Pharmaceuticals was adopted in September 2001. This law will enter into force in January 2002, with exception of some provisions which will come into force at the date of accession. With respect to data exclusivity, this delayed entry into force will create serious difficulties in the short term. Several executive regulations under this Law were adopted. In parallel, the Law on the Registration Office for Medical, Medicinal and Biocidal Products and the Introductory Law on the Provisions introducing the Pharmaceutical Law, the Law on Medical Products and the Law on the Registration Office for Medical, Medicinal and Biocidal Products was adopted. A Law on Prices, adopted in July 2001, grants the Minister of Health the statutory power to issue secondary legislation laying down the rules for determining prices of pharmaceuticals in line with the Community 'transparency' directive.

The *acquis* on cosmetics was transposed by the adoption of the Law on Cosmetics in March 2001. It will enter into force 12 months from the date of its publication.

The EC directive on footwear was transposed by way of a Regulation of the Council of Ministers in November 2000. It entered into force in June 2001.

As regards foodstuffs (*see also chapter 7 - Agriculture*), the Council of Ministers adopted in April 2001 a document entitled 'Information related to the legal and organisational aspects of food safety'. This document presents the current situation with regard to the supervision of food safety and the legislative changes necessary for the full co-ordination of control activities in the area of food safety. It identifies the scope of the necessary action and contains proposals for, *inter alia*, the possible establishment of a separate branch of governmental administration responsible for matters related to foodstuffs. The Law on the Health Conditions for Foodstuffs and the Law on Materials and Articles intended to come into contact with foodstuffs, the main framework laws in this domain, were adopted in June and September 2001 respectively. While the first entered into force immediately, the latter will only enter into force in October 2002; on the basis of these laws, a considerable part of the EC *acquis* on foodstuffs will be adopted as implementing measures. The Law on Trade Quality of Agricultural Food Products was adopted in December 2000. On the basis of this law, the specific vertical food Directives will be transposed as implementing measures. The Plenipotentiary responsible for food safety matters has been appointed by the government.

With regard to Poland's administrative capacity for the implementation of horizontal and procedural measures and sector specific legislation, there has been a gradual improvement during the period under consideration.

The new Polish Accreditation Centre (PAC) became fully operational in January 2001. It has taken over all accreditation activities from the Polish Centre for Testing and Certification (PCBC) as well as those from the Central Office of Measures (personnel from both institutions were transferred to the PAC). The organisation and financing system guarantee its independence and impartiality.

The Polish Committee for Standardisation is still a government-controlled public institution (its members are appointed and dismissed by the Prime Minister). Independence should be ensured by the entry into force of the final amendment to the 1993 Standardisation Act, scheduled for January 2003. It is important to note that the former amendment to this Law, adopted in October 2001 and referred to above, has appointed the Polish Committee for Standardisation as the National Enquiry Point to fulfil provisions of the Agreement on Technical Barriers to Trade (TBT) of the World Trade Organisation (WTO).

The Polish Centre for Testing and Certification (PCBC), which will act in the future as a notified body for several New Approach Directives, became a member of the European Organisation for Testing and Certification (EOTC) in May 2001. It offers services in the area of regulatory and voluntary product certification.

Regarding market surveillance, the strategy recently adopted points to the Office for Competition and Consumer Protection (OCCP) as the main market surveillance authority. It will co-operate with the Central Board of Customs, the Trade Inspection, the State Labour Inspection and other inspection bodies.



In the **non-harmonised sector**, a Law on Technical Supervision was adopted in December 2000 and entered into force in January 2001. The new provisions adopted as a result of the transposition of New Approach Directives will gradually override the provisions of this law, which will eventually apply mainly to the area not covered by European legislation. The Ministerial Committee for European Integration adopted, in June 2001, 'The Time Schedule for the abolition of non-tariff restrictions in trade between Poland and the EU in 2001-2002, together with impact assessment for such adjustments'.

There were two amendments to the Law on **Public Procurement** adopted by the Parliament in June and July 2001. Their entry into force will be gradual. These amendments aim at further aligning the legislation and procedures in this field. The administrative capacity in the field has been strengthened but is more efficient at central than at regional/local level. In 2000, a significant number of complaints and investigations were reported: 1565 complaints lodged by December 2000 and 460 investigations initiated by the Public Procurement Office. 340 investigations were completed and 28 of those resulted in the notification of the violation of law submitted by the Public Procurement Office to the competent bodies. A new review system is expected to come into force in January 2002.

### *Overall assessment*

The main framework legislation for the horizontal and procedural measures is in place (with the one exception of a revised Standardisation Law which is still in preparation). As a result, the emphasis shifted this year to the actual drafting of measures transposing the individual New Approach directives. This process has gone more slowly than foreseen due to difficulties with the legal drafting techniques which now seem to have been overcome. Further efforts will be required to accelerate the transposition of legislation in the coming year.

Overall, most of the framework legislation has now been established (motor vehicles, chemicals, pharmaceuticals, medical devices, equipment used in explosive atmospheres, construction products, cosmetics, legal metrology, pre-packaging and foodstuffs,) or is expected to be adopted in the very near future (explosives for civil uses). The emphasis should now be, firstly, on the secondary legislation transposing the individual directives and secondly, on the actual implementation of this new legislation. There is also considerable scope to increase the awareness of economic operators and the broader public as to the forthcoming change in approach.

As for administrative capacity in this domain, the Polish standardisation body (Polish Committee for Standardisation) is in place and functions well (although its full independence remains an issue). Efforts need to be pursued to speed up the adoption of European standards and to meet the requirements to become a member of CEN and CENELEC. The Polish Accreditation Body has become operational. Efforts are being undertaken to join European Accreditation and to conclude Multilateral Agreements on Accreditation. Current efforts to develop a network of conformity assessment bodies and laboratories will need to be continued.

Further efforts are also needed to strengthen the overall administrative capacity to implement the *acquis* on industrial products in the specific sectors. The Registration Office for the Medical, Medicinal and Biocidal Products should be established, the activities of which cover all pharmaceutical and biocidal products, as well as medical products. The Office for Chemical Substances and Preparations should also be established. Particular attention will need to be

paid to the administrative structures in the field of foodstuffs which should allow the preparation of both the administration and the food operators and ensure the smooth deletion of the pre-market approval of foodstuffs. This will imply a restructuring of the control bodies and the streamlining of the network of control laboratories. The administrative structures in the field of foodstuffs still need to be put in place. A document is under preparation which will identify the organisations involved and define the structures of food control.

Further efforts are required in order to ensure that Poland possesses a well-functioning market surveillance system with the appropriate implementing structures for all sectors.

In the non-harmonized area, efforts will need to be pursued in order to ensure that, by the time of accession, all measures of equivalent effect will be lifted.

In the area of public procurement, the newly adopted legislation has not abolished the national preference clause for public procurement: Community firms are, therefore, still denied access to tender procedures in Poland on equal terms. The implementation of the amended law will require detailed attention and the administrative capacity should still be strengthened, in particular at regional/local level. The implementation of the Public Market Information System (SIMAP) would represent an important step in aligning with EC systems.

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

Some progress has taken place in aligning with Community provisions. Preparations for complete alignment, as well as for the establishment of the required administrative structures, have continued to take place.

In the area of **mutual recognition of professional qualifications**, some progress has been made since the last Regular Report. On a horizontal level, the Act on the Recognition of Qualifications for Regulated Professions acquired in EU Member States was adopted in May 2001 and enters into force upon accession. On a sector-specific level, an amendment to the Act on the Professions of Nurse and Midwife was adopted and entered into force, with some exceptions, in February 2001. The basic aim of this new Act is to introduce a system allowing for the mutual recognition of the professional qualifications of nurses and midwives by defining the minimum educational standards for the two professions and the curricula of nurses and midwives schools. Secondary legislation under this Act was also issued in June and July 2001. Further, an amendment to the Act on the Profession of Medical Doctor and to the Act on Chambers of Physicians has been adopted in September 2001 granting EU nationals the right to take up and pursue the profession of medical doctor in Poland. Its provisions will enter into force gradually. Moreover, the Act on Professional Self-government of Architects, Construction engineers and urban planners was adopted in December 2000. Its provisions have or will enter into force gradually. Combined with the August 2001 Act amending the Construction Law, it allows for the recognition of the professional qualifications of architects as provided for in the EC acquis. Finally, in the field of veterinarians, an Act amending the Law on Veterinary Surgeons Profession and the Veterinary Chambers and other acts was signed into law in September 2001.

With respect to **citizens' rights**, the Act amending the Aliens Act entered into force in July 2001 and will facilitate compliance with the *acquis* on residence rights.

In the area of **free movement of workers**, preparations have continued to facilitate Poland's participation in European Employment Services (EURES). In July 2001, an amendment to the Act on General Health Insurance and Certain Other Acts was adopted which entered into force in September 2001. Thereby, foreigners residing in Poland on the basis of a residence permit including a work permit, a permanent residence card or a temporary residence card are now covered by health insurance under the same conditions as Polish citizens residing in Poland.

Development of institutional capacity in the field of **co-ordination of social security** systems has accelerated. A bilateral agreement with Austria on social security (dating from 1998) became effective as of December 2000, and a Convention between Poland and Luxembourg on social security (dating from 1996) became effective as of February 2001. A new Convention on social security was signed with the Netherlands in February 2001.

### *Overall assessment*

Poland has achieved partial alignment with the *acquis* in this field. While recent progress has improved the situation, considerable efforts are required both with respect to the adoption of legislation and the necessary administrative capacity.

Further legislative work is necessary to achieve full alignment. In the field of mutual recognition, outstanding issues relate in particular to alignment with EC legislation on lawyers, dentists and pharmacists. With the recently adopted legislation and the framework legislation pending, the emphasis should now be put on adopting the secondary legislation and ensuring that the necessary steps are taken to put in place the appropriate administrative capacity. It will need to be ensured that, by accession, there are no provisions in Polish legislation which contradict Community rules, in particular with respect to nationality, residence or language requirements. With respect to professional qualifications obtained before harmonisation, Poland should introduce measures to ensure that all its professionals can, as of accession, meet the requirements laid down by the directives.

In the field of citizen's rights, legislation on entry into and residence of EU nationals in Poland still needs to be adopted and the EC Directive on voting rights transposed. Serious efforts have been undertaken concerning administrative capacity and such efforts should be maintained.

Efforts to prepare for alignment with the *acquis* on free movement of workers need to be maintained. With regard to future participation in the EURES network, efforts should be continued to strengthen public employment services, especially with regard to language training.

With regard to the future co-ordination of social security systems, Poland needs to continue the development of sufficient administrative structures and the training of the necessary staff. The conclusion of further bilateral social security agreements is also encouraged, in particular with Member States to the extent that the latter rely on the same principles as the Community rules in this field.

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

Poland has continued to make progress regarding financial services and in enhancing administrative capacity.

In the field of **the right of establishment and the freedom to provide** services (other than financial services) there has been a number of legislative and administrative developments since last year, with the adoption of a number of laws which on implementation will ease access to the service sector. In November 2000, amendments to the Law on Protection of Persons and Property were adopted. These enter into force on the day of accession and will allow for obtaining a *bodyguard* licence or a licence to conduct activities for persons other than Polish citizens. In the field of *tourism*, amendments which entered into force in January 2001 to a number of laws, including the Law on higher education, the Law on higher vocational schools, and the Law on tourism services, have sought to align Polish legislation in this field, notably with regard to training. In August 2000, the Minister of National Education also issued an ordinance on documenting the knowledge of foreign languages of tourist and excursion guides.

The implementation in December 2000 of the amendments to the civil code have granted further rights to *Commercial agents* in line with the *acquis*. The ordinance on court experts and sworn translators adopted in December 2000 will come into force on the day of accession. The *distribution* of chemicals will be regulated by the law on chemical substances and concoctions adopted in January 2001. Some provisions came into force in April 2001 and the law will come fully into force in January 2003.

In the field of **financial services**, with regard to the *banking sector*, the amendment of the banking law took place in September 2001. The main objective of the amendment is to bring Polish banking law more closely in line with the *acquis* relating to credit institutions. To this end, the amendment introduces changes to the existing rules (e.g., supervision of the owners of banks) and covers areas not included to date by the banking law (activity and supervision of Polish banks in the EU and of EU banks in Poland, information requirements, cross-border payments, consolidated supervision and netting). The amendments also cover electronic money. The law further regulates the principles of consumer credit agreements. The Law on mortgage bonds and mortgage banks adopted in January will also come into force on the day of accession.

The new Law on *co-operative banks*, came into force in January. It gives the co-operative banks the possibility of joining directly the group of the "Bank for Food Economy" (BZG), or of remaining affiliated to regional associations. In so doing the law gives the co-operatives the possibility to calculate their capital on a common basis with BZG with a view to fulfilling the solvency requirements required for banking supervision purposes. One unforeseen result of the legislation has been the grouping together of six of the regional associations. It remains to be seen if such groupings will enhance the performance of a sector which, in comparison to commercial banks, is fragmented and under-performing.

The financing of the office of the Insurance ombudsman is now regulated by the Ordinance of the Minister of Justice. The methods of calculation of payments by insurance companies to cover the costs of insurance supervision and brokerage activities and the costs of the operation of the Insurance Ombudsman was thereby amended. This Ordinance entered into force in December 2000.

In the area of *securities*, amendments to the following laws were adopted in December 2000: the Law on execution of proceedings, the Law on taxes and local charges, the Law on payments granted on interest for certain bank credits, the Law on public trading in securities, the Tax Ordinance, the Law on public finances, the Law on income tax on legal persons and the

Law on the commercialisation and privatisation of State-owned enterprises. These amendments entered into force in January 2001. In the case of the act on Public Trading of Securities certain provisions, notably the "European passport", will come into force on the day of accession. Amendments to the Act on Investment Funds and Act on Bonds were introduced in November 2000 with a view to further alignment with the *acquis*.

Concerning the **protection of personal data and the free movement of such data and information society directives**, the Law on Databases was adopted in September 2001.

### *Overall assessment*

Poland's level of alignment with the *acquis* varies between financial services on the one hand and other services on the other. The level of alignment with regard to financial services in particular is now quite high. Further work has been undertaken towards strengthening the supervisory structures described in detail in the 2000 Regular Report. Nevertheless, given the nature of the sector, close monitoring of such structures is the norm and Polish authorities will need to be ready to correct possible shortcomings in transposition or practical supervisory arrangements which may come to light.

Considerable efforts are required to bring about an improvement in the capacity to supervise the non-financial services and to ensure that the necessary legislative alignment takes place. A number of existing restrictions remain, notably with regard to gambling and bodyguards. Recent legislative developments will not enter into force until the date of accession and as a consequence these issues remain unresolved. Elsewhere the current ban on alcohol advertising is undergoing close scrutiny to assess its compatibility with the *acquis*.

According to the law on the National Bank of Poland (in force as of January 1998), the Commission of Banking Supervision is entrusted with the responsibility of supervising the banking institutions. The Commission is chaired by the NBP President and composed of the deputy minister of finance, a representative of the President, the Commission of Securities and Exchanges, the Bank Guarantee Fund and the General Inspectorate of Banking Supervision. The tasks of the Committee are *i.a.* the establishment of security norms for banks and supervision of compliance with laws and norms by banks. The General Inspectorate of Banking Supervision (GINB) is an executive body of the Commission of Banking Supervision. GINB is an autonomous unit of the National Bank of Poland. It is composed of around 500 staff, of whom 320 work on on-site examinations. The GINB has continued to be perceived as an efficient and well-organised institution.

The Law on the bank guarantee requires further modification to align it with the EC Directive on deposit guarantee schemes.

The insurance sector is supervised by the State Office for Insurance Supervision (PUNU), acting under the Insurance Law. The main task of this body is to protect the interests of insured persons. Particular functions of PUNU are the monitoring and audit of insurance, and the licensing and monitoring of insurance brokers.

PUNU also takes part in the activity of the Insurance Guarantee Fund (made up of contributions from insurers), especially in cases where the resources of the Fund are used to

cover claims against a bankrupt insurer. Another task carried out by PUNU is co-operation with the Ministry of Finance in drafting legislation and issuing licenses for new insurers.

Efforts had been undertaken to adopt further legislation in the field of insurance but these did not pass all stages of the legislative process. One consequence is that the intended reorganisation of insurance supervision has not taken place.

The pension fund sector is supervised by the Pension Funds Supervision Office (UNFE), established in 1998. The basic purpose of UNFE is to protect the interests of all members of open pension funds (2nd pillar of social security system in Poland) and participants of employee pension programmes (3rd pillar). UNFE supervises the activity of pension funds and pension companies as well as employee pension programs. UNFE is responsible for conducting licensing procedures. The additional purpose of the office is to enhance public awareness about pension funds and pension programmes, in particular concerning the rights appertaining to the funds' members and programmes' participants.

The Securities and Exchanges Commission (SEC) was established in 1991 and is a governmental agency in charge of supervision of public trading of securities. In 1998, its responsibilities were broadened and now also cover commodity exchanges. The Commission is composed of its chairman (nominated by the Prime Minister), 2 deputies and 6 representatives of ministries. On top of this, the office of the Securities Commission employs 144 persons in 8 departments. Within the reporting period, the Commission met 27 times and issued 901 resolutions. The responsibilities of the Commission are the following: the supervision of fair trade and competition in securities markets, including equal access to information, protection of investors, the licensing and supervision of companies traded on public markets (265, of which 45 were authorised in 2000), the licensing and supervision of brokerage houses and banks conducting brokerage activity (49), as well as investment and trust funds (85), and educating the general public about securities markets.

The SEC is upgrading its programme in order to further increase the efficiency of this body.

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

There has been some progress made in the reporting period, notably regarding measures to counteract money laundering.

With regard to **capital movement and payments**, there have been some legislative developments as a result of legislation linked to investment and securities (*chapter three - Freedom to provide services*).

In February the amendment to the law on **purchase of real estate** by foreigners was adopted. This is intended to bring Polish law in line with the obligations set out in the Europe Agreement. The law is not applicable to cases of purchase of natural resources, land and forest.

Significant progress has been made with regard to the adoption in December of legislation on **money laundering**. The law provides for the establishment of a Financial Information Unit overseen by the "General Inspector of Financial Information" (GIFI). The General Inspector is under-secretary of state in the Ministry of Finance, although the unit is separate from the structure of the Ministry of Finance.

The law requires financial institutions to register all transactions exceeding 10 000 EUR. These institutions, as well as all government bodies (e.g. fiscal control bodies, tax and customs offices, and prosecutors offices), are obliged to inform the General Inspector about all circumstances suggesting the possibility of money laundering. The General Inspector and his staff are authorised to suspend, for a maximum period of 48 hours, any suspicious transaction, to inform the local prosecutor about their suspicion that the law has been violated and to pass on to him the relevant documentation. The prosecutor has a right to stop the transaction, if he considers that it is against the law. Institutions are required to establish internal procedures aimed at counteracting the introduction of illegal financial assets, appoint persons responsible for fulfilling duties described in the law and train their staff.

The elements of the legislation relating to organisational issues came into force in January 2001. The General Inspector was nominated in February and he will be assisted in his functions by the Department of Financial Information in the Ministry of Finance. By June, the department was staffed with 20 persons divided into 5 sections.

The remainder of the law was due to be implemented in June. Last minute amendments by the parliament have seen the registration of cash transactions above EUR 10 000 postponed until April 2002, and of all other transactions until April 2003, on the grounds that both GIFI and the financial institutions are not technically ready to provide and process all the required information.

### *Overall assessment*

As was noted in the 2000 report, the overall level of alignment with the *acquis* in this area is high.

This has in particular been further reinforced by the adoption of legislation with regard to money laundering. Compliance with the recommendations of the Financial Action Task force should be ensured.

The last report also indicated that substantial restrictions remain in place, in particular on direct investments from foreign entities in specific economic sectors, real estate acquisitions and short-term transactions. In the case of real estate transactions, legislation has been adopted which may attenuate the situation. It is noteworthy that legislation on gambling adopted in November 2000 has not addressed the concerns raised in the last Report with regard to Poland's Europe Agreement obligations. In the area of short term capital movements, the situation remains as described in the last Regular Report, with no progress towards further liberalisation. Investments by Polish occupational pension funds in foreign assets are still severely restricted.

With regard to payment systems, further progress is required in completing the transposition of the *acquis* and establishing out of court redress procedures for the settlement of disputes between banks and customers on cross-border transfers.

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

Since last year's Regular Report, Poland has made further progress with regard to company law and the protection of intellectual and industrial property rights.

Regarding **company law** as such, the Commercial Companies Code of September 2000 and the amendment to the Act on the National Court Register of November 2000 entered into force on 1 January 2001. Together with secondary legislation adopted in the course of last year, legislative alignment has been completed in this field. The National Court Register started operating in January 2001. In its first 5 months of operating, 13 250 entities were made in the register.

In November 2000 a comprehensive amendment to the Law on *accountancy* was adopted (enters into force January 2002), introducing important changes to the accountancy law of 1995. These fill legislative gaps in such areas as mergers and acquisitions, financial instruments, leasing and long-term contracts, and establish principles of consolidation for financial reports. The law also addresses the issue of transparency of financial reports.

In the field of **intellectual property rights**, no new legislation was adopted in the course of last year. The Law on the protection of databases was adopted in September 2001. On the basis of last year's amended Law on Copyright and Neighbouring Rights, an interministerial team was set up in November to counteract infringement of copyright and neighbouring rights.

In the field of **industrial property rights**, Article 322 (relating to the issue of transfer of the right to trademarks) was, for constitutional reasons, deleted from the June 2000 Industrial Property Law. Thus modified, the law entered into force in August 2001. The Law provides for further alignment with the *acquis* in this field, but further legislative efforts are still necessary. In April 2001, the Parliament adopted the Act on Patent Attorneys, rendering the status of the profession of patent attorney compatible with the principles of the Industrial Property Law. In the light of the entry into force of the new Industrial Property Law, restructuring of the Patent Office has been initiated and its computerisation has continued.

### *Overall assessment*

Poland has, to a large extent, achieved alignment with the *acquis* in the area of company law and accounting law, and transposition in the field of industrial and intellectual property rights is continuing at a steady pace. Further amendments to the Polish copyright law are required in view of the Directive on copyright in the information society and the resale right directive.

The administrative institution responsible for implementation of **company law** is the National Court Register, which started operating in January 2001. It consists of one central unit and several regional units set up at the regional courts to keep the registers. The regional units have access to and provide the input for the central database. The register is open to the public and all entries are published in the Court and Economic Monitor, unless the law provides otherwise. Human and financial resources need to be increased and training for judges and administrative staff of the National Court Register needs to be intensified.

Work on the Regulation replacing the Brussels Convention and on the Rome Convention on the law applicable to contractual obligations is at an advanced stage and needs to be continued.

In the field of **intellectual property rights**, last year's amended Law on Copyright and Neighbouring Rights needs further adjustment concerning collective management societies. The creation of the interministerial team to counteract the infringement of copyright and related rights allows for coordinated actions. The Copyright and Neighbouring Rights Division situated in the



Legal department of the Ministry of Culture and National Heritage employs 6 persons, of whom 4 are lawyers. Further strengthening of administrative capacity should be encouraged.

In the field of **industrial property rights**, the Law on Industrial Property rights still needs further amending to introduce the legal protection of biotechnological inventions and industrial designs and to align with the amended Convention on European Patents. Patent protection for pharmaceutical products has been established in Poland since 1993. Legislation introducing Supplementary Protection Certificates has not yet been drafted. Restructuring efforts, training and modernisation of the information system within Poland's Patent Office should continue to receive attention. Further efforts are required to ensure efficient enforcement of IPR legislation, in particular as regards the fight against piracy and counterfeiting. In this respect, training is taking place for enforcement bodies (Customs, police and the Judiciary) on EC legislation and/or enforcement methods and should be intensified. Better co-ordination among enforcement bodies needs to be ensured.

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

Since last year's Regular Report, Poland has made significant progress in the adoption of new legislation aligning the legal framework with the EU *acquis*, notably in the field of state aid. This progress, as far as the State aid control is concerned, has not been reflected in the development of a strong enforcement record.

In the field of **anti-trust**, on the legislative side, the new Act on Competition and Consumer Protection entered into force in April 2001. This new legislation will enable the Council of Ministers to issue block exemptions and to introduce exemptions related to agreements of minor importance (*de minimis*). The Competition Act also includes an increase in notification thresholds in merger cases (now €50 million), thereby improving the old control system that resulted in a large number of mostly unnecessary merger notifications. The new legislation also develops procedural rules, and gives an independent status to the competition authority in Poland. Two regulations developing the Law were adopted concerning the calculation of turnover of enterprises and administrative fees.

The *Office of Competition and Consumer Protection (OCCP)* is the national competition authority in Poland. It is composed of the Head Office in Warsaw and nine regional branch offices and has an overall staff of 222 persons. Poland's enforcement record for 2000 consisted of 297 decisions in the antitrust area (16 on restrictive agreements, 279 on abuse cases and 2 others). In 57 antimonopoly proceedings, the OCCP imposed fines. The highest fine, amounting to 55 million PLN (€14.8 million), was imposed on Polish Telecom. The OCCP has also taken 701 decisions in the area of merger control.

In the field of **state aid**, important legislative progress has been achieved. The framework legislation on State aid control (Law on conditions for admissibility and supervising of state aid for entrepreneurs) entered into force in January 2001. As regards secondary legislation, 14 ordinances of the Council of Ministers on granting State aid were issued and entered into force in April and May 2001. These included *inter alia* detailed rules for the control of sector specific aid, regional aid as well as horizontal aid, and enable the Polish Office for Competition and Consumer Protection (OCCP) to assess notified aid projects in conformity with the *acquis*. The OCCP adopted during the reporting period the "Report on the state aid in Poland granted to entrepreneurs in 1999", which for the first time contained data concerning public aid granted

by municipalities. Poland also presented the "Inventory of state aid in Poland granted in 1998 and 1999" but the comprehensiveness of this document needs to be further improved.

In January 2001, the amendment to the Law on Special Economic Zones (SEZ) entered into force aimed at bringing the fiscal aid granted in the Zones into line with the *acquis*. The new Law ended the possibility of allowing operating aid, export aid and the accelerated depreciation of fixed assets. It also subjected the fiscal aid granted through the Special Economic Zones to the general principles of the State Aid Law, notably by introducing aid ceilings and specific norms for granting licences for conducting activities in sensitive sectors. In March 2001, the Council of Ministers amended 15 regulations establishing the various SEZs, adapting them to the new legal framework. This flurry of legal alignment has not resolved the issue of existing tax benefits granted in the SEZs which has not been brought into line with Poland's pre-existing obligations under the Europe agreement.

In November 2000 the State Aid Team established in the OCCP was transformed into the *Department of State Aid*. The staff of the Department was substantially increased and, since January 2001, it now has 20 members organised in two Divisions: the Division of Sectoral Aid and Accountancy and the Regional and Horizontal Aid Division. The enforcement record in the field of State aid has started to develop gradually. Up until mid September 2001, the OCCP adopted 28 decisions on aid applications and issued four negative opinions.

### *Overall assessment*

Poland has adapted its basic legislation to contain the basic principles of both anti-trust and state aid. The performance with regard to establishing a credible record of enforcement is rather more variable.

In the area of anti-trust, Poland's legislation contains the basic principles of Community anti-trust rules, concerning restrictive agreements, abuse of dominant position and merger control. The adoption by Poland of Community block exemptions is now opportune in line with the Community's new policies on vertical restraints. The OCCP appears to have a reasonably extensive enforcement record, but it would be useful to establish a more deterrent and effective fining policy. Priority should be given to cases that concern the most serious distortions of competition.

With regard to state aids, the State Aid Law and the secondary legislation appears to provide a satisfactory basis for initiating effective control of State aid in Poland. In order to ensure maximum aid intensities in assisted areas, Poland has proposed a regional aid map for joint adoption. The enforcement record is emerging, but more decisions and/or opinions are required by the OCCP to establish a proper enforcement record. In this area, the most important challenge is now to ensure effective control of all aid measures. This applies not only to the fiscal aid granted through aid the SEZs but also to aid in the sensitive sectors, for example, the steel and the motor vehicle sectors. Concerning the steel sector, restructuring into viability will be necessary to ensure enforcement of the state aid rules.

As concerns administrative capacity, the Office for Competition and Consumer Protection is an independent authority and has reasonably sufficient resources and expertise in place. The new State Aid Department set up following the adoption of the State Aid Control Law, has been granted additional resources and appears to be functioning well. The real test of its capacity will

come as it strives to develop a good record on enforcement. In this context, it is essential that investments in institution building should continue, notably in training (including the judiciary) and IT facilities.

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

In 2000, for the second consecutive year, a decline in agricultural production, both plant and animal, was noted. Agriculture (including hunting, forestry and fishing) in Poland accounted for 3.3% of Gross Value Added in 2000, compared to 4% in 1999<sup>19</sup>. Employment in agriculture remained constant, accounting for 18.8% of total employment<sup>20</sup>.

Crop production continued to decline, with a 9.7% decrease for cereals,- primarily due to lower yields resulting from unfavourable weather conditions - and by 25 % for oilseeds - due to a reduced crop area. For animal production, the situation differed between sectors. Milk production decreased slightly by 3.5% due to a fall in the number of dairy cows which was not compensated for by the limited increase in milk yield per cow. The meat sector also showed a decrease in production with the sharpest fall being 7% for pig meat. The exception to the trend was eggs and poultry, which experienced a small increase of 1.2%.

According to the Ministry of Agriculture<sup>21</sup>, the overall situation with regard to agricultural income improved in 2000 compared to 1999 as a result of higher profitability due to higher products prices and lower input prices. The share of market production in total agricultural production thus increased to over 60%<sup>3</sup>. However, the economic situation remains difficult for the farming population, in particular for those holdings affected by natural disasters, in particular drought and flooding which caused significant crop losses in many regions.

In 2000, EC imports of agricultural products originating in Poland increased by 13 % to € 1226.6 million. EC exports to Poland increased by 18 % to €1904 million. The trade balance in favour of the Community amounted to €677.8 million compared to €535.0 million in 1999<sup>22</sup>. The main EC imports from Poland are fruit, preparations of vegetables and fruit, and meat. The main EC exports to Poland are fruit, prepared feed, miscellaneous preparations and cereals which increased threefold, as a consequence of bad climatic conditions. New reciprocal concessions for agricultural products were concluded between the EC and Poland in September 2000 and have been implemented as from 1 January 2001. (*see section A.b. – Relations between the European Union and Poland*).

At the policy level, Poland continues to pursue the line of action indicated in the “Medium-term Strategy for Agriculture and Rural Areas Development” adopted in April 1998 and in the “Coherent structural development policy for rural areas and agriculture” adopted in July 1999. The “Pact for agriculture and rural areas” was adopted by the Council of Ministers on September 2000. Thus the policy instruments remain much the same as in previous years, with interest rate subsidies, loans, credit guarantees and warranties, intervention on the agricultural

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<sup>19</sup> The source for all agricultural statistics is EUROSTAT unless otherwise specified.

<sup>20</sup> In Labour Force Survey definitions (LFS):. Agricultural employment is defined in LFS terms as economically active persons who gain a significant part of their income from agriculture.

<sup>21</sup> Polish Ministry of Agriculture “Progress in economic situation in agriculture and agri-business” 27 March 2001.

<sup>22</sup> Uruguay Round definition of agricultural products, figures taken from EUROSTAT COMEXT (see U.E. 12/15: Commerce des Produits Agricoles 1988-2000, 1 Partie D.G. AGRI/A.2 Analyses quantitatives, préventions, statistiques, études, 2001, p. 10-57 et 86-89).

markets for some basic products as cereals, skimmed milk powder and other subsidies. Some new agricultural policy instruments have been introduced or are being developed, such as new credit lines with interest subsidies (fisheries, meat industry) as well as loans for students, vouchers for the purchase of fuel, crop insurance and structural pensions in agriculture. The implementation of the main components of the Rural Development Programme, e.g. infrastructure and human resource development, has been launched. VAT on agricultural products was introduced in September 2000.

In 2001, the agricultural budget increased by 23.6% to €1.1 billion (4.36 billion PLN) (without appropriations for co-financing of PHARE and SAPARD programmes). To this has to be added €3.9 billion (15.76 billion PLN) for the Farmers' social insurance scheme (KRUS). Around 40% of the agricultural budget (€456 million (1.76 billion PLN)) has been allocated to the Agency for the Restructuring and Modernisation of Agriculture for investments and rural development measures, representing an increase in its budget of 53%, and 14% (€163.7 million (633 million PLN), -13%) to the Agricultural Market Agency, for market-related measures.

Concerning the land market, the Agricultural Property Agency continues to manage state-owned land and agricultural property. APA's current stock, 3.5 million ha., is mainly leased. It is worth noting a strong concentration amongst leaseholders, with properties over 100 ha corresponding to 76% of the leased area. As far as land purchase is concerned, restrictions on foreigners remain.

### **Horizontal issues**

With regard to the implementation of measures related to the *European Agricultural Guidance and Guarantee Fund (EAGGF)*, Poland has made some progress since last year's Regular Report.

In the last year, preparation of the two main institutions designated for the management of measures related to the European Agricultural Guidance and Guarantee Fund (EAGGF) has continued. The Law of 16 February 2001<sup>23</sup>, entered into force in April 2001, and confirms the role of the two paying agencies, ARMA (the Agency for Restructuring and Modernisation of Agriculture) and AMA (the Agricultural Market Agency), and provides the legal basis for further adjustment. Both agencies have up-graded their administrative capacity by recruiting additional staff and increasing training. Whereas ARMA has focussed on its preparation to become accredited as the SAPARD pre-accession fund paying agency (*see section A.b. – Relations between the European Union and Poland*) as well as in developing IACS, AMA's preparatory work has concentrated on trade mechanisms, private storage aid, cereals intervention and milk quota management. The "Strategy for the preparation of AMA for the integration with the EU" schedules the start of the accreditation process for mid-2002.

With regard to the preparations to establish the Integrated Administration and Control System (IACS) in Poland, the Law of February 2001 confirms ARMA's responsibility for the implementation and management of IACS. Purchases of equipment, staff recruitment and

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<sup>23</sup> Amending the Law on Sanitary Inspection, the Law establishing the Agricultural Market Agency, the Law establishing the Agency for Restructuring and Modernisation of Agriculture, the - Customs Code Law, the Law on eradication of infectious diseases, examination of slaughter animals and meat and Veterinary Inspection and the Law on the administration of foreign trade in goods and services and of special trade.

training have continued at the central level and in the two regions where the implementation of IACS has started at a pilot project level. The adoption of the Law of 25 July 2001 “ on the national registration system of farms and farms animals and on amending certain laws” signed by the President on 27 September 2001 represents significant progress in legislative preparation. This law authorises ARMA to establish and operate the state system of farm and farm animal registration, defines the legal framework for the system of animal identification and registrations. Furthermore, the Veterinary Act, which forms an essential legal basis for the implementation of animal identification and registration system was also signed by the Polish President in September 2001. However, in spite of the legislation developments, significant concerns remain on progress towards the practical implementation of IACS.

Concerning the implementation of *trade mechanisms*, the relevant act came into force in April 2001, and the Agency of Agricultural Markets (AMA) is in charge of issuing import and export licenses within quotas and tariff ceilings, and automatic and non-automatic registering of data on trade in agri-food products. For these tasks a Foreign Trade Administration Section has been created within the Agency. Rules for the implementation of foreign trade mechanisms have been developed for cereals, milk and milk products, meat and sugar.

The Law on organic farming, implementing Community rules for the production, control, certification, marketing and labelling of organic produce, was adopted in March 2001 and will enter into force in autumn 2001. It provides the basis for the establishment of an appropriate registration and certification and inspection system for organic production, processing and imports according to EC requirements, based on both state and private certifying units. Tasks have been clearly attributed. Efforts to make the registration and inspection bodies operational are being pursued. Subsidies for organic farming were continued in 2000.

Concerning preparations for Poland’s participation in the *Farm Accountancy Data Network*, pilot implementation of the Polish FADN has continued in several regions. The framework for the organisation and methodology of FADN implementation has been developed. An information campaign is being carried out in order to prepare farmers to join the FADN. The legal basis for the implementation of the FADN and for the setting-up of the necessary institutional framework was approved by the end of 2000.

### **Common Market Organisations**

Poland has made some progress in legal harmonisation with regard to common market organisation but there remains much to be done to implement these legal provisions.

As regards market and price monitoring, the law of March 2001 on agricultural market research/surveys establishes the Integrated information system for agricultural markets and will enter in force from the start of January 2002. It lays down the rules for the regular market and price monitoring necessary in the framework of the Common Market Organisations and commits market operators to providing such information. Regarding marketing standards, the Law of December 2000 on commercial/marketing quality of agro-food products provides the legal basis for the establishment of the Inspectorate of Trade Quality of Agri-Food Products, which will become the main institution for quality control according to EU requirements. The law lays down marketing standards and arrangements for their supervision, including post-slaughter classification of beef and sheep and rules for price and productions reporting.

Community rules in the framework of the Common Market Organisation have been transposed for fresh fruit and vegetables, hops, tobacco and dried fodder (Law of November 2000, entered into force in July 2001). The law on the organisation of the sugar market of July 2001 transposes most of the basic mechanisms of the CMO for sugar, including the quota system for white sugar and isoglucose, and adjusts the market mechanisms already in place. The law on the regulation of the market of milk and milk products, adopted in September 2001, introduces amongst other basic mechanisms for the milk sector the legal basis for the specific reference quantity for milk. Two aid schemes, private storage aid for butter and for longlife cheese, were introduced in April 2001. With regard to milk quota administration, the implementation of a pilot project for the "development of a milk quota system" - managed by the AMA - has continued at regional level and has been extended to cover direct sales. Its results should lead to recommendations for the nation-wide implementation of a milk quota management system. As concerns wine and spirits, the tasks concerning the control of marketing standards for wine and spirits have been assigned to the new Inspectorate of Trade quality of Agri-Food products. The law on production and bottling of wine and wine products and their marketing was adopted in July 2001.

### **Rural development and forestry**

The main efforts of the Polish administration with regard to rural development issues were focused around the establishment and accreditation of a paying agency for SAPARD. The Law of February 2001 amends (amongst others) the Law on the establishment of ARMA and thus enables ARMA to implement Community rural development programmes before and after accession. The Ordinance of December 2000 (entered into force in January 2001) on the granting of statutes to the ARMA tailors the organisational structure to the tasks of an implementing and paying agency, as required in the framework of SAPARD, including the 16 regional ARMA offices. The Law of April 2001 on structural pensions in agriculture lays down the legal basis for the implementation of an early retirement scheme in line with Community requirements. The law will enter into force in January 2002.

### **Veterinary and phytosanitary issues, including food safety**

Since last year's Regular Report substantial legislative progress has been accomplished in the veterinary field, due to the adoption of the Veterinary Framework Law in September 2001. Transposition of veterinary acquis based on this law is still required.

Implementation of the veterinary act aims, by the date of accession, to bring into line with the acquis veterinary checks at all Polish border inspection posts.

Another key legislative act is the Law of December 2000 on marketing quality of agricultural and food products, which will enter into force in January 2002. According to the Ministry, the Law ensures full conformity with the EC law. The law *inter alia* regulates the supervision of quality, inspection institutions, quality standards, including post-slaughter qualification of beef and mutton carcasses, and information on prices, size and structure of production.

At the end of 2000, the Polish Government adopted a development strategy for the restructuring of the meat and dairy industries. This strategy indicates that "animal slaughter and production of processed meat are characterised by low production concentration and low

specialisation". According to Veterinary Inspectorate data, 4,139 establishments were operating in this sector in 1999.

As far as animal products are concerned, programmes governed by the relevant *acquis* are well implemented for all residues, with the notable exception of growth factors.

With regard to administrative capacity in the veterinary field, the National Competent Authority is the Veterinary Inspectorate, together with the competent department of the Ministry of Agriculture. Regional Veterinary inspectors are under the administrative supervision of the regional authorities, the Voivods or State representatives. As a result, some difficulties have emerged in the capacity to enforce the legislation regarding contingency plans, animal health, animal welfare and public health.

From October 2001 a new surveillance programme for TSE-testing in compliance with EC rules has been introduced. In the context of the Geographical BSE Risk Assessment, Poland has been classified in group III.

In the **phytosanitary sector**, some progress has been made since last year's Regular Report in the transposition of the community *acquis*. The Law on protection of crop plants was adopted in February 2001 and entered in force in July 2001. Implementing provisions for this Law have been prepared, but some of the regulations will only enter in force on 1 January 2003. The law on Forestry propagating material was adopted and signed by the President in June 2001.

Concerning the organisation of the Plant Protection Inspection Service, the Main Inspector is responsible for plant protection policy, measures and diagnostics. The General Inspectorate is responsible for production requirements, manuals and procedures in the field of Plant protection and supervises execution in the Voivodships. This includes diagnostics activities. The central laboratory is a part of the General Inspectorate and has a range of different tasks including development of methods and diagnosis of quarantine organisms to confirm diagnoses at Voivodship level.

The Voivodship level is responsible for execution of inspections, phytosanitary measures and diagnostics.

The Ministry of Agriculture finances the activities of the Main Inspectorate (national level), while the activities in the Voivodships are financed by the Voivodship administration (indirectly from the Ministry of Finance). In case of a phytosanitary crisis, the Ministry of Agriculture is able to provide an emergency budget for disease control. The principles of Good Laboratory Practice have been implemented in the above-mentioned system. The diagnostic methodologies have been based on the procedures published by EPPO.

Poland will be covered by 16 Voivodship Inspectorates, 1 Central Laboratory and 16 Regional Laboratories.

As regards **food safety** (*see also chapter I - Free movement of goods*) the Council of Ministers adopted, in April 2001, a document entitled "Information related to the legal and organisation aspects of food safety". There are plans to reorganise the food supervision bodies although no formal decision has been taken yet except the designation of the Plenipotentiary responsible for food safety matters.

## *Overall assessment*

Overall, the preparations for the implementation of the Common Agricultural Policy have been reinforced, in particular with regard to legal adjustments. A significant number of laws relevant to agriculture has been adopted. Partly, they confirm basic decisions on the institutional framework and provide the basis for the necessary adjustments of procedures and administrative capacity in the institutions concerned. Partly, they transpose Community rules and mechanisms defined by the agricultural *acquis*. Efforts for the practical implementation of a number of mechanisms of the Common Agricultural Policy have been launched and a series of concepts for the implementation of Common Agricultural Policy mechanisms has been developed. However, the level of preparedness as well as actual implementation and enforcement of Community mechanisms in the field of agriculture remains low in general, in particular with regard to some key instruments such as the Integrated Administration and Control System. Significant efforts are required to address these deficiencies in order to ensure effective application of the Common Agricultural Policy after accession.

As regards **horizontal issues**, there has been no major change in Poland's agricultural policy. The status of ARMA and AMA as future paying agencies and main institutions for the management of the CAP has been confirmed, and their administrative capacity has been further prepared. For both institutions, including their regional offices, as well as for the Ministry of Agriculture and Rural Development, efforts to prepare for the practical enforcement of the CAP mechanisms have to be stepped up and the increase in both financial and human resources will have to be continued. Co-ordination between both bodies, ARMA and AMA has to be assured.

The implementation of the Integrated Administration and Control System (IACS) has started later than anticipated, and still faces considerable obstacles. The adoption of the Veterinary Act is a first step towards implementing the system. Key decisions still need to be taken, including the methods for the Land Parcel Identification System and the Integrated Control System. A detailed strategy for the implementation of IACS across the whole territory of Poland remains to be developed, including the appropriate financial and human resources. Basic elements such as the animal identification and registration system or the land parcel identification system are not sufficiently developed. To sum up, setting up IACS in time for accession remains a challenge, in terms of human and financial resources and in terms of practical implementation.

For the participation in the farm Accountancy Data Network, the necessary legal basis has been approved. Although practical implementation is advancing through pilot projects, further efforts for full conformity and nation-wide application are necessary.

With regard to **Common Market Organisations**, progress has mainly been in the form of legal harmonisation, in particular for sugar and other specialised crops like fruit and vegetables. Progress in practical implementation and enforcement is limited. Preparations have advanced for some of the mechanisms, which are common to most of the CMO, notably in the areas of foreign trade, market- and price-monitoring. The institutional adjustment for the monitoring and control of marketing standards has been prepared, and further adjustments in marketing standards, in particular with regard to carcass classification, appear to be necessary. It is hoped that the financial assistance introduced for producer organisations will provide sufficient incentives for their establishment. Much remains to be done, in particular with regard to the operation of supply-management instruments. A key challenge in this context is the preparation



for the implementation of the milk-quota management system upon accession, which is still at a very early stage.

In the field of **rural development and forestry**, activities have concentrated on preparations for the implementation of the SAPARD programme. This is confirmed by the accelerated pace for accreditation of the SAPARD agency. Preparatory work for the implementation of agri-environmental and afforestation measures has continued, though efforts for the definition of good agricultural practice need reinforcement. The legal basis has been laid down for the early-retirement scheme, one of the principal rural development measures that may be implemented after accession in the framework of rural development programmes. However, no progress could be identified in the classification of less favoured areas. One of the key challenges to be faced is the need for combined efforts to put in place an integrated policy for rural education. With regard to the implementation of the *acquis* in forestry much remains to be done.

In the **veterinary field**, while the adoption of Veterinary Act represents an important step, Poland needs to make further progress in adopting and implementing legislation in order to achieve full alignment with the *acquis*.

The most striking points requiring further alignment with the *acquis* are legislation on animal welfare and animal transport, legislation on identification and registration of animals, and movement controls. In addition, contingency plans are not yet in place and no reference laboratory network has been formally established. As regards animal identification and movement control, the setting-up of the animal register is the responsibility of the Agency for Restructuring and Modernisation of Agriculture (ARMA), as set out above in the section on IACS. The timetable for implementation is ambitious and considerable efforts will be required if the deadlines to which the Polish authorities have committed themselves are to be met. Substantial efforts will also be required to put in place the capacity to establish the animal register before accession. This notwithstanding, the pace of preparatory work has increased. Preparatory work for implementation of the external movement control system (ANIMO) and of the animal disease notification system (ADSN) is well advanced

Concerning the restructuring of the meat and dairy industries, the lack of homogeneity in the enforcement of legislation, as result of an inadequate chain of command between the different level of administration, could lead to a market distortion as costly requirements concerning the upgrading of meat and dairy establishments may differ from one region to another. This issue will have to be afforded particular attention.

The legal basis corresponding to the establishment of a reference laboratories network will be provided by the New Veterinary Act. The system of laboratory diagnostics has two levels, central and regional. The central level is the State Veterinary Institute in Pulawy which, after the provisions of the Veterinary Law come into force, will be a co-ordinator for the system of national reference laboratories. The State Veterinary Institute reports directly to the Minister of Agriculture and Rural Development.

The Warsaw-based Polish Centre carries out the accreditation of laboratories involved in food analysis for Accreditation. The accreditation procedures are due to be completed by December 31, 2002, in particular for food-examining sanitary inspection laboratories at regional level and at the level of and certain *powiats*, and for laboratories of the National Institute of Hygiene and Institute for Food and Nutrition.

In the **phytosanitary sector**, while the Plant Protection Inspectorate seems to be well organised and the voivodship level sufficiently staffed with skilled people, the main issue is the lack of *acquis*-related compliant legislation. In particular, there is no system of registration of producers, exporters, importers and distributors of plants and plant products, and there are differences in the list of harmful organisms. With regard to the list of plants and plant products the import of which is prohibited, there are no provisions on protected zones, registration of producers and importers of plants, nor on rules for marketing of plant products on the single market.

The adoption of a comprehensive Food Safety Strategy remains outstanding.

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

Since the last Regular Report, Poland has adopted the Law on Fisheries, which constitutes the basis for the legal introduction of the instruments necessary for the implementation of the fisheries *acquis* in most areas.

With regard to **resource management, inspection and control**, the recruitment of six staff in the District Inspectorates of Sea Fisheries, which currently employ 78 persons, and the creation in April 2001 of a division for the Fishing Vessels Register and for the Monitoring of District Inspectorates of Sea Fisheries within the Fisheries Department of the Ministry of Agriculture and Rural Development, are positive first steps. No other progress can be reported in this field due, *inter alia*, to the fact that implementing regulations such as those related to licences, logbooks, landing declarations, the date retrieval system and the vessel satellite monitoring system remain outstanding.

**Structural measures** are planned on the basis of two documents; the Polish Structural Policy in the Fisheries Sector for the years 2000-2006 and the "National Fisheries Strategy". It is too early yet to assess any progress on their implementation. The establishment of a division in charge of co-ordinating the structural policy within the Fisheries Department of the Ministry of Agriculture is a positive step. Furthermore, a Vessel Register section was established within the Department of Fisheries. Due to delays in adopting the relevant legislation, little progress was achieved in the establishment of the fishing vessel register.

Concerning **market policy**, the creation of a division dealing with market organisation within the Department of Fisheries is a positive step, and measures to provide staff must be pursued.

No particular development occurred since the last Regular Report as regards **State aid and international fisheries agreements**.

### ***Overall assessment***

Both alignment with the *acquis* and the development of administrative capacity have remained limited. Considerable further work and investment is still needed for Poland to achieve compliance with the *acquis*.

The adoption of the Law on Fisheries has improved the degree of alignment with the *acquis*. However, the adoption of the implementing regulations of this law as well as the adoption of the

envisaged Law on Fisheries and the envisaged Law on Organisation of the Fishery Market and its implementing regulations are crucial for the implementation of the Common Fisheries Policy.

In general, the administrative capacity requires significant strengthening both at national and regional level. More adequately-trained staff are needed at all levels, in particular local inspectors, so as to ensure adequate coverage of landing places.

More specifically, in the field of resource management, inspection and control, Poland's inspection capacity is weak and needs to be strengthened, in particular by allocating permanent and qualified staff to fisheries inspection and monitoring activities. Currently staff are burdened with a range of functions which impede their effectiveness: local inspectors of the three District Inspectorates also carry out tasks related to tax exemption, while inspection at sea is performed by border guards, who self-evidently must perform a range of other tasks related to their primary function. A refocusing of the activities of the staff of the bodies involved in favour of fisheries control activities would be desirable, as well as better guidance from the central level. In this respect, the adoption and implementation of the legal framework regulation defining the co-operation between fisheries inspectors, border control officers and police is crucial for any further progress in inspection and control.

Relevant secondary legislation needs to be adopted for the effective introduction of first sale notes, EC-compliant licences and logbooks, landing declarations, the date retrieval system and the vessel satellite monitoring system. There is also a need to reinforce the technical means for inspection and control, particularly to ensure satellite-based vessel monitoring and the availability of control vessels. The lack of first sales notes and computerised retrieval of data renders the performing of cross-checks on the information received from logbooks impossible. For full-scale satellite monitoring in line with the requirements of the *acquis*, as well as for the establishment of a vessel-monitoring centre and for completion of the equipment of all vessels, substantial further work is still needed.

With regard to structural policy, Poland still needs to elaborate a fleet capacity management plan in the light of available resources. On vessel registration, it has through the Law on fisheries legally introduced the fishing vessel register. The completion of the re-measurement of fishing vessels and subsequently finalisation of the separate and exhaustive fishing vessel register required by the *acquis* remain to be achieved. These actions are a pre-condition for the future management of the fleet capacity and structural aid in the fisheries sector.

In the area of market policy, no market intervention mechanism for fish products corresponding to EC instruments has been established so far. There have to date been no regulations corresponding to EC requirements on producer organisations, although such organisations have proven to be an implementing mechanism for market policy. Furthermore, work still needs to be done to implement effective control of the common marketing standards in ports and on wholesale markets, as well as with regards to collecting and transmitting data concerning the price reference regime and markets in the representative ports. Considerable further efforts will be required to accelerate the adoption of legislation so as to catch up with the original timetable.

Poland provides State aid to the fisheries sector in the form of Value Added Tax exemption and excise tax on fuels for fishing vessels, and by subsidising loans granted for the purchase and storage of sea fish.

With regard to international fisheries agreements, Poland has bilateral fisheries agreements with eight countries and is a member of several conventions and regional fisheries organisations.

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

Since last year's Regular Report, progress has been achieved in the adoption of new legislation in most areas of the *acquis*.

On the **Trans-European Transport Networks**, the most important development in 2001 has been the adoption, in March, of the "Programme of adjustment of Poland's Road Network to European Union standards". The programme has set 2015 as the date by which approximately 15 000 km of roads in Poland will have been adapted for vehicles up to 115kN/axle load. This programme requires further refinement as regards prioritisation of the various works and the financing scheme.

With regard to new infrastructure in the road sector, works were carried out on the Pan-European Transport Corridors II, III and VI. Financing has been provided through the State budget, EIB loans and the Phare programme.

In the **land transport** sector, good progress was achieved in the adoption of new legislation related to *road transport*. An important step forward was the adoption of the Law on Road Transport which aligns legislation with the EC *acquis* on market access and unblocked the building up of the necessary administrative structures. In August, the Law on working time for drivers was adopted. Some progress can also be reported in the field of fiscal harmonisation, where the Law on taxes and local charges has been passed, and in the field of technical requirements (installation and use of tachographs). In December 2000, Poland signed the European Agreement on International Occasional Carriage of Passengers by Bus (INTERBUS). Its implementation will result in partial harmonisation with the *acquis* requirements regarding international passenger services.

With regard to the *railways*, a new Law on railway transport entered into force in January 2001, transposing various elements of the *acquis* on the development of the community's railways, as well as on licensing. This Law paves the way for the creation of the Railways Transport Office, responsible for transport regulation and engineering, supervision of railways and traffic safety. In 2001 Poland decided to withdraw licences from railway undertakings providing mainly domestic rail freight transport that had not started operations. This action has been criticised in some quarters for a lack of transparency. In September, a regulation on allocation for railway undertakings was adopted. Poland has also started the restructuring of the national railway company PKP following the entry into force of the Law on commercialisation, restructuring and privatisation of PKP. This law creates the framework for setting up independent companies for infrastructure management, rail passenger transport and rail freight transport with PKP as a holding company.

In the *inland waterways* sector, progress has been achieved with the entry into force, in April 2001, of the Law on inland waterways. The new legislation implements the *acquis* concerning recognition of navigability licences, access to the profession, harmonisation of conditions and mutual recognition of boatmaster's certificates.

In the area of **air transport**, progress has been limited to the strengthening of the Main Commission on Aircraft Accidents Investigation that has become functionally an independent body. Negotiations between the EC and Poland on the multilateral Agreement to establish a European Common Aviation Area (ECAA) were concluded in December 2000.

With regard to **maritime transport**, Poland has adopted important legislation concerning safety matters. In January 2001 the Law on Maritime Safety entered into force. The Law provides the basis for ship inspection and relevant activities of maritime administrations, port state control and a minimum level of training of seafarers. In addition, the Minister of Transport adopted a Regulation on training, professional qualification, watch-keeping and composition of the crew of Polish flag vessels. According to 2000 statistics under the Paris Memorandum of Understanding, the percentage of Polish flag vessels detained following port State control was 4.8 %, a decrease in compared to the 1999 5.1 % rate. This compares to an average for EU-flagged vessels of 3.9% in 2000.

### *Overall assessment*

While Poland's overall level of alignment with the *acquis* in the transport sector has improved, Poland still needs to adopt basic legislation concerning air transport to develop appropriate administrative structures and approve the secondary legislation for all transport modes.

Poland should also continue its preparation for the significant investments that will be needed in road and rail infrastructure (in particular to ensure that Polish roads can cope with EC vehicle axle weight standards).

In the case of road transport, the adoption of the relevant law allows efforts to be concentrated on the transposition of the EC *acquis* and its implementation, with technical and safety *acquis* harmonisation as the main concern. The creation of the necessary administrative capacity in the road sector needs to be given a high priority, in particular the establishment of the Road Transport Inspectorate.

With regard to the railways, Poland is confronted with a double challenge: the restructuring of the national Railways Company and the need to accelerate the adaptation of the Polish railways to the new European legal framework, including the setting-up of the necessary administrative structures. Particular efforts have to be made to ensure the independence of the new infrastructure manager and the creation of the necessary regulatory authority. Meanwhile, the situation of the Polish railways, both in terms of finances and the degree of market openness, provides cause for concern. Legislative alignment and the restructuring and modernisation of Polish railways should continue, taking in mind social aspects. In the area of inland waterways, the necessary secondary legislation needs to be adopted. Poland also needs to establish an Inland Waterways Fund for the purpose of administering possible capacity measures in case of market crises.

In the area of air transport, the implementation of the air transport *acquis* into Polish legal order as well as the establishment of the Civil Aviation Office and the Polish Air Traffic Agency has not taken place as planned. Efforts, therefore, need to focus in the first instance on the adoption of the necessary primary legislation. Subsequently it will be necessary to continue to adapt institutional structures for aviation administration in order to progress further in the fields of safety oversight and licensing..

With regard to maritime safety, Poland continues to make progress. Secondary legislation to implement the maritime safety Law needs to be adopted.

Poland's vessels detention rates as a result of port State control is improving but is still above the average for EU-flagged vessels. Given the size of the Polish fleet, the enforcement of EC legislation on maritime safety and prevention of pollution requires additional human resources and an increased co-ordination between the different levels of relevant authorities. One further issue to be resolved is that the Polish Register of Ships is still not recognised as a classified society according to the International Association of Classification Societies. Further efforts are also necessary to ensure that progress with the adoption of non-safety legislation does not fall behind the progress made with safety legislation.

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

Since the last Regular Report Poland has continued to make steady progress, both in terms of alignment with the *acquis* and in developing its institutional capacity.

In the area of **indirect taxation**, progress was made in both the fields of excise duties and of Value Added Tax. In the case of the latter, a 7% VAT rate on newspapers, magazines and non-specialist periodicals was applied in January 2001 (previously 0%). A further change took place in August 2001, which introduced zero-VAT rates on the printing of books, brochures, newspapers, magazines and specialist periodicals until end of 2002. The VAT exemption threshold for small and medium-sized enterprises had been reduced from €20 000 to €10 000, while for the first time SMEs with at least two employees in certain sectors, notably restaurants and precision mechanics workshops, must now pay VAT. A 7% VAT rate has been introduced for Internet services and a 3% VAT rate on computer hardware until the end of 2003. In July 2001 legislation entered into force which provides for a refund scheme for certain taxable persons not established in Poland.

With regard to excise duties, duty rates were increased in 2001. Duties on tobacco products were increased in January 2001 with a view to gradual adjustment to the *acquis*. Other notable excise duties increase those on spirits, engine fuels, beer, and wine. An ordinance was adopted in June 2001, which introduced the notion of fiscal markers for Polish and imported tobacco, spirit and wine products.

On **direct taxation**, the Corporate Income Tax rate has been reduced from 30 per cent in 2000 to 28 per cent in 2001. With regard to taxes on capital, the capital input duty of capital companies was partly introduced as of January 2001.

One potentially problematic piece of legislation focused on tax havens. The amendment to the Corporate Income Tax Law, which entered into force in January 2001, has given tax offices the power to control more strictly companies making transactions with companies registered in countries "admitting detrimental tax competition". This legislation will be closely monitored so as to verify its compatibility with the Code of Conduct for Business Taxation.

As regards the area of **administrative co-operation and mutual assistance**, the tax authorities have accelerated efforts aimed at upgrading the tax administration. Efforts have also been made to simplify income tax returns.

Some progress has been achieved with the computerisation of tax services. The accounting module of the POLTAX system became operational at the beginning of 2001 in all tax offices. As a result, tax authorities can automatically calculate and control the amount of tax due. The tax enforcement module became operational in July 2001, although there are still some technical issues outstanding.

The 2001 Budget Law stipulates an improvement in the execution of both current tax liabilities and past arrears. The issue of arrears has proved contentious, with the Supreme Chamber of Control (NIK) releasing in May a report on the performance in this area suggesting a declining performance with regards to the collection of arrears and proposing a range of administrative, procedural and staff-related issues as causes for this declining performance.

### *Overall assessment*

Although there has been a relatively high level of alignment of legislation with the *acquis*, a number of issues remain to be tackled. In spite of the measures taken to modernise the tax administration, additional measures are required in this area.

Further legislative alignment is required with regard to the adjustment of VAT to the *acquis*. This is particularly the case regarding rates, exempt transactions, the definition of taxable transactions and a complete refund VAT scheme for foreign taxable persons not established in Poland.

Concerning excise duty, further alignment of the duty rates and exemptions, as well as the implementation of a tax warehousing system, are necessary.

As regards the tax administration, progress has been observed over the last few years, although there is still a discrepancy between the high number of staff (51 300, including fiscal control) and the relative efficiency of the service when compared to Member States.

The Polish authorities are aware of the challenges and the "Taxation Reform and Modernisation Programme", is now being implemented. The main priority areas are taxpayer management, risk management, simplification of tax returns, taxpayer service and information, tax audit, tax control planning and implementation. A system of objective indicators for the activity of tax offices has been introduced. Staff training has been increased in order to meet these objectives. Further efforts are required so as to reduce inconsistency in tax law interpretations and contradictory decisions. The implementation of the needs identified remains an essential task in Poland's pre-accession strategy.

Further work is required in order to ensure that Poland will be able, as of accession, to operate the VAT Information Exchange System (VIES) and the establishment of a Central Liaison Office (CLO). Significant efforts will also be required on regional and local levels, not only to make the system work, but to provide necessary information to taxpayers.

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

A detailed assessment of Poland's economic policy in its various aspects has been given above, in the Chapter discussing the economic criteria (B-2). Therefore, the present section is limited to a discussion of those aspects of the Economic and Monetary Union *acquis*--as defined by title VII of the EC treaty and the other relevant texts--which candidate countries should implement

before accession, i.e. the prohibition of direct public sector financing by the central bank, the prohibition of privileged access of the public sector to financial institutions, and independence of the national central bank. As to the process of liberalisation of capital movements, upon the completion of which compliance with the EMU *acquis* is conditional, this aspect has been covered above, in the section on *Chapter 4 – Free movement of capital*.

No further progress towards alignment with the *acquis* has occurred in the reporting period.

### *Overall assessment*

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

Poland has already adopted substantial parts of the EMU-related *acquis*. The principal outstanding issues with regard to alignment with the *acquis* are the participation of a government representative in the sessions of the Monetary Policy Council, the financial management of the National Bank of Poland (NBP) and independent audits and the elimination of the government's ability to submit motions in meetings of the Monetary Policy Council.

A draft amendment to the Law on the NBP designed to bring Polish legislation in line with the *acquis* failed to pass Parliament in June 2001.

### *Chapter 12: Statistics*

During the reporting period Poland continued to make progress in this area.

In the field of **macro-economic statistics**, the law on the method of GDP compilation was adopted in October 2000 and came into force in January 2001.

As regards the combined **population and agricultural census** planned for May/June 2002, the necessary legislation was adopted and came into force in November 2000. Secondary legislation on the implementation of the census has also been adopted. There is a consensus among the political parties represented in Parliament to provide the necessary funds during the budget years 2002 and 2003 also.

Where **external trade** statistics are concerned, there has been little concrete progress.

As regards labour statistics, the Labour Force Survey questionnaire was further adapted to comply with the corresponding EC regulation, and the methodology of continuous surveying with quarterly reporting was introduced.

At the **regional** level, Poland adopted a statistical breakdown of administrative units on levels II and III which is based on the administrative reform of 1999. This breakdown is consistent with EU practice and will allow for the production of regional statistics at the level of detail required for the implementation of EC structural funds.

In **transport statistics** the legal basis for a new central vehicle register was adopted. The register will be kept by the Ministry of Interior and Administration and is required as the basis of fully compliant road transport statistics.



As regards industrial products statistics, the classification of industrial products was further amended with a view to aligning it with the EC's PRODCOM. However, the production of fully compliant industrial production statistics is hampered by the fact that the fiscal authorities are still using a different classification, which dates back to the 1980s.

Concerning **agricultural statistics**, major progress was achieved in the area of economic accounts.

### *Overall assessment*

Poland is well advanced in the field of statistics. However, there remain a few areas in which further work is required.

As regards business statistics, the full implementation of a PRODCOM-compatible classification for industrial products by the statistical services, as well as by the fiscal authorities, is becoming an urgent requirement.

In agricultural statistics, certain indicators of animal production still have to be improved, and structural statistics on livestock should be more detailed. Further work is required on balance sheets and on statistics on processed dairy products. The overall consistency of certain areas, for example bovine population and milk production, still needs to be improved.

In external trade, preparatory work on the implementation of the EC's intra-trade surveying system 'INTRASTAT' has started

In all these areas the full *acquis* implementation could be accelerated by enhanced co-operation between the responsible authorities.

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

There has been some progress in this area since the last Regular Report.

Amendments were made to the **Labour Code** (adopted in March, and entered into force in May 2001) limiting working time, thus intended to bring Polish legislation in line with the working time directive.

In the field of **equal treatment** for women and men, a law amending the Labour Code and other Acts has been adopted in order to align Polish legislation to the EC *acquis* in this area.

Legal approximation in the field of occupational **health and safety** has continued through the adoption of the Act on Chemical Substances and Preparations, finally adopted in January (and entered into force in February). This Act partly adjusts Polish legislation to the EC requirements relating to the provision of safety and/or health signs at work. Two further ordinances were adopted: one on the maximum allowable concentrations and intensities of harmful agents in the working environment, and one on the medical examination of workers, scope of preventive health care and physician's notices issued in cases prescribed by the Labour Code.

In the field of **public health**, Poland has passed new legislation on tobacco advertisement which partly transposes the *acquis* in this field. In September 2001, the Act on Prevention, Detection, Curing and Control of Communicable diseases was adopted, as well as the Act on

the National Medical Rescue System. The latter act aims at aligning with the 1999 European Commission document on "Health and Enlargement of the European Union". It provides for the creation of a National Medical Rescue Force as from January 2002 which will improve the reaction capabilities of services providing first aid to emergency victims. Further, in July 2001, an Act amending the Geological and Mining law was adopted which provides for the legal basis for the Minister of Economy to issue secondary legislation concerning safety and health at work and operation and technical fire control in specific types of mineral-extracting industries. Health indicators continue to be below those in the EU, but infant mortality has been decreasing from 8.9‰ in 1999 to 8‰ in 2000.

Regarding **social dialogue**, the Act on the Tripartite Commission for Social and Economic Issues was adopted in August 2001. Two sectoral bodies were established. First, the Joint Committee for Shipping and Deep-Sea Fishing. This is a tripartite body set up on the basis of an Ordinance of the Council of Ministers of 17 October 2000. Secondly, the Metal Industry Workers Team. This is a bipartite body set up on the basis of a Regulation of the Minister of Labour and Social Policy of March 2001.

The Joint Assessment of the **employment policy** Priorities of Poland by the European Commission and the Polish authorities was signed in January 2001 and is an important step in the preparation for accession. This document lays down the key priorities and tasks for the pre-accession period. It identifies the challenges facing Poland, the government's plans in the area of employment and combating unemployment and it provides for an evaluation of the conformity of the Polish employment policy with the European Union's recommendations. From the administrative point of view, there was a further decentralisation of the Labour Fund resources from the National Labour Office (NLO) towards the voivodship and powiat labour offices (in accordance with regional unemployment levels). Relative spending on active labour policy measures has decreased in favour of passive measures, due to the unexpectedly high growth in unemployment and thereby in obligatory spending. While the number of staff has increased in the new labour offices structure, there is a problem of lack of qualified staff, resulting in not always sufficient quality of work in many labour offices; the delays in the computerisation of the labour offices are also a cause for concern.

Preparations are underway to strengthen structures related to the implementation of the European Social Fund.

The situation on the labour market is not improving. Employment continues to fall and in 2000, the employment rate was 55.1%. This was therefore much lower than the EU average of 63%. The unemployment rate increased to reach a historic record of 18.2% in March 2001 and since then has been fluctuating. The unemployment rate amongst young people is particularly high, in March reaching 41%. In order to put a halt to this trend, a special cross-ministerial committee was established which worked out an emergency anti-unemployment programme that was adopted by the government in March as the 'Plan of actions in view of supporting the development of enterprises and the creation of new jobs'.

In the area of **social protection**, serious problems persist with the implementation of the social security reform, mainly due to the still inefficient IT system of the Social Insurance Board (ZUS) and its still very substantial outstanding debts towards the Open Pension Funds (OPF). The improved situation regarding the enforcement of the collection of contributions is a positive step.

Preparatory work is on-going in the field of transposing the acquis on anti-**discrimination**.

### *Overall assessment*

Considerable efforts to align with the EC acquis have been undertaken and should continue to receive high priority. However, implementation of legislation is frequently scheduled to take place at a much later stage, and in many cases not until the date of accession. This will make it difficult to monitor implementation and enforcement.

Poland's labour law is not aligned with the relevant Community acquis and will require the adoption of further amendments to the Labour Code. The amendment brought to the Labour Code intending to align with the working time directive is but a first step. Further work is also required to align Poland's legislation with the acquis on equal treatment for women and men. While the amendments to the Labour Code constitute good progress, the necessary institutional framework for implementing and enforcing the acquis in this area should still be established. Furthermore, actions should be undertaken to raise awareness of equal treatment for women and men, to improve the position of women in the labour market and to increase their representation in decision making.

In the health and safety field, an important step was made with the adoption of the Law on Chemical Substances and Preparations. The main work has, however, to commence and efforts therefore need to be intensified. Several pieces of legislation have provided for further alignment in the field of public health, although efforts should still be pursued. In the field of health monitoring, continued efforts to develop a health monitoring system in order to obtain health data and indicators comparable with the Community system are required.

On social dialogue, whilst the Act on the Tripartite Commission for Social and Economic Issues was adopted, the tripartite process must be made more effective and ensure the participation of all relevant social partners. There is a need for better articulation between consultations at national level and other decentralised collective bargaining and social dialogue (at regional, sectoral and at enterprise level). Further efforts are also required to promote and strengthen bi-partite social dialogue structures, especially at sectoral level. Forms of workers' participation and information/consultation still need to be introduced and developed. Autonomous social dialogue is to be considered as an essential policy priority that could ensure the good implementation of the EC acquis at local level. The Government must also assist the social partners in preparing them to the active role they will be called to play in the EU context.

Most worrying is the rising rate of unemployment and the decreasing employment rates. The emergency plan adopted by the government has not yet been fully implemented and the decentralisation of the labour offices has had a mixed record. The Joint Assessment of Employment Policy Priorities (JAP) represents an important step in the preparation of accession. It will now be important to ensure an effective monitoring of the phasing in of the priorities and commitments contained herein. With regard to the European Social Fund, Poland should further develop the necessary structures and operational arrangements to implement the European Social Fund effectively. Concrete efforts are required to improve both the administrative capacity and the mechanism for co-ordination of European Social Fund interventions in the context of the European Employment Strategy and the Inclusion Process.

Regarding social protection, serious efforts are urgently required to implement the social security reform. The fight against exclusion, as laid down in art. 136 of the Treaty establishing the European Community, is part of the objectives of EU social policy. As decided at the Lisbon and Nice European Councils, policies to combat social exclusion combine commonly agreed objectives at the EU level, and national action plans. The Gothenburg European Council in June 2001 invited candidate countries to translate the Union's objectives of promoting social inclusion into their national policies.

Finally, further efforts are needed to ensure alignment with the *acquis* on anti-discrimination.

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

There has been some progress in the adoption of the *acquis* since the last Regular Report. With respect to restructuring and privatisation, there have been some developments, in particular within the electricity sector. With respect to general formulation of policy, Poland continues to make steady progress.

Concerning **security of supply**, alignment to the *acquis* has advanced satisfactorily by virtue of the adoption of the Law amending the Act on National Reserves and Mandatory Fuel Stocks, which imposes the obligation for fuel companies to establish and maintain mandatory stocks of liquid fuels. The law will enter into force in January 2002. Current stocks stand at somewhat over one third of the required level. In 2000, a new High Voltage DC cable was installed between Poland and Sweden, thus increasing the security of electricity supply in northern Poland.

In relation to **competitiveness and the internal energy market**, steps have been undertaken in order to align with the *acquis*. These need to be completed.

As regards pricing of gas and electricity, following the adoption of the December 2000 Regulations on principles for setting up and calculation of tariffs, tariffs are determined by enterprises and approved by the Energy Regulatory Authority. Currently gas prices only cover costs in the case of big consumers. In the electricity sector, a cross-subsidy from households to industrial consumers persists. However, the distortions have been reduced.

In the *gas* sector, access to the network has been given with regard to domestically produced gas for bigger customers (35% of the market). The preparations to privatise the Polish Oil and Gas Company (PGNiG) have advanced with the May 2001 adoption by the Council of Ministers of the "Baselines for the strategy for privatisation of the gas sector in Poland". The strategy provides for a special department to be created within PGNiG to proceed with the privatisation of four distribution companies and one mining company, as separated from PGNiG by the Ministry of the State Treasury in December 2000. As for PGNiG itself, it will not be privatised for at least five years. Its financial situation continues to deteriorate due to restrictions on tariff setting. Following the December 2000 Regulation on principles for setting up and calculation of tariffs, the tariffs were increased in the first quarter 2001 by 16% for consumers and by 60% for producers. PGNiG signed in July 2001 a contract with a Danish company for transmission of gas into the country, starting in 2003. In September 2001 a Polish-Norwegian contract was signed.

With regard to the restructuring and privatisation of the *electricity* sector, the Council of Ministers adopted in April 2001 the Programme for introduction of an electricity market in Poland. It sets out the tasks to be carried out before the end of 2002 to achieve a functioning electricity market in Poland. Key elements are the establishment of a system of compensation for long-term agreements (SOK), introduction of a daily-hourly balanced electricity market and appointing an Electricity Market Team. The SOK is a transitional system to address the existing long-term contracts between energy producers and the Polish Power Grid Company (PSE S.A.), thereby enabling the recovery of stranded costs. Renegotiating long-term contracts started in July 2001. In December 2000, the Energy Regulatory Authority acknowledged the Warsaw Power Exchange as a “competitive market”. In 2000, the transaction volume was about 2% of all wholesale electricity transactions. The Electricity Market Team monitors and analyses the situation in the electricity market and its effects on the national economy.

The privatisation of the electricity sector continues on the basis of Government plans which had to be updated in May 2001 as a result of some delays. Since the last Regular Report, some plants as well as one distribution company have been privatised.

In the field of *solid fuels*, the coal mining restructuring reform 1998 - 2002 has been implemented without interruption. In 2000, PLN 1.58 billion (€400 million) were spent from the budget, which is 12% less than initially provided. A Law was adopted in December 2000 to amend the Law on adjustment of hard coal mining to function in the conditions of the market economy and on specific competencies and tasks of mining communities. Twenty-two coal pits were closed down during the reporting period and seven were under partial liquidation. The sector’s mining capacity was cut by 10.4 million tonnes and employment by nearly 24 000 down to 151 000 at the end of second quarter of 2001. The rapid increase in the debt of the sector is of concern. Total liabilities have now exceeded PLN 22.1 billion (over €5.5 billion). Privatisation of the first two profitable and best performing mines has started.

In the *oil* sector, the privatisation of Rafineria Gdanska is ongoing. The privatisation of Polski Koncern Naftowy (PKN Orlen) has entered into the third stage of privatisation. The adoption of the Law on economic activity has abolished the need for import permits.

In the field of **Energy efficiency**, Poland decided in May 2001 to establish a Centre for Energy Efficiency in Industry within the NECA (National Energy Conservation Agency). At the end of August, the Council of Ministers adopted the ordinance on requirements regarding energy efficiency for cooling equipment, implementing the relevant EU directive.

With regard to **the use of renewable energy sources**, a Regulation was adopted in December 2000 on the obligation to purchase electric energy produced in co-generation with heat from unconventional or renewable sources. While this Regulation entered into force at the start of the year, full implementation has not yet been ensured. In August 2001 the Sejm adopted the Renewable Energy Development Strategy.

Poland has no nuclear power stations. There are five research reactors, of which two have been shut down, two decommissioned and one, the radioactive waste disposal facility at Rozan, has been in operation since 1961. A new modern repository is needed, and the site selection process has started. With the adoption of the new Atomic Law in November 2000, Poland has made important progress towards alignment with the *acquis*. The Law will enter into force in

January 2002 and will create a framework for secondary legislation to introduce Euratom nuclear safeguards.

### *Overall assessment*

Poland has achieved a moderate level of alignment with the *acquis* and further efforts are required with regard to both the adoption of legislation and the establishment of the appropriate structures to ensure its implementation.

Developments relating to compulsory fuel stocks are encouraging, but further progress is necessary to align with Community requirements. As regards alignment with the *acquis* in the field of the internal energy market, Poland needs to pay careful attention to ensuring timely alignment.

Further efforts are required to bring the Energy law in line with the *acquis*.

As regards pricing of gas and electricity, despite the progress noted above, price distortions in the gas sector as well as cross-subsidies in the electricity sector continue to exist and should be eradicated.

Further progress is required in the gas sector to resolve outstanding difficulties. The necessity of further restructuring is evident, and the May 2001 strategy is a step forward. Two previously adopted restructuring programmes (the first in 1996, the second in 2000) have resulted in a more concrete schedule of activities, which should lead to the privatisation of companies separated from PGNiG and the introduction of a competitive market. The issue of the diversification of gas supplies requires attention. It will be particularly important to ensure market opening in accordance with objective, transparent and non-discriminatory criteria, e.g. to lift the restrictions on access to the gas network and to determine the eligible customers

The electricity sector has made progress in its preparations to meet Internal Market requirements. The timely implementation of the April 2001 programme to introduce the internal electricity market in Poland is, however, imperative for the further restructuring of the market.

Restructuring of the coal sector has achieved considerable results. Further progress requires, however, more intense preparation for privatisation in order to achieve an increase in productivity and long-term sustainability. The productivity of the sector is still below international standards. Sufficient budgetary appropriations for the implementation of the programme need to be ensured. The future role of coal, imported or produced in Poland deserves enhanced attention in the country's energy planning.

As regards the oil sector, the privatisation process should be continued, creating a well-built foundation for a competitive market.

Although in the area of Energy efficiency alignment with the *acquis* has progressed, the level of implementation is still unsatisfactory and needs to be supported by a coherent State policy in this field. Compared to the EU, Polish levels of energy efficiency and use of renewable energy remain very low, and require effective steps to further enhance them. The establishment of a Centre for Energy Efficiency is a welcome step. The National Energy Conservation Agency and the 10 regional agencies need to be further strengthened. Further efforts are needed to enhance the use of renewable energy resources.

The Ministry of Economy continues to be understaffed and requires further strengthening to fulfil the appropriate tasks set out in the *acquis*. The Energy Regulatory Authority employs approximately 250 staff and should continuously prepare for its future tasks in the internal energy market.

As regards the issue of nuclear energy, the European Union has repeatedly emphasised the importance of a high level of nuclear safety in candidate countries. In June 2001, the Council of the European Union took note of a Report on Nuclear Safety in the Context of Enlargement. In July, the Commission conveyed this report to the Candidate Countries.

The report recommends all Candidate Countries to continue their national programmes regarding the safe management of spent fuel and radioactive waste, and regarding the safety of their research reactors.

Poland will need to ensure compliance with Euratom requirements and procedures. In this respect, continued attention should be given to preparing the implementation of Euratom Safeguards, in particular regarding the reporting of nuclear material flows and inventories directly by the persons or structures operating nuclear installations or storing nuclear material. It should be noted that Poland has concluded a Full Scope Safeguards Agreement with the IAEA. An Additional Protocol to this Agreement is in force since May 2000. Poland has completed the ratification of the Energy Charter Treaty.

### ***Chapter 15: Industrial policy***<sup>24</sup>

Since the 2000 Regular Report, there has been limited progress directly related to the evolution of industrial policy, although developments in other areas, notably with regard to state aids, should have an impact.

As indicated in previous Reports, Poland's **industrial policy** is in line with the principles of the EC's own and there have been no significant further developments since the last report.

Increased attention has been paid to the issue of **investment promotion**. The government adopted an "Investment Increase strategy" in March 2001.

In 2000 Poland saw a decline in the overall level of foreign direct investment (*see Section B.1.2. - Economic criteria*).

The processes of **privatisation and restructuring** have continued. In the case of privatisation in particular, the pace of developments was slower than in the previous year. It is difficult to identify the extent to which this is a reflection on the success of the process in 2000 or a consequence of difficulties with key privatisations. The Treasury still owns a dominant stake in a number of Polish companies in sectors such as steel, energy, gas, oil, telecommunications, heavy chemical industry, air transport, railways, spirits, sugar and defence.

In the case of the *steel* sector, in June 2001 the Council of Ministers adopted a revised steel restructuring plan for the sector. This plan differs from previous plans in a number of significant

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<sup>24</sup> Developments concerning Industrial policy should be seen in relation to the overall enterprise policy, including the SME policy (*see Chapter 16 – Small and medium-sized enterprises*).

ways, notably with regard to the future structure of the industry and investment levels. The final direction and detail of the plan will be determined by the results of the ongoing privatisation process. In July, the law on steel sector restructuring was adopted. This provides the necessary legal instruments to facilitate the restructuring process.

Restructuring of the *coal* sector continues apace. Reductions in production capacity and employment have continued, although more slowly than in the past in the case of employment. A new law on the adjustment of the hard coal industry came into force in February 2001. (*see Section B.1.2. - Economic criteria*). Preparations are well underway for the restructuring of the *sulphur* mining industry. A number of legislative measures have been adopted, and in February 2001 the Council of Ministers adopted its programme for the restructuring of the sulphur mining and processing industry.

### *Overall assessment*

Overall, developments in the field of industrial and enterprise policy have been positive. In general, the principles of Poland's industrial policy are in line with the concepts and principles of EC industrial policy.

The main strengths and weaknesses which were identified in the 2000 Report persist. As previously noted, there is a clear discrepancy between the stated policies and practice. Policies are usually well defined, but their execution has been rather limited, or in some cases postponed with a detrimental impact on the competitiveness of Polish industry.

The central objective of Polish industrial policy is to create a proper environment for industrial operators, to improve the international competitiveness of industry, and to facilitate and encourage its adaptation to the business environment and industrial structures in the EU. Poland has achieved much in the way of creating an appropriate legal environment in which businesses can operate, although more attention is required with regard to an important dimension of industrial policy: transparency, monitoring and active control of state aids (*see also Chapter 6 – Competition*).

Efforts to encourage investment, provided they are in line with the obligations of the Europe Agreement and the *acquis*, are to be encouraged. Foreign direct investment, while high in absolute terms, is relatively low per capita. Poland's reputation as a stable location for investment has come under close scrutiny in the light of a number of highly publicised disputes. Further efforts are also required to put the innovation policy into practice.

Over the few years there has been significant progress with regards to restructuring and privatisation. However, considerable efforts must still be made, most notably with regard to steel, where there has been encouraging steps, but also in other heavy industries, coal, chemicals and munitions.



## *Chapter 16: Small and medium-sized enterprises*<sup>25</sup>

Since the last Regular Report, Poland has made steady progress with regard to the implementation of its SME Policy.

In view of the overall **SME strategy and implementing policies**, the most significant step has been the establishment of the Polish Agency for Enterprise Development. This came into existence in January 2001. The Agency represents an upgrading of the previous (highly regarded) SME foundation. The agency took over the existing personnel, but has also gained new powers and financing from the Government.

Access to finance, as has been noted in previous reports, remains an important constraint on SME development. There has been an effort to improve the functioning of the loan guarantees system, including financing the advisory assistance for the six newly established loan guarantee funds and providing subsidies for local, sub-regional and regional funds. Some €5.2 million have been allocated for this purpose.

More broadly, the budget directly allocated for the implementation of the “Government policy guidelines for SMEs until 2002” tripled from 2000 to 2001. However, about €18 million for a large country like Poland is still a very limited amount, in particular compared to the allocations made for restructuring large companies.

In March 2001, an amendment to the Law on Investment Funds came into effect with the aim of improving conditions for establishing and running venture capital funds in Poland. It provides for more flexible conditions, involvement of participants in the management and reinvestment of profits. It is too early to comment on the practical impact of this amendment on the development of venture capital as an important source of finance for SMEs.

There have been further improvements in legislation related to the **business environment**. The law on business activities entered fully into force in January 2001. Since January 2001, a centralised and computerised court registry system for new enterprises has been introduced. Procedures have been unified, simplified and shortened. The system contains extensive information on the entrepreneur that is important for business activities and thus should contribute to greater transparency.

### *Overall assessment*

SME policy in Poland is generally in line with the principles and objectives of the Community's own policy. The entry into force of the law on economic activity and the new commercial code has further strengthened the progress which Poland has made in creating a proper legal environment in which businesses can operate. The definition of an SME is in line with the recommendation of the European Commission.

The creation of the Polish Agency for Enterprise development should further assist the SME sector. The agency will need to be able to steer its own course between the government, which is its predominate source of financing, and other, business-based groupings which are active in

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<sup>25</sup> Developments concerning SME policy should be seen in relation to the overall enterprise policy, including the industrial policy (see Chapter 15 - Industrial policy).

the sector. There is scope for the Agency to act as a primary interlocutor in discussions with SMEs and as a key advocate of the sector. In addition, due consideration will have to be given to the role of the agency in the future implementation of the structural funds. The agency continues to co-ordinate the National SME Services System with over 150 SME support institutions of various forms all over the country.

Apart from complaints about the bureaucracy and high indirect labour costs, the biggest problems for SMEs are high interest rates combined with high requirements for bank credits. There has been some progress in improving access to finance, but the critical mass still has to be reached to have a clearly visible impact across the whole country. With regard to information and advisory services: improvements have been made, but can be extended.

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

Poland has continued its efforts in this sector, including the prioritisation of its association with the Fifth Framework Programme. As described in the 2000 Regular Report, this has included the formation of contact points under the auspices of the State Committee for Scientific Research (KBN). During the course of 2001, nine regional, 22 thematic and 125 local contact points were established.

As for other candidate countries associated to the Fifth Framework Programme, Poland has been granted observer status in CREST (*Comité pour la Recherche Scientifique et Technique*).

An amendment to the Act establishing the KBN entered into force in January 2001. This more clearly defines the two main responsibilities of the KBN: those of a typical ministry for science and technology and those of a research and development funding agency.

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

There have been significant developments in this sector over time. Further efforts are required, notably to improve the level of innovation within Poland's economy in general and in industry in particular, and to encourage linkages between research institutes and industry, in particular small and medium-sized enterprises. There is also a need for a more positive approach of R&D institutions to commercialising research results. In this context the finalisation of the long term National science/technology Policy (lasting until 2010) is essential.

While considerable efforts have been made to establish the financial and institutional framework for participation in the Fifth Framework Programme, to ensure that that participation is successful similar efforts are required to reinforce research-related administration capabilities as well as to strengthen research related infrastructure.

Further efforts are required to improve the link between research and education, including enhancing the possibilities for universities to carry out scientific research.

Globally, the strengthening of the links between institutions facilitating innovation and technology transfer in all sectors is needed, down as far as the regional level. This requires secure and stable financial institutions dealing with innovation.

For the further development of the sector and for an effective integration of -Poland into the European Research Area, it is important to increase the gross domestic expenditure on research and technological development. In the case of Poland both the gross expenditure on Research and Development and business activity in research remained constant comparing 2000 to 1999.

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

Further progress was made in this area.

In the reporting period Poland started to participate in the second generation of **Community programmes** Socrates and Leonardo, as well as in the new Youth programme (which incorporates European Voluntary Service activities) (*see section A.b - Relations between the European Union and Poland*)

The amendment to the School Education Act adopted in December 2000 has enabled Poland to align its legislation with the requirements of the **Directive concerning education of children of migrant workers**. The Law entered into force in January 2001, with a few exceptions which will enter into force upon accession (right of learning in post-gymnasium schools for migrant workers and their families from the EU member states, free classes in Polish language and lessons on culture and language of the country of origin).

As regards **reforming its education and training system**, as has been noted in the 2000 Regular Report, new arrangements were made for teachers through the adoption of the teacher's charter, though their initial implementation has on occasion proved problematic. While nearly all teachers received the amounts due for their 2000 pay rise, only 11% of local governments declared that they would be able to pay out the full amount in June as foreseen for year 2001, while the rest could pay only part (44%) or did not have sufficient budgetary resources (45%). Since January 2001 provisions have been in force laying down standard examination procedures for teachers, thus opening up equal opportunities for all graduates regardless of their regional location.

The first stage of implementation of the National Strategy for Employment and Human Resources Development has started, including examination standards in public schools and several training projects for trainers for the new vocational education system and for teachers in business and management.

The Ministry of Education has seen a reduction in personnel in the Department of European Integration, which risks reducing its capacity for strategic and long-term planning.

### ***Overall Assessment***

Legislation is now in line with the *acquis* and participation in Community programmes is progressing satisfactorily.

The immediate challenge facing the sector is the implementation of the educational reform. In the longer term, the challenge which must be met is to develop an integrated approach to human resource development aimed at the expanding sectors of the economy and the development of civil society, notably facilitating development in all regions including those with a strongly rural nature or which are undergoing industrial restructuring. The implementation of such an approach

will require not only appropriate resources, both budgetary and human, but will also entail an enhanced level of co-operation between the national and regional levels and the capacity to provide the types of education and training best suited to real needs on the ground.

In this context further work is still needed to develop an appropriate system of vocational education and training (VET). The current VET system lacks both flexibility in terms of provisions tailored to the needs of individuals and responsiveness with regard to the requirements of the labour market.

Within the Ministry of Education further strengthening of staff resources is required if longer term strategic needs are to be met in addition to the day-to-day implementation of policy.

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

Progress made since the last report has been relatively limited, considering the considerable strides made during the previous reporting period.

Concerning the **liberalisation of the telecommunications market**, the National Regulating Authority (NRA) is now fully functioning as a separate independent legal body with wide powers to regulate the sector, and by mid-2001 the new body had succeeded in ensuring that the competing long distance services for which licences had been granted in 2000 were able to operate in practice. TPSA (Polish Telecommunications SA), the former monopoly, has been issued with a licence. The designating of TPSA as having significant market power was severely delayed and this delayed the imposition of appropriate regulatory provisions but such decision was finally taken by the President of the Telecommunications Regulatory Authority in September 2001.

The privatisation process of TPSA has advanced and strategic private investors are in place. UMTS licences have been issued to the three existing mobile operators.

As regards the **regulatory framework**, the Law on Telecommunications has been amended in June 2001. This amendment entered into force in July 2001 and relates to the general rules for undertaking business activities in the **postal** area.

With regard to the **postal services**, the market is dominated by the *Poczta Polska*, which enjoys a monopolistic position in the domestic clearance, sorting, transport and delivery of letter items up to 2000g in weight and parcels, as well as in the handling of postal money orders.

#### *Overall assessment*

Poland has advanced considerably in the telecommunications sector over the last few years in respect of regulation and privatisation. The speed of implementation has not, to date, matched this progress. The decision to delay opening up the international telephony market for competition and low internet penetration are symptomatic of this. The promising beginnings have yet to result in satisfactory arrangements that are equitable between operators in which the state has a financial interest and other operators.

Since 1998 Polish telecommunications policy has developed strongly along the lines of EC practice but the fixed communications sector still shows a legacy from earlier years of relative

under-achievement, particularly in rural areas - where the implications of Universal Service represent a significant challenge. The mobile sector has been more successful. The growth potential of the sector in Poland remains very high.

The foundations laid by the Telecommunications Act now need to be built on to secure complete compliance with the *acquis*, particularly regarding cost-orientation, local interconnection, affordability, universal service and the availability of carrier selection and number portability facilities. Further progress is now needed with the remaining pieces of secondary legislation that are necessary for the market to be regulated properly and fully opened. Much of the success of the reform of the telecommunications sector will depend upon the NRA continuing to improve its capacity to oversee and regulate the sector in an efficient and independent manner.

The positive effect of administrative stability played an important role in taking the sector forward in the past, and this needs to be maintained as the sector is currently entering a new evolutionary phase.

In respect of postal services, although draft legislation has been under discussion since February 2000, little progress has been noted, and it will require significant further efforts if the timetable for alignment with the *acquis* is to be met. The establishment of an independent Postal Market Regulatory Authority remains to be achieved.

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

No particular developments are to be reported regarding legislative alignment with the **audio-visual** *acquis* since last year's Regular Report.

With regard to administrative capacity, a special group has been set up within the National Broadcasting Council to work on general amendments to the Broadcasting Act: for example, regulations concerning terrestrial digital platforms.

In October 2000 the Polish Parliament passed a Bill allowing for ratification of the Protocol amending the Council of Europe Convention on Transfrontier Television.

No particular developments are to be reported in the field of **culture**.

#### *Overall assessment*

Poland has long had an active and efficiently managed audio-visual policy. However, further steps are still necessary to align it with that of the Community.

Further legislative alignment in the field of audio-visual policy is required before accession, notably regarding jurisdiction, definition of European works, promotion of independent and European works and the proportionality of measures promoting works originally produced in Polish. These should be aligned through the amendment to the Broadcasting Act which is currently being discussed in Parliament. In order to ensure conformity with Poland's obligations under the Europe Agreement, it would be necessary for the latter amendment to put an end to the limits placed on the maximum share of foreign capital in TV broadcasting stations (which is still restricted to 33%).

As indicated, Poland has signed and ratified the Council of Europe Convention on Transfrontier Television and will be bound by its amending protocol upon the date of entry into force.

Administrative capacity in the field of audio-visual policy seems sufficient, although some strengthening may be required in line with the revision of Polish legislation. In the field of culture, the administrative capacity for the implementation of the Culture Community Programmes could still be enhanced.

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

Since the last Regular Report, limited progress has been achieved in preparing for the implementation of structural policies.

Regarding Poland's **territorial organisation**, the provisional classification corresponding to NUTS, agreed between the Commission and Poland, follows the existing territorial organisation. Following the 1999 territorial reform, the 16 newly created self-government provincial (*voivodship*) authorities are now effectively carrying out regional policy functions. In January 2002 adjustments will take effect concerning the territorial division with the creation of 7 new *Powiaty* (provisional classification corresponding to NUTS level 3), changes in the borders of 6 *Powiaty* and changes in the borders of 2 *Voivodships*.

With regard to the **legislative framework**, the Law on Regional Development of May 2000 continues to form the basis for regional policy in Poland and defines the principles for support towards regional development. In application of this law, "regional contracts" were concluded in June 2001 between each *Marshal* (elected representative of the *voivodship*) and the Minister for Regional Development. These contracts determine, for the years 2001 and 2002, the amount of support provided to each regional self-government in the pursuit of its development priorities, under the supervision of the *Voivod* (representative of the central government).

The conclusion of these regional contracts has contributed further to the clarification of Poland's **institutional structures**, but otherwise no particular progress has been made since the last Regular Report.

With regard to **programming**, in December 2000, Poland adopted a National Strategy for Regional Development for 2002-2006 and also adopted the Support Programme for 2001-2002 to start implementing this strategy. This Support Programme, amended in April 2001 to bring it in line with Poland's 2001 budget, provides just under €1.5 billion (nearly 6 billion PLN) over two years towards implementation of the regional development priorities, which have been the subject of the conclusion of the regional contracts referred to above. These funds constitute grants towards earmarked projects and do not for the moment imply a decentralisation of public finance in the absence of amendments to the law on the income of regional self-governments.

The National Strategy for Regional Development constitutes one of six medium-term strategies being developed for the period 2002-2006 which should lead towards the establishment of Poland's National Development Plan (NDP) for 2002-2006 as the basis for the development plan required by the Structural Funds Regulations.

Limited progress has been made over the last year on the application of the **partnership principle**. While, together with the regional contracts, *voivodship* steering committees have

been established which include representatives of the social partners, in practice the presence of the social partners in consultations at central level remains limited.

A task force has been established by the Ministry of Finance for **monitoring and evaluation**, consisting of representatives of various ministries and including observers from two agencies, with the aim to develop and establish one unified monitoring and evaluation system for Structural Funds. The establishment of the regional contracts described above has contributed somewhat to the further development of **financial management and control**.

As concerns **statistics**, there has been no particular progress.

### *Overall assessment*

Notwithstanding significant progress made in previous years in developing the necessary structures for the implementation of the Structural Funds, developments in this area have largely stalled. Considerable additional efforts are needed to establish operational bodies and to increase administrative capacity for the implementation of the Structural Funds.

A provisional classification corresponding to NUTS has been agreed upon with the Commission. However, new changes in the territorial organisation are still to be officially submitted to, and agreed with, the European Commission.

At the regional level variable progress has been achieved with programming, while at the national level no positive new developments can be reported. There is at present no clear idea as to the structure of future programming documents. Poland should give careful consideration to Commission recommendations for the period up to 2006 regarding structure and timing. It is of high importance that Poland is able to establish the envisaged National Development Plan in time. In order to match sectorial and regional approaches, inter-ministerial co-ordination and partnership need to be made effective and comprehensive, both at the national and at the regional level. A strong input of the regions into the programming process taking place at the national level should be ensured.

Substantial progress is also needed at the level of the technical preparation of projects (the project pipeline) to be co-financed by the Structural and Cohesion Funds.

The contract system which is being put in place in Poland for the implementation of regional policy has the potential to play a key role in the preparatory process and, in the medium term, in Poland's socio-economic development. The new mechanism will need to be assessed in view of its capacity to participate in Structural Funds operations in Poland.

For Structural Funds key issues concerning the distribution of responsibilities remain open. The future Managing Authorities and Paying Authority or authorities must be designated and the role of the line ministries (or other bodies to act under the overall responsibility of the future managing and paying authorities) still needs to be defined. A clear division of responsibilities must be established at the central level, between central and regional levels and at the regional level between *Voivods* and *Marshals*. The role of the regions in the management of the funds in the period up to end 2006 requires careful consideration.

Poland must make considerable efforts to strengthen administrative capacity at the national and regional level with a view to the management and implementation of future Structural and

Cohesion Funds. Above all, the administrative capacity of the units within the ministries and/or other bodies which will be designated as future managing authorities or which will hold important delegated responsibilities needs to be considerably strengthened in order that they will effectively be able to take on the responsibility for the efficiency and correctness of the management and implementation of Structural Funds. Concerning the European Social Fund (ESF), Poland has started developing the necessary structures and operational arrangements to implement the ESF. However, substantial efforts are required to improve both administrative capacity and mechanisms for co-ordination of ESF interventions in the context of the European Employment Strategy and the Inclusion Process.

The timely availability and functioning of an effective monitoring and evaluation system will be of crucial importance. A Task Force under the lead of the Ministry of Finance has made important progress in defining such system. The actual establishment of the system is of the highest priority.

While significant progress has been achieved by Poland with regard to the legislative alignment in the area of public internal financial control, further substantial efforts are required in order to complete the implementation of sound financial control systems. Appropriate systems and procedures for financial management and control need to be established, in particular in relation to the structure of the managing and paying authorities, in order to fulfil the specific requirements of the Structural Funds regulations. Multi-annual programming and budgetary planning needs to be introduced.

As for regional statistics, further efforts are necessary to bring them up to the level required for regional policy planning and programming, in particular ex-ante evaluation. Poland still needs to improve the system for the collection and processing of relevant statistical information for the purposes of ex-ante evaluation.

## *Chapter 22: Environment*

Since the last Regular Report, Poland has made significant legislative progress through the adoption of important framework laws, notably the Act on Environmental Impact Assessment and on Access to Information, the Act on Waste and the Act on Environmental Protection.

With regard to the **integration of the environment** into other policies, Poland has approved the 2<sup>nd</sup> National Environmental Policy. The revised National Environmental Policy will establish clear objectives and targets for Poland's environmental policy. The National Environmental Policy is to be completed by an Action Programme for each sector (air, water, waste). It incorporates the principles of the EU 5<sup>th</sup> and 6<sup>th</sup> Environmental Action Programmes. As regards integration, Poland has adopted the strategy for sustainable development: "Poland 2025 - Long-term Strategy for Permanent and Sustainable Development". This will provide guidelines for all sectoral policies to ensure their respect of the environment and orient them towards a sustainable approach. As such, the strategy constitutes a framework for the integration of environmental concerns into sectoral policies at national, regional and local level. In the field of **horizontal legislation**, the Act on Environmental Impact Assessment and on Access to Information entered into force in January 2001. The Environmental Protection Law (adopted by the Parliament in April 2001) contains the requirements for the mechanism for monitoring emissions of carbon dioxide and other greenhouse gases. However, a national strategy on climate change still needs to be developed.



As regards **air quality**, the Environmental Protection Law (adopted by the Parliament in March 2001) and the Law on Waste (adopted by the Parliament in 2001) ensure partial transposition of Community legislation on air quality and admissible levels of air pollutant emissions. Within two years of the above-mentioned acts taking effect, the voivods are to prepare investment programmes for the improvement of air quality in the areas where permissible concentrations have been exceeded.

In the area of **waste**, the Law on Waste and the Law on Packaging and Packaging Waste have been adopted. The former entered into force in October 2001. January 2002 is the date of entry into force for the latter, with the exception of the provisions on the heavy metal content in packaging which comes into effect a year later. Moreover, the Law on the Duties of Entrepreneurs to handle certain waste as well, as product and deposit charges, adopted in June 2001, will enter into force in January 2002. These acts, together with provisions of the Environmental Protection Law and their executive regulations, will ensure full transposition of the *acquis* on waste management.

In the field of **water quality**, the Act on Water has now been adopted. The Act on Collective Water Supply and Sewage Discharges has been adopted by Parliament. The Act partially transposes the directives on drinking water and on urban wastewater treatment. To complete transposition of the *acquis* in this sector, ministerial regulations need to be issued on the basis of the laws now adopted. In addition, the Act on Environmental Protection has been adopted. The Act transposes some requirements of the water framework directive. The Polish Government has decided to identify the whole territory of the country as being within the catchment area of sensitive waters under the terms of the directive on urban wastewater treatment. Moreover, Poland has initiated a pilot river basin management (on the river Narew) in view of the water framework directive.

In the field of **nature protection**, the Law of December 2000 regarding amendments to the Law on Nature Conservation, together with its executive regulations, will ensure the requirements are met regarding the protection of the natural habitats of wild fauna and flora and the protection of wild birds.

As regards **industrial pollution control and risk management**, the Environmental Protection Law (adopted by the Parliament in March 2001), the Act on Implementing the Environmental Protection Law adopted in July 2001, and the Law on Waste (adopted in April 2001) provide the basis for alignment with the *acquis* regarding the reduction of industrial pollution and risk management. Poland still needs to adopt ministerial regulations in order to complete transposition. As regards implementation capacity, preparations have been made to implement the IPPC Directive by means of pilot projects undertaken in three voivodships (Dolnoslaskie, Łódzkie and Slaskie) and training courses were organised for representatives of governmental and self-governmental administrations and industry. The Polish Accreditation Center For the Environmental Management and Audit System (EMAS), has been established.

In the field of **genetically modified organisms and chemicals**, the following laws were adopted: Law on Genetically Modified Organisms, the Law on Chemical Substances and Preparations, the Law on Biocidal Products and the Law on Control over the Handling of Substances that Deplete the Ozone Layer. Together with ministerial regulations, this should ensure full transposition of the chemicals-related *acquis*. An Office of the Inspector for Chemical Substances will be established to act as competent authority. With regard to **noise**,

the Law on the System of Conformity Assessment, Accreditation and Amendments to Certain Acts was adopted by the Parliament in April 2000.

In the field of **radiation protection** (*see also Chapter 14- Energy*), the Atomic Law was adopted by the Parliament in November 2000. To complete transposition of the *acquis*, executive regulations to this law still need to be adopted.

Poland has carried out some actions to develop its administrative capacity in the field of environment. The Ministry of Environment has been strengthened and co-ordination between its various departments as well as with other ministries has improved. The units dealing with EU issues have been granted more staff. Also, decisions have been taken to increase the staff of the various environmental authorities, including the voivodships, powiats and gminas in view of their implementation of EU directives but this has not yet been carried out. Poland has also engaged in training the staff of voivodships, powiats and gminas, notably on EIAs, IPPC and air monitoring. Poland's environmental investments have remained stable at just under € billion, (7.6 billion PLN) corresponding to 1.7% of national GDP. The National Fund for Environmental Protection has continued to promote investments, primarily in air protection and water, but without a comprehensive strategy for implementing EC directives. The main financial instrument for environmental investments are now the voivodship funds. These primarily operate through soft loans. Although the powiat funds have increased, they remain limited. This is also the case for the gmina funds. Nonetheless, the gmina funds will have to shoulder a large share of environmental investments as issues such as waste management and wastewater treatment is usually their responsibility. With ISPA, foreign assistance will amount to some 10% of total environmental investment.

### *Overall assessment*

Poland has achieved considerable alignment with the EC environmental *acquis*. Poland has also prepared the necessary implementation programmes in the field of air, waste, water and industrial pollution. These programmes need to be continuously updated as implementation proceeds. Poland still needs to adopt ministerial regulations in order to transpose the concrete requirements of the air related directives. Together with ministerial regulations, this should achieve full alignment of the chemical-related *acquis*. Ordinances to transpose the directives on fuel quality still need to be adopted, once the Environmental Protection Law has taken effect.

Poland should continue to integrate environmental protection requirements into the definition and implementation of all other sectoral policies with a view to promoting sustainable development.

Poland's administrative capacity for EC environmental directives remains a matter of concern. The voivodships and powiats, still need to be strengthened. Staff resources are limited and the awareness about the requirements of EU environmental directives needs to be improved. Significant training in EU environmental policy is still necessary, Poland's division of tasks over numerous agencies and administrative levels has, in some cases, caused unclear responsibilities. Different bodies are responsible for setting objectives, permitting, monitoring, inspection and financial instruments. This risks diminishing the accountability for achieving environmental standards.

As regards permitting, Poland's system is media based. There are no integrated permits and there is a lack of co-ordination between the various permits. Nor do permits always cover small

installations. However, Poland is moving towards integrated permits. These will start to be issued from January 2002. In this context, it will be of key importance to strengthen the co-ordination between voivodships and powiats. The need for integration will require the staff of voivodships and powiats to assess operating performance more widely than at present and to undertake integrated analyses. To this purpose, Poland will have to establish an efficient system for co-ordination and communication between the relevant staff.

As regards planning and programming, Poland has started preparations for air quality programmes, which should be ready by accession. This is also the case in the waste sector with preparations for the national waste management plan. However, only a small share of the gminas (according to estimates 25%) has developed waste management plans. It is important to strengthen the capacity of gmina and to speed up their preparations for EU environmental policy. This is vital to ensure that Poland has the necessary programming capacity at accession.

Poland has an extensive system of inspection. These are carried out regularly and with satisfactory technical expertise. However, these inspections focus on large installations and there can be a lack of control of small and medium sized installations. In addition, inspections are usually media-specific and do not yet apply an integrated approach. There is not always sufficient co-ordination between monitoring and inspection. Laboratories and equipment also needs to be improved.

Poland still needs to strengthen its monitoring capacity. Some progress has been achieved in the field of air and water but the monitoring infrastructure and equipment still needs to be up-graded and modernised. There is a need to improve the co-ordination of monitoring and reporting procedures and to use monitoring data more efficiently for permitting and inspection.

Lastly, Poland's environmental investments remain significant. However, Poland needs to establish comprehensive investment strategies in order to focus the available resources and environmental investments on implementing the requirements of EC directives. This would improve the efficiency of environmental investments.

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

There has been further progress in alignment with the *acquis* and in improving administrative capacity necessary for the effective implementation of the *acquis*.

In the field of **safety related measures**, three executive acts under the Law on General Product Safety were adopted in November and December 2000. The first Regulation aims at transposing the directive concerning products which, appearing to be other than they are, endanger the health and safety of consumers, and entered into force in January 2001. The second Regulation entered into force in February 2001 and introduces the Community system for the rapid exchange of information on dangers arising from the use of consumer products. The third Regulation introduces the Community system of monitoring consumer accidents.

The amendment to the Act on Tourist Services is a **non-safety-related measure**, which was adopted in December 2000. It aims at transposing the directive on package travel, package holidays and package tours. The Law on Consumer Credit which aims at transposing the *acquis* in area of consumer credit was adopted in July 2001 and will come into force 12 months after publication. The law on Prices was adopted in July 2001 and will come into force 3

months after publication. This legislation is intended to align with the *acquis* relating to the indication of prices of products for consumers.

The Trade Inspectorate is responsible for **market surveillance**. Its position was strengthened by the Act on Trade Inspection which was adopted in December 2000 and entered into force in April 2001. The act specifies the tasks and organisation of the Inspectorate and awards it the status of a supervisory body, subordinated to the President of the Office for Competition and Consumer Protection (OCCP). The Trade Inspectorate was also granted additional resources in 2000.

In 2000, the OCCP received 1016 complaints and requests for advice concerning consumer rights. 203 decisions were issued in the area of unfair competition. In 2 cases, the OCCP addressed the courts. The issues treated mainly concerned inadequate marking of products, misleading or prohibited advertising, and imitation of another product. There was a rapid acceleration in the rate of complaints during 2001, with during the first half of the year 1601 complaints received. In the same timeframe 180 decisions were issued and 2 cases addressed to the courts.

The legal position of the OCCP has been strengthened through the new Act on Competition and Consumer Protection which came into force in April 2001. The law establishes a regulatory basis for co-operation between government authorities and consumer organisations, including ways of financing consumer associations and organisations. Human and budgetary resources have also been increased.

The system of consumer advocates at regional and sub-regional level is being developed through the training and appointing of advocates. There are currently (June 2001) 295 such advocates.

### *Overall assessment*

Alignment with the *acquis* in the area of consumer protection has reached a high level, but further efforts are required in a number of areas.

In order to complete the legal framework concerning the safety measures for General Product Safety and dangers arising from the use of consumer products, further secondary legislation is required, notably Regulations on: safety of toys, safety and names of textiles, and checks for conformity with rules on product safety in the case of products imported from third countries. With regard to non-safety measures, further legislative work is needed in order to fully transpose and follow up the transposition of the directive on indication of the prices for products offered to consumers and the directive on consumer credits. In addition, the law on the protection of consumer rights and responsibility for damage caused by a dangerous product adopted in March 2000 will require further attention in order to bring it more closely in line with the *acquis*, in particular with regard to door-to-door selling and distance contracts.

A comprehensive strategy for the proper implementation of a market surveillance system is essential and will need to ensure that legislative gaps are identified and filled, as well as to address the development of appropriate enforcement procedures. Additional issues to be covered include raising the level of awareness, support and co-operation with consumer organisations and the general public.

The workload facing the OCCP and the Trade Inspectorate is rapidly expanding. Both bodies have seen increases in the resources allocated to them. Careful attention will have to be paid to ensure that sufficient resources are available so that consumer complaints are dealt with in an effective and timely manner.

A continuation and extension of existing efforts to disseminate knowledge of new legal regulations among the staff of the OCCP and Trade Inspectorate, ministries and other governmental institutions, courts, entrepreneurs and consumers, will be required so as to ensure the effective operation of consumer protection.

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

Since the 2000 Regular Report, fundamental legislative steps have been taken in Poland in the fields of border controls, police co-operation, data protection, visas and migration. However, only limited progress can be reported on the fight against fraud and corruption and in judicial co-operation.

In the field of **data protection**, an amendment to the Personal Data Protection Act was adopted in August 2001. The Minister of Justice issued in June 2001 an Ordinance on personal data collection in the National Penal Register, and removing such data from this Register. It should be noted that Europol has declared the level of data protection sufficient for its purposes provided that certain key aspects are addressed.

As far as **visa policy** is concerned, the amendment to the Aliens Act which was adopted in June 2001 and entered into force in July 2001 brings Poland into close alignment with the *acquis*. An "EU" format for Polish passports is provided for by a Regulation adopted in May. During the reporting period, Poland terminated visa exemption agreements with Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Mongolia, Tajikistan, Turkmenistan and Cuba. The intended visa introduction for Belarus, Russia and Macedonia has not yet taken place, due to the fact that the negotiations with the countries concerned have not been completed, and due to a lack of funding. Visas continue to be granted at borders in increasing numbers. This practice is not in line with the *acquis*.

A series of measures have been introduced in the past twelve months with a view to strengthening administrative capacity in this field. Since spring 2001, the Polish computer system for migration POBYT has been available on-line in the relevant Voivodship (regional) departments and at 72 border-crossing points. Some modest additional strengthening of consular structures has been undertaken compared to that reported last year. In order to prepare for the visa introduction for Ukraine, the location has been chosen for the opening of two new consular posts in Ukraine: Lutsk and Odessa.

Significant progress has been registered in alignment with, and implementation of, the *acquis* in the field of control of **external borders**, and as regards preparations for the **Schengen** agreement. In legislative terms, a series of amendments made to the 1990 Law on the Border Guard were enacted in April 2001. The new provisions extend the powers of the Border Guard both in geographical and authorisation terms, the competence of the Border Guards for combating crimes has been extended and they have been granted "police-type" operational powers for border protection, border traffic, for combating corruption, for control of correspondence, for wire tapping and controlled delivery. The Border Guard is no longer limited to work within 15km of the border and can now operate throughout Poland for crimes

committed on all of the national territory; it obtained also access to data bases held by public administration institutions.

Feasibility studies for the introduction of the Schengen Information System and for the Schengen separation of passenger flows at Warsaw airport have been completed.

Considerable traffic flow increases occurred in 2000 at the future external borders, with an increase of 39% at the sea border and of 17% on the future external land border. However, in the first half of 2001, passenger traffic has decreased (-17,6% all borders considered). Refusal of entry increased overall by 32.7%, and by 42% at the Eastern border. In more than 70% of the cases, entry was refused, not on the basis of false or invalid documents, but on the basis of false declarations on the purpose of the journey, lack of confirmation of reservation of accommodation in Poland, or of sufficient means of subsistence. The number of aliens, apprehended after attempts to cross the border illegally, increased by 37,4%, compared to the first half of 2000. Readmissions from Poland remained otherwise stable.

The Integrated Border Management Strategy, adopted by the Council of Ministers in June 2000, is being implemented progressively but the budgetary shortfall compared with target spending is impeding progress. An addendum to this Strategy was adopted in June 2001. Substantial efforts were made in terms of infrastructure and staffing. Four new border posts were established during the reporting period (one in Punszk, at the border with Lithuania, two at the border with Ukraine, in Ustrzyki Górne and in Krylow and one at the border with Belarus, Narewca)); another three are under construction on the borders with Belarus and with Ukraine.

The wages of border guard officers increased by around 20% by the end of 2000. This measure has however had a significant impact on the already limited border guard budget and has meant that only 500 new border guard officers could be recruited in 2000 (instead of 2000 new officers, which was the target).

Five helicopters have been purchased for use at the Eastern border to fulfil the need for airborne surveillance. Good progress continues to be made in terms of accessibility to the databases of the Border Guard, at both regional and local level. A wide area network is in the process of completion starting with the Eastern border with the central server now linking horizontal regional commands. However, in view of competing human resources and infrastructure priorities, money for equipment purchase is severely stretched.

Co-operation between the Border Police of Germany and the Polish Border Guard is effective and includes several types of modern cross-border co-operation concepts (including joint patrols, joint operations, liaison officers, common information points).

Poland adopted a Schengen Action Plan in August 2001. This constitutes a supplement to the Integrated Border Management Strategy for the planned legislative and institutional changes resulting from the Schengen acquis.

As regards **migration**, the new Aliens Law, referred to above, brings a number of noticeable changes, which in many respects complete the adjustment of Polish legislation to current European standards. The new law provides for comprehensive coverage of admission of third-country nationals for employment and study purposes, and for residence permits for relatives. A new chapter also regulates the conditions for family reunification. New provisions have also been inserted as regards expulsion and deportation of aliens. Moreover, the new Aliens Law

provides for the creation of a centralised Office for Repatriation and Aliens, which started its activity on 1<sup>st</sup> July, and will be competent for any issue relating to the treatment of aliens in Poland including: repatriation, entry of aliens on the territory, transit of aliens across the Polish territory, granting permits to settle, residence permits and asylum status.

During the reporting period, agreements on readmission with Armenia, Ireland and Estonia were signed.

In respect of **asylum**, the formal acquis was already largely transposed by the Aliens Law of 1997 and considerable legislative progress has now been made towards further alignment, by means of the 2001 amendment to the Aliens Law referred to above. The most significant changes relate to the introduction of the concept of “safe country of origin”, and of a clear definition of manifestly unfounded applications, as well as to provisions for the identification of unaccompanied minors. The time limit for application has been removed. The provision of a personal interview prior to a denial of admission to the asylum procedure has been initiated. Additionally, temporary protection is now foreseen for asylum seekers. The law also introduces a six-month time limit for producing a decision on applications. Some adjustments have been made to the preparation provisions for the Dublin Convention.

There was a significant increase in applications in 2000, with 4 589 applications, against 3 031 in 1999 (a 50% increase). A quarter of the applicants (1 153) held Russian citizenship, mainly coming from Chechnya. 906 applicants were Romanians, 823 Armenians, 340 Bulgarians, and 299 Afghans.

In the field of **police co-operation and the fight against organised crime**, the 1990 Law on Police was amended in August 2001. This amendment gives the police more operational means in the fight against organised crime. With the new provisions, the police will be entitled to check suspects’ bank accounts, as well as insurance accounts.

The need to combat organised crime and economic crime has been widely recognised as a priority in Poland. Since December 2000, Poland has had a Financial Intelligence Unit located in the Ministry of Finance for the tracking of transactions.

Salaries were increased by approximately 20% at the end of 2000. The Police are preparing a programme for the internal fight against corruption and a special unit was set up for this purpose.

The police service continued to upgrade its technology and in each voivodship, the main high-speed telecommunications modes are coming on stream. The extension and strengthening of the police national network also involve the purchase of terminals giving police officers increased access to the central databases. The Automated Fingerprint Identification System (AFIS), set up centrally with EC assistance in early 2000, is being extended at regional and local levels; to this end, the Chief Commander of Police and the Commander-in-Chief of Border Guards signed an agreement in May 2001.

The Central Bureau for Investigation (CBI), set up in spring 2000, is a key actor as regards the police role in the fight against organised crime. A first assessment of its activities shows good results in this area. A number of leaders of criminal organisations were arrested during the reporting period. Between April 2000 and April 2001, 158 criminal groups were dismantled, of which 23 had an international dimension.

A section of the CBI is dealing exclusively with the Crown witness scheme, in close co-operation with the central and regional organised crime sections of the Prosecutor's office. An amendment to the Law on the Prosecutor's Crown witness was adopted in December 2000 and entered into force in February 2001.

In May 2001 the Commander-in-Chief of National Police signed an agreement with the Central Board of Customs on a detailed procedure of co-operation between Police organisational units and customs agencies in the area of preventing and combating crime.

In August 2001 Poland adopted a Law on Collecting, Processing and Transferring of Criminal Information. This law sets up the National Centre of Criminal Information. This Centre will co-ordinate the collecting, processing and exchange of criminal intelligence both between law-enforcement agencies and others in Poland and with relevant corresponding structures abroad.

In October 2001, Poland signed an Association Agreement with Europol which will allow Polish law enforcement bodies to have access to certain criminal intelligence information held by Member States. It also foresees the secondment of a permanent Polish liaison officer to Europol. This Agreement clears the way for Poland to fully adhere to Europol upon accession.

A series of bilateral co-operation agreements have been concluded. Two international agreements on co-operation in the field of organised crime were signed in November 2000, one with Belgium and one with Spain. The co-operation will be organised mainly by means of exchange of liaison officers. Additionally, in May 2001, a bilateral agreement for co-operation in the fight against organised crime was signed between the Ministers of the Interior of Ireland and Poland. To date, Poland has concluded similar co-operation agreements with Finland, Lithuania, Germany and Ukraine. A work programme for the fight against organised crime was also agreed upon with Russia in November 2000.

A total of 1 266 910 crimes were reported in Poland in 2000, which represents a significant 13% increase compared to 1999. The worsening crime statistics were put down to the raise in theft, primarily petty theft. A plan to fight common crime was prepared in 2000 and launched in February 2001, focusing on: car theft, home burglary, theft with assault, robberies involving extortion and violence. Among the activities of organised crime groups are the theft and smuggling of vehicles, the production of and trafficking in drugs, the extortion of protection money and robbery; the hijacking of trucks has reappeared as a threat. Trafficking in women remains a cause for concern.

The 2000 UN Convention against Transnational Organised Crime was ratified by the Parliament in July 2001.

Concerning the **fight against fraud and corruption**, legislation to implement the 1997 OECD Convention on Combating Bribery of Foreign Officials in International Business Transactions entered into force in February 2001. The entry into force, in December 2000, of the Act on the amendment to the Criminal Code, to the Code of Criminal Procedure, to the Act on Combating Unfair Competition, to the Act on Public Orders and the Banking Law facilitates the accession to the 1995 Convention on the Protection of the EC's Financial Interests as well as its three Protocols and to the 1997 Convention on the fight against corruption involving officials of the EC or officials of Member States of the European Union. Further, in August 2001, the Criminal



Code was amended in order to cover corruption in the form of providing non-material benefit to a third party (*see also Section B.1.1. - Democracy and the rule of law*).

The 1997 Law on **drug** addiction was amended in October 2000. The main provisions covered demand reduction and the possession of small quantities of drugs for personal use. Secondary legislation concerning the creation of a Council for Counteracting Drug Addiction was passed and entered into force in March 2001, creating the inter-ministerial advisory body which is in charge of the co-ordination of policy development in the area, as well as drug demand and supply reduction. The 1997 Law was amended for a second time in September 2001. This new amendment foresees the establishment of a National Focal Point for cooperation with the Lisbon European Monitoring Centre on Drugs and Drug Addiction (EMCDDA). Within the Drug Addiction Bureau, situated within the Ministry of Health, an Information Centre for Drugs and Drug Addiction was established which should become this National Focal Point. A Decree of the Minister of Health on the manufacturing, processing, converting, importing or exporting as well as marketing narcotic drugs came into force in October 2000.

As regards **money laundering**, the relevant law was adopted in September 2000, providing for the setting-up of a horizontal structure in charge of collecting, processing and exchanging information on financial transactions. The 1990 Council of Europe Convention on Money Laundering, Search, Seizure and Confiscation of the Proceeds from Crime was ratified in December 2000.

With regard to **customs co-operation**, it should be noted that 10 task forces, including the Office for State Security, the Fiscal board, the Police, the Customs and the Border Guard, were set up in 2000. The General Inspectorate of Customs signed an agreement with the Commander-in-Chief of the Border Guard in February 2001 regarding joint undertakings. It also signed an agreement with the President of the Central Board of Customs in May 2001 regarding mutual assistance (information exchange, investigative and control activities, international co-operation, training and exchange of experiences, co-operation of the internal audit branches).

With regard to **judicial co-operation**, the completion of the reform of the judicial map to harmonise it with the administration division took place in July 2001. The number of civil-criminal chambers was increased to 292, an additional 56 should be created by the end of 2001, to reach a total of 346.

A new commercial code entered into force in October 2000. A new code, governing the procedure applying to petty infractions entered into force in October 2001.

The amendment to the Criminal Code and Code of Criminal Procedure of August 2001, referred to above, facilitates the adherence to the 1995 Convention on Simplified Extradition Procedures between the Member States and the European Union. The amendment to the Criminal Code also covers the *ne bis in idem* principle.

The 1999 Strategy on computerisation continues to be implemented gradually. The total number of computers within the judiciary increased to 7,500 by the end of 2000.

A number of corruption cases have been reported in the media especially since 2000. However, the number of formally reported cases is not significant in the light of a body of over

13,000 magistrates. This difference between perception and reported cases may reflect the influence of the far reaching immunity provisions for judges.

The executive, and the Minister of Justice in particular, continues to retain administrative and supervisory authority over the organisation and affairs of the judiciary. Judges frequently work for the Ministry of Justice while adjudicating cases, which risks compromising their independence.

### *Overall assessment*

While the legislative alignment in this area is encouraging and should be pursued, implementation still requires serious efforts and sufficient funding should be foreseen to enable this. Particular attention should be given to visa related issues, the protection at external borders and the implementation of the recently amended Aliens Law.

The amendment to the 1997 Law on Personal Data Protection has brought Poland more closely in line with the *acquis*. The Office of General Inspector for Protection of Personal Data received 1628 legal enquiries in 2000 and 1223 legal enquiries up to the end of September 2001. The ratification process for the Council of Europe Convention on the Protection of Individuals with regard to the Automatic Processing of Personal Data should still be completed.

With the 2001 amendments to the Aliens Act, Poland has largely completed the legislative alignment of its **visa policy** with that of the European Union. Poland has also terminated existing visa-free regimes with a large number of countries, and is preparing the imposition of visas on all countries necessary to ensure full alignment before accession. Visa-free regimes have still to be abolished in the cases of Belarus, Russia, Macedonia and Ukraine. The administrative capacity remains insufficient mainly due to lack of funding, despite further computerisation efforts. It is crucial for Poland to improve its administrative capacity and provide for the necessary funding in view of the very large number of visa applications expected.

As regards **external borders** and preparations for **Schengen**, steady significant progress is being made according to its Integrated Border Management Strategy. Constraints are essentially of a financial nature. However, Poland's remaining lack of visa alignment in respect of Russia, Belarus and especially Ukraine (see above) is proving detrimental to the effectiveness of the border management. This is especially important as the pressure is increasing on the external borders, especially on sea borders. "Economically motivated" smuggling of for example alcohol and cigarettes is promoting the growth of organised crime networks. While separation of passenger flows is being studied for Warsaw airport, similar steps need to be taken for the other international airports.

The organisational division between border crossing staff and the staff on "green" border surveillance may be hampering efficient implementation of border security especially at local level. In addition, the border guard are understaffed with over 30% of posts vacant and staff rotation relatively low.

As regards **migration**, the new Aliens Act and the setting up of a centralised office is a major step forward. Concerns exist as to the future capacity of the services as accession approaches and increasing numbers of illegal immigrants have to be catered for.

In respect of **asylum**, the new Aliens Act has effectively brought Poland up to the *acquis* level in legislation and organisation. The Council for Refugees is the appeal body in first instance and the Supreme Administrative Court in second instance. In both instances, the lodging of an appeal has a suspensive effect. Concerns exist as to the lengths of procedure and the administrative capacity but it is expected that the new provision on manifestly unfounded applications will significantly reduce these. A list of safe countries of origin is however still missing. Poland needs to make more substantial preparations for the application of the Dublin Convention. As far as administrative capacity is concerned, the number of trained staff should be increased in order to maintain a reasonable average length of procedure. The Border Guards also need to have regular training in this field since they are often the first to encounter the asylum seeker. Additional efforts are also required to facilitate the integration of recognised asylum seekers and refugees in Polish societies.

In the field of **police co-operation and the fight against organised crime**, further progress has been made on the legislative front with the adoption of the amendment to the Law on Police and the new Law on Collecting, Processing and Transferring of Criminal Information. The signing of the Association Agreement with Europol was also a very important achievement in this area. Although some very good progress has been made in staff motivation and salaries, many experienced officers are still leaving the force and there are doubts whether organised crime, a major problem in Poland, is under control. Law-enforcement agencies have made significant strides but still appear to be rather weak when it comes to detecting and gathering evidence in the economic area. Official data on economic crime in Poland still fail to reflect the full extent of the problem and the newly established Financial Intelligence Unit will need time to become a fully operational partner.

As noted already in last year's Regular Report, despite recent progress, the co-ordination of the various law-enforcement services remains difficult. However, it is hoped that the setting-up of the National Centre of Criminal Information (on the basis of the new Law on Collecting, Processing and Transferring of Criminal Information) will enhance such co-operation. Of more concern is the continuing involvement and even strengthened role of the State Security Office in day to day crime fighting. The secrecy requirements under which the office works make international police co-operation difficult. A reappraisal of the situation seems necessary.

Regarding the **fight against fraud and corruption**, most of the required legal instruments for efficient actions are in place. However, an element which is still missing in the Polish legislation relates to the responsibility of legal persons for a number of offences. The organisational framework and resources to counter corruption remain weak and inadequate. In general, the Polish Customs Administration does not have the necessary means to efficiently fight customs fraud. While it fulfils its powers of immediate control at the border posts, an important number of customs offences, revealed by the police, take place within the territory.

Furthermore, with regard to the protection of the financial interests of the European Communities, Poland needs to complete aligning its legislation with the *acquis*, and in particular with the 1995 Convention on the Protection of the Financial Interests of the European Communities and its Protocols.

The Council of Europe Civil Law Convention on Corruption and the Council of Europe Criminal Law Convention on Corruption remain to be ratified.

Poland is party to the international conventions listed under the *acquis* in the field of **drugs**, with the exception of the 1995 Agreement on Illicit Traffic by Sea. The twice amended Law on Counteracting Drug Addiction aims to complete Poland's efforts to reach legislative alignment in this area. Preparation works have been undertaken, but further efforts are needed to achieve the establishment of a National Focal Point, to co-operate with the Lisbon European Monitoring Centre on Drugs and Drug Addiction (EMCDDA). Meanwhile, the number of domestic drug users has increased consistently. Legislation on drug precursors is still not fully aligned with the *acquis*.

As regards **money laundering**, the newly inaugurated Financial Intelligence Unit will take some time to become fully effective and the issue of resources may have to be revisited in the light of the number of transactions to be processed.

While Poland has made some progress towards alignment with the *acquis* in the field of **customs co-operation**, there are still some matters of concern. Corruption is still a problem, and risk analysis is not sufficiently developed. Co-operation between Customs and Border Police is rather weak at national level but the agreement signed between the General Inspectorate of Customs and the Commander-in-Chief of the Border Guard in February 2001 regarding joint undertakings is a step in the right direction. This co-operation is sufficiently operational at the regional level.

As far as **judicial co-operation** is concerned, further efforts will be required in order to ensure the appropriate level of co-operation in civil matters, notably as regards mutual recognition and enforcement of judicial decisions, and direct Court-to-Court dealings in cross-border situations.

All the **human rights** legal instruments under the Justice and Home Affairs *acquis* have been ratified by Poland, with the exception of the 1981 Council of Europe Convention on the Protection of Individuals with regard to Automatic Processing of Personal Data, and Protocol 7 to the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms which lays down the *ne bis in idem* principle. The amendment of the Criminal Code in August 2001 to cover this principle is a positive development in this regard.

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

Steady progress has been achieved by Poland in the field of customs since the last Regular Report.

Alignment between Polish legislation and the **EC Customs Code and its implementing provisions** has been virtually completed through the Amendment to the Customs Code which entered into force in March 2001. This covers binding origin information, processing under customs control, temporary importation and re-exportation.

Regarding the **customs *acquis* outside the Customs Code**, an Ordinance of the Minister of Finance notably removed (as from January 2001) the use of customs clearance fees as a means of financing the Customs Service. The latter is now entirely supported by the Polish national budget. The Ordinance also brought the Customs Service directly under the control of the Ministry of Finance. During the reporting period, Poland incorporated the Convention on Customs Treatment of Pool Containers used in International Transport into its legislation.

The December 2000 amendment to the Customs Code Law, to the VAT law and to the excise law entered into force in March 2001

With regard to administrative capacity, The “Business Strategy for the Polish Customs Administration until 2002” is being implemented. The Polish Customs Administration is currently undergoing a comprehensive process of modernisation and development of computer-based management and control. A working group for further harmonisation of the Polish Customs Code was appointed by the President of the Central Board of Customs in September 2001. Its main objective is to adapt the Polish customs provisions to the new EC customs acquis issued in 2000-2001. A national IT system of monitoring tariff ceilings (INTA SAD) was implemented in April 2001. The computerised Integrated Customs Tariff system (ISZTAR) and legal information system (ALEXIS) are nearing completion. The remaining systems are still developing for: maintenance and distribution of data (CELESTA), finance and accounting (ZEFIR), Customs declaration (CELINA) and a transit system (NCTS).

To improve efficiency, an administrative rationalisation of local offices is taking place. New regional customs laboratories have been opened in Bialystok, Wroclaw and Koroszczyzn. Customs offices have been supplied with the latest customs inspection equipment, particularly in the case of the customs posts situated on Poland’s eastern and northern borders. In addition, a task force to prepare the customs administration for the management of the Common Agricultural Policy has been established.

A number of measures have been undertaken to improve the integrity of the Customs service. With regard to remuneration of personnel, wages have been increased both to address one of the causes of corruption and to attract more university graduates. In the continuing fight against corruption, the Customs Ethics Code was completed in September 2000. The Code has been supplemented by a “guide” of several dozen pages which contains comments on doubtful and debatable cases.

Smuggling continues to be a problem. In 2000 there was a 50% increase in the seizure of smuggled alcohol and a 66% increase in the seizure of smuggled tobacco. Legal proceedings were initiated in over 20 000 cases concerning smuggling attempts, three quarters of which took place on Poland’s eastern border.

### *Overall assessment*

With the entry into force in March 2001 of the Amendment to the Customs Code and the adoption of additional implementing measures, Poland has achieved a high level of legislative alignment, and on the basis of the clear indicators of progress in the implementation of the Business Strategy, it appears that it is making strides in improving its administrative capacity – although corruption remains a concern.

Poland is a party to the essential customs conventions. Increasing the speed of implementation of the computerisation systems with a view to interconnect with EC computerised systems is now crucial, and sufficient budgetary resources and logistical support need to be provided. In this respect, it must be emphasised that flawlessly functioning EC-compatible IT systems should be put in place at least one year before accession to the EU in order to guarantee interconnectivity with the EC customs computerised systems. Many border crossing points still lack modern equipment common in EU customs administrations. This applies particularly to laboratories and with respect to detection equipment, particularly for container screening.

In addition, Poland should continue its efforts to address the problem of waiting times at the borders, in collaboration with the partner countries. More frequent application of simplified

procedures would assist in this respect, as would greater co-operation with the public, although it should be noted that transparency has improved significantly. Contacts with hauliers and other economic players have been institutionalised.

Co-ordination with other border-related services, especially border guard and police, continues to be an area of concern. This co-ordination has been put on a structured basis by several interdepartmental agreements concluded during the reporting period. These now need to be put into action. The fight against customs fraud and economic crime also requires further attention.

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

Since the previous Regular Report Poland has continued to align with the *acquis* with regard to the common commercial policy and to co-ordinate positions and policies within the World Trade Organisation, in particular with regard to the preparation of the New Round. As regards the **common commercial policy**, upon accession Poland will be required to align its tariffs with those of the EC. Poland's applied tariffs currently average 15.1% (MFN) on all products, 34% on agricultural products, 18.3% on fishery products and 9.9% on industrial products. By comparison the EC tariffs<sup>26</sup> currently stand at 6.3% on all products, 16.2% on agricultural products, 12.4% on fishery products and 3.6% on industrial products.

There have been further steps to align with the *acquis*. In June 2001, the law on protection against an excessive imports of goods into the Polish customs territory entered into force. The legislation replaces an earlier law on protection against excessive imports and is intended to bring Polish legislation in line with the *acquis* and Poland's WTO obligations.

With regard to the *acquis* in the area of dual-use goods, new legislation on foreign trade in goods, technologies and services of strategic importance entered into force in January 2001 along with the necessary secondary legislation for its implementation. In particular, the law allows for the adoption of the "Index of Double-Use Goods and Technologies Exportable Under Permission"; creates a system of general and global permits to be obtained for the exportation, importation and transit of goods and technologies subject inspection and facilitates the inspection of goods not listed in the index as appropriate.

In the field of export credits, amendments to the law on Export credit came into force in January 2001. These are intended to further align Polish legislation with the *acquis*.

Concerning **bilateral agreements with third countries**, Poland has concluded negotiations on a Free Trade Agreement with the Republic of Croatia. There have been no further consultations with Morocco on the possibility of a Free Trade Agreement.

During the reporting period, Poland concluded a non-preferential agreement with the United States of America, which foresees a reduction of tariffs, in some cases to the level of the EC's common external tariff, for over one hundred products on an MFN basis. This agreement was negotiated without any prior consultation or information of the EU.

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<sup>26</sup> WTO bound tariffs after full implementation of all concessions including - where possible - estimated ad valorem equivalents of specific and compound tariffs.

Within CEFTA, the member countries, including Poland, signed Additional Protocol No. 8 on the updated version of the Pan-European cumulation of origin of goods (*see chapter 25 – Customs Union*).

With regard to **development policy**, co-operation and assistance, Poland is an active member of the OECD and it is adapting its development practices to the principles laid down by the Development Assistance Committee. For the implementation of **humanitarian aid** initiatives, the authorities co-operate with Non-Governmental Organisations established in Poland. Total bilateral and multilateral **external assistance** given by Poland to developing and Eastern countries in 2000 amounted to €44M.

### *Overall assessment*

Poland has achieved a generally high level of alignment with the *acquis*. Considerable effort will be necessary to ensure that short term pressures do not see Poland undertake measures which will take the country away from the *acquis* in the field of commercial policy.

Where alignment with the Community *acquis* on commercial policy is necessary, good progress has been made with regard to dual-use goods. In the case of export credits the developments of the past year should be built on to achieve full alignment with the *acquis*.

The EU and Poland have established a framework for co-operation regarding WTO issues both at ministerial and at departmental level. Poland has been supportive of EU policies and positions within the WTO framework. As regards the new round, Poland concurs with the EU on the need to launch a comprehensive trade round as soon as possible and shares the view that the results of work under the built-in agenda would be less substantial in its absence.

Poland is a signatory to the Information Technology Agreement. It is an observer to the WTO plurilateral agreements on Government Procurement and Civil Aircraft. Further co-ordination is needed to ensure the alignment of Poland's GATS commitments with the EC's commitments and MFN exemptions. Similarly with regard to the WTO Agreement on Trade in Textiles and Clothing (ATC), work is underway to use the third stage of integration under the ATC to align Poland's integration programmes on those of the EC, although some points remain outstanding.

In addition to its bilateral free trade agreements with Estonia, Latvia and Lithuania, the EFTA countries, Turkey and Israel, Poland is a member of CEFTA. In this area further progress is necessary in aligning with EC international trade obligations; further efforts are required to ensure that Poland keeps the Union fully informed about existing trade agreements or negotiations aimed at the conclusion of any new trade agreements with a third country. Any international agreement which is incompatible with the obligations of membership will have to be renegotiated or renounced prior to accession.

Poland will need to bring into conformity with the *acquis* the Bilateral Investment Treaty concluded with the US. While Poland has committed itself to meeting this obligation, concrete steps in this direction have been slow to materialise.

Poland's alignment with and future participation in the common commercial policy is administered by the Ministry of Economy. The administrative infrastructure which needs to be in

place as regards customs services is addressed under the chapter relating to the Customs Union (*Chapter 25 – Customs union*).

Development and humanitarian aid are administered by the Ministry of Foreign Affairs. For the purpose of Poland's future financial contribution to the European Development Fund, Poland's management of its national budget organisation and management of flow of funds to the EC budget is addressed under *chapter 29 – financial and budgetary provisions*.

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

Since the previous Regular Report Poland has continued to align its foreign policy with that of the European Union and has participated constructively in the framework of the Common Foreign and Security Policy.

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

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

As regards alignment with **EU statements and declarations**, Poland has regularly aligned its positions with those of the Union and, when invited to do so, has associated itself with the Union's **joint actions and common positions**. Since October 2000, together with the other Central and Eastern European countries, Poland has associated itself with a common action of the EU concerning the contribution of the EU to the fight against accumulation and the destabilising proliferation of lightweight and small calibre firearms. It also associated itself with 8 EU common positions, including 3 on the Federal Republic of Yugoslavia.

Since the 2000 Regular Report progress has been made in adopting the necessary legislative framework for effective participation in the CFSP. Poland continued to basically comply with **international sanctions and restrictive measures** imposed by the UN or the EU. A new dual-use exports law compatible with EU regulations entered into force in January 2001. Related legislation on the administration of international trade was introduced in May 2001.

During the reporting period, Poland played an active role in the first Capacities Commitment Conference in November 2000, earmarking a brigade of up to 2500 troops to be part of EU Rapid Intervention Force missions from 2002.

Relations with Russia have considerably improved with a visit from the Russian Prime Minister and an exchange of visits of Foreign Ministers. As regards, specific co-operation related to the Kaliningrad enclave, in April 2001 the Governor of the Kaliningrad district paid a visit to Poland. Also in April, the Kaliningrad region opened an official mission in Olsztyn, the capital of the Warminsko-Mazurskie voivodship.



Poland continued to participate actively in regional co-operation fora such as the Council of the Baltic Sea States, the Visegrad group and the Central European Initiative. It has supported the Stability Pact for south-east Europe.

As for defence co-operation, Poland has participated in a series of UN (Lebanon, Syria/Golan Heights, Bosnia, Kosovo) and OSCE peacekeeping and observer operations. In this context Poland currently has over 1500 troops on peacekeeping duties in the Balkans.

To further strengthen the coherence of Poland's foreign policy with the EU's CFSP, the Polish Ministry for Foreign Affairs created the post of a Policy and Security Committee interlocutor in 2001. A Liaison Officer to the Military Committee has been appointed.

### *Overall assessment*

Poland's alignment with the *acquis* in the CFSP is overall satisfactory. As the *acquis* in the field of foreign policy and security develops further, Poland should maintain the orientation of its foreign policy in line with that of the Union.

Following the Kosovo crisis, Poland showed active support for and interest in the Stability Pact. It participated in the SFOR peacekeeping operations in Bosnia-Herzegovina and in KFOR in Kosovo.

Poland continues to participate in regional co-operation schemes, such as the structure established with Lithuania, Latvia and Estonia, and the trilateral co-operation with Germany and Denmark. In these frameworks, joint battalions are functioning. Poland also co-operates closely with France and Germany in the context of the Weimar Triangle, in which common exercises are being organised on a rotating basis. In addition, Poland has also developed bilateral defence co-operation agreements with Ukraine, and with Lithuania. In both cases, the main provisions of the agreements concern co-operation in peacekeeping missions and common undertakings (exercises and missions).

Poland participates actively in the discussions related to the EU Action plan on the Northern Dimension. In terms of regional political dialogue, Poland continues to participate actively in regional co-operation forums. Particular effort is made to ensure contact with and between regional authorities, especially as regards cross-border co-operation, also with EC assistance, in the context of the 14 Euroregions established along all the Polish borders. Poland has sought to strengthen its bilateral relations with neighbouring European partners. In particular, contacts at the highest political level continue to be very frequent with Lithuania and Ukraine.

Poland has aligned itself to the content and principles contained in the EU Code of Conduct on Arms Exports, but there is concern that it needs to make more effort to ensure implementation of its criteria.

Concerning the administrative capacity to implement the provisions relating to the CFSP, Poland has a well-staffed Ministry of Foreign Affairs. However, the current structure within the Ministry of Foreign Affairs still does not contain a position equivalent to that of political director. This will require revision.

The Ministry of Foreign Affairs is connected to the Associated Correspondents' Network information system through which the EU communicates within the CFSP with the associated partners.

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

During the period covered by this Regular Report, significant progress has been made in this area

The amendment to the Public Finance law to establish a **Public Internal Financial Control (PIFC)** system was adopted in September 2001. This Act introduces financial management and control systems. The establishment and maintenance of these systems is the responsibility of government spending centres, ministries, agencies and the like, while the central co-ordination unit in the Ministry of Finance will provide guidance. The new concept of a functionally independent internal auditor in such spending centres has also been appropriately introduced. The Ministry of Finance, through the newly established post of an equally independent "General Internal Auditor" to be occupied by a professional and non-political senior civil servant, will be responsible for the development and co-ordination of harmonised methodology relating to both financial management and control systems and internal audit services. This is therefore an important step forward. The new Act will come into force in January 2002 and should accelerate the implementation of the new PIFC system, for which a policy paper is being drafted.

There have been no developments in the area of **external audit**.

The adoption of the above amendment is also a step forward with regard to the **control of structural action expenditure**. With regard to EC pre-accession funding, some progress has been made towards the accreditation of the SAPARD Paying Agency and the National Fund for the purposes of the SAPARD programme. Sector Authorising Officers have been appointed for the management of ISPA funds. However, little progress has been achieved in the area of control and audit of ISPA and Phare funds, in particular with regard to preparations for applying the Extended Decentralised Implementation System (EDIS) procedures.

Regarding the **protection of EC financial interests**, amendments to the Law on fiscal control and customs inspection which entered into force in December 2000 now provide for the right of representatives of EC bodies to participate in control activities, with the authorisation of the General Inspectorate of Fiscal Control and the General Customs Inspectorate. With the help of OLAF, an anti-fraud unit has been established within the General Customs Inspectorate, but this unit has yet to become fully operational. In September a "High Level Working Group for Protection of EU's interests" was established within the task force for co-ordination of the fight against economic crime.

### ***Overall assessment***

While Poland has well advanced with regard to the legislative alignment in the area of Public Internal Financial Control, further substantial efforts are required in order to start and develop the process of implementing sound financial control systems.

First and foremost, this requires the accelerated implementation of the new PIFC system. This in turn will depend upon both the rapid adoption of the necessary secondary legislation and (on the basis of a well-defined strategy) the appropriate strengthening of administrative capacities, including appropriate training and equipment. The concept of functional independence will need to be fully implemented and this will need to be reflected in operational and organisational terms in the spending centres. Considerable training efforts will be required to make the new system effective.

With regard to external audit, the Supreme Chamber of Control (SCC) is an independent, trustworthy and highly professional organisation. However, the overall operational capacity of the Supreme Chamber would be further enhanced by ensuring compliance with internationally accepted external audit standards.

With regard to the control of structural action expenditure, efforts need to be made in order to enhance Poland's capacity for the management of pre-accession funding and future structural funds. Substantial progress is needed on the implementation of the PIFC concept to apply EDIS, and the relevant National Fund and Implementing Agency staff resources and skills will need to be upgraded and expanded to facilitate this. There is an urgent need for further development of audit trails for pre-accession funds.

With a view to ensuring suitable protection of EC financial interests, Poland needs to further align its legislation to allow competent EC bodies to carry out on-the-spot checks and to develop adequate administrative capacity to implement the *acquis*, including the ability of Poland's law enforcement bodies and judiciary to address cases where EC financial interests are at stake. Poland should further develop the anti-fraud unit and ensure that it becomes fully operational. The High Level Working Group is expected to play a role in developing the appropriate mechanisms for protecting EC financial interests

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

Poland has made limited progress over the reporting period.

Concerning the **national budget and EC co-financed measures** there have been no developments since the last regular report.

As regards **Own Resources and administrative infrastructure**, legislation was adopted in October 2000 which sets out a revised method for calculating GDP. This brings Polish practice closer to the European System of Accounts (ESA 95) standards, although for the statistical calculations of the GNP resource some inconsistencies remain. The President of the Central Customs Office has been active in securing agreements with other bodies in the administration, the Office for State Protection and the General Customs Inspector with a view to preventing revenue-reducing violations of the customs laws. The Ministry of Finance has taken the initial decision on the delegation of tasks between bodies with regard to participation in the EC's own resources system

### ***Overall assessment***

The overall assessment in last year's Regular Report remains valid: there has been a moderate level of alignment with the *acquis* to date.

The current budgetary legislation, passed in late 1998, requires further amendment and needs to be supplemented by stronger regulations and administrative procedures to meet the EC standards. The process of consolidating the budget should be continued, with a reduction in the number and size of the extra-budgetary funds and the standardisation of the rules of financial management. The procedures for multi-annual budgeting, within a medium-term expenditure framework, require development. Capital and operational budgeting for the preparation and the implementation of expenditure programmes need to be more completely integrated. In parallel, the capacity for the appraisal, monitoring and evaluation of programmes and projects should be increased. As noted elsewhere, the central/local financial relationship needs to be clarified, and modifications to the current regulations probably need to be put in place.

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

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

With regard to the control of future EC Own Resources, Poland should continue its efforts to set up effective instruments to combat VAT and customs duty fraud so that the financial interests of the EC can be protected.

Where the first steps towards the co-ordination of the various authorities involved in the application of the system of own resources have been taken these need to be built on with vigour so as to ensure the necessary level of co-ordination for the efficient operation of the system.

In addition to the need for central co-ordination for the proper collection, monitoring and payment and control of funds to and from the EC budget, administrative capacity should be strengthened in the context of the relevant policy areas described elsewhere in this report, such as Financial Control, Customs, Taxation, Regional Policy and Agriculture.

The capacity to calculate in a reliable, accurate and transparent way the level of customs duties and VAT collected by Poland and to calculate Poland's GNP needs to be improved to allow calculations to be made in a harmonised and controllable way. Adequate administrative capacity to duly collect and transfer in a timely manner all Own Resources to the Community budget, building on the Own Resources Unit established in the Ministry of Finance, will need to be established prior to accession, as well as the ability to accurately and regularly report to the Commission on the situation with regard to each of the types of own resources.

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

Applicant countries are required to translate the various legal texts constituting the *acquis* into their national languages by the time of their accession. Primary and secondary legislation alone represents a considerable volume of acts, roughly estimated at 60,000-70,000 pages of the Official Journal. To help the candidate countries in this process, assistance is being provided

under the Phare programme. With the help of TAIEX, a centralised Translation Co-ordination Unit has been created in each of the ten candidate countries of Central and Eastern Europe.

The work of translating all the *acquis communautaire* into Polish was launched in 1996, and in July 2000 a Translation Department was created in the office of the Committee for European Integration to rationalise and speed up the translation and verification procedure. The department currently has 15 members of staff. Its effect on the process has been marked: over the last year, the number of pages translated and the number of pages of verified translation have both increased by around 50%. As of September 2001, 48 000 pages of *acquis* had been translated, of which 8 300 had been verified.

Without prejudice to the outcome of the accession negotiations, significant additional efforts will be required in the immediate future if Poland is to meet the timetable set out in its National Programme of Preparations for Membership. This states that " a vast majority of the translation is expected to be completed in 2001", with the verification to be completed 6-7 months before the date of accession

Due attention must also be given to the training of conference interpreters.

### **3.3. General evaluation<sup>27</sup>**

The reporting period has seen intensive work on the adoption of legislation. In some areas there have been notable breakthroughs with regard to the adoption of primary legislation. In others, there has been a steady consolidation of the achievements of 2000 through the adoption of the necessary secondary legislation on the basis of the framework laws adopted the previous year. This process of consolidation and putting flesh on the legislative bones is vital in terms of the future ability to implement the *acquis* and one where efforts will have to be further intensified. The need for further effort applies even more to the strengthening of the administrative capacity to implement the *acquis*. There have been further developments in this regard, but the divergence between progress in this area and in adopting legislation remains great.

With regard to the *internal market*, efforts in a number of areas have, following the earlier adoption of the framework legislation, focused on the secondary legislation necessary to implement the *acquis* in these areas, in particular standards and certification and state aid. Both of these are areas in which Poland's existing obligations necessitate implementation prior to the date of accession, and where there has been limited progress. In the case of standards and certification considerable efforts are required to develop the necessary administrative capacity. This is not the case in competition where the capacity exists but where implementation has been limited. There has been progress in the elements of food safety which relate to the internal market through the adoption of the framework law but substantial efforts remain in adopting secondary legislation and developing the administrative capacity. The industrial property law has been adopted although short term difficulties remain with regard to data exclusivity arising out of the new pharmaceutical law. While there has been some improvement in administrative structures, efforts need to be intensified with an emphasis on enforcement.

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<sup>27</sup> See "Making a success of enlargement: Strategy Paper and Report of the European Commission on the progress towards accession by each of the candidate countries", COM (2001) 700.

Poland's track record in the free movement of services and capital continues to be good and further work has been undertaken to strengthen the administrative capacity in these domains. There has been considerable legislative progress in the area of public procurement and some progress in terms of the free movement of persons. Further efforts will be necessary to ensure the smooth integration of Poland into the internal market.

In the telecommunications area implementation of the existing legislation has been gradual. There has been limited progress in further aligning rates of indirect taxation and further work is required to ensure that the systems are in place to allow for the exchange of computerised data between the EC and Poland.

With regard to *EMU*, there have been no legislative developments towards reinforcing the independence of the National Bank.

There has been some progress in *industrial policy*. Necessary steps have been taken to resolve outstanding issues in the steel sector but these will need to be followed through with vigour.

In the *agriculture* sector, a coherent strategy for the sector is still lacking. The substantial transformation which is needed, in terms of policy, legislation and structures has not yet taken place in either the agriculture or *fisheries* sectors. In both sectors there has been some progress with regard to primary legislation, notably in the case of veterinary legislation for agriculture. The administrative capacity remains extremely weak for fisheries and considerable weaknesses have become apparent in agriculture in particular with regard to the Integrated Administration and Control System (IACS) and border inspection, both in the veterinary and phyto-sanitary fields.

In the *environment* sector significant progress has been made in terms of primary legislation. The energy and in particular the transport sectors have seen some progress. In all three sectors considerable further work is also required to strengthen the administrative capacity. This is particularly the case for the environment where regional as well as national structures need to be reinforced.

There have been few developments with regard to regional policy. In the social field, progress has focused on public health legislation, while enforcement remains a matter of concern most notably concerning occupational health and safety. Additional efforts are required in this respect, in particular to strengthen the Labour Inspectorates. Progress continues in justice and home affairs, especially with regard to the border guards and border management, where the Customs business strategy previously adopted is being implemented. Efforts have been made to improve the situation with regard to law enforcement bodies dealing with the fight against organised crime, in particular the police services. These need to be intensified. Further efforts are required in the customs area to align with the *acquis* and to ensure the establishment of an effective implementation capacity. Significant legislative progress has been noted in terms of internal financial control, the challenge will now be to put in place the necessary control mechanisms.

Poland has made further progress in aligning its legislation notably through secondary legislation. As has previously been noted this effort needs to be matched, in order to adapt and strengthen the structures required with a view to accession. In a number of sectors the level of

administrative capacity lags behind. Further efforts are also required in establishing the necessary administrative capacity to ensure the sound, efficient and controllable management of EC funds.

This disparity between progress in the adoption of legislation and the reinforcement of administrative capacity is reflected in the extent to which the short-term priorities of the accession partnership have been addressed. There has been further progress in meeting the *acquis* based elements. Continued efforts are needed to set up or strengthen administrative capacities across the board notably on certification, agriculture, fisheries and regional policy, the social field, customs and justice and home affairs.

Poland has started to make progress in meeting all the medium-term priorities. Progress has been varied, with the most obvious developments relating to the legislative elements of the priorities. This will provide the basis for the development of the necessary administrative capacity to ensure implementation. Efforts commenced in this regard will need to be intensified.

## C. Conclusion<sup>28</sup>

In its 1997 Opinion, the Commission concluded that Poland fulfilled the political criteria. Since that time, the country has made considerable progress in further consolidating and deepening the stability of its institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities. Over the past year, further efforts have been made in this direction. Poland continues to fulfil the Copenhagen political criteria.

In the area of public administration progress in the implementation of the 1999 Civil Service Law continues. Further efforts are required to speed up the pace of implementation and ensure that an independent, well trained and motivated civil service is in place by the time of accession.

Poland has continued to make progress in reforming the judiciary and in reducing the most pressing bottlenecks. The pace of reform needs to be accelerated and issues relating to judicial immunity further addressed.

Additional steps have been taken, including the adoption of much needed legislation, in the fight against corruption, which remains a source of serious concern. The focus must now be on ensuring a coherent approach to corruption, implementing the legislation and above all on developing an administrative and business culture which can resist corruption.

There has been some progress in establishing the legal framework for equal opportunities and further work needs to be undertaken in this regard.

A new element which has come to light has been the abuse of custody, which has been reported in certain cases. This needs to be addressed and the first steps have already been taken in this respect.

The reinforcement of administrative and judicial capacity, improving the operation of the judiciary and its training in EC law were Accession Partnership priorities. Work is underway but further efforts are needed.

Poland is a functioning market economy. Provided that it continues and intensifies its present reform efforts in a consistent policy environment, it should be able to cope with the competitive pressure and market forces within the Union, in the near term.

In the first part of the reporting period, it maintained adequate macroeconomic stability, and its growth performance was again solid, before growth experienced a significant slowdown starting in the second half of last year. Privatisation continued and there has been further restructuring in sensitive sectors such as the coal and power industries. The legal framework for business has been strengthened with the adoption of the new bankruptcy law and the new Commercial Code.

The sharp decline in growth reflects in large parts problems in the macroeconomic policy mix – the co-ordination of fiscal and monetary policy. Already high unemployment has risen further

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<sup>28</sup> See "Making a success of enlargement: Strategy Paper and Report of the European Commission on the progress towards accession by each of the candidate countries", COM (2001) 700.



and the budget deficit is on a rising path. Fiscal adjustment must take place in order to contribute to a more suitable policy mix and not to endanger the medium-term sustainability of public finances. This would also help to reassure markets and boost business confidence. The authorities should speed up privatisation and restructuring in some key sectors, such as in some traditional industries or in agriculture. They should proceed with clear plans to remove obstacles to market exit and indirect state aid in the form of tax or social security arrears, which hinder the functioning of market forces. The implementation of bankruptcy procedures must improve. Further measures need to be taken to improve Poland's infrastructure and the response of the labour markets to changing economic conditions.

The reporting period has seen intensive work on the adoption of legislation. In some areas there have been notable breakthroughs with regard to the adoption of primary legislation. In others, there has been a steady consolidation of the achievements of 2000 through the adoption of the necessary secondary legislation on the basis of the framework laws adopted the previous year. This process of consolidation and putting flesh on the legislative bones is vital in terms of the future ability to implement the *acquis* and one where efforts will have to be further intensified. The need for further effort applies even more to the strengthening of the administrative capacity to implement the *acquis*. There have been further developments in this regard, but the divergence between progress in this area and in adopting legislation remains great.

With regard to the *internal market*, efforts in a number of areas have, following the earlier adoption of the framework legislation, focused on the secondary legislation necessary to implement the *acquis* in these areas, in particular standards and certification and state aid. Both of these are areas in which Poland's existing obligations necessitate implementation prior to the date of accession, and where there has been limited progress. In the case of standards and certification considerable efforts are required to develop the necessary administrative capacity. This is not the case in competition where the capacity exists but where implementation has been limited. There has been progress in the elements of food safety which relate to the internal market through the adoption of the framework law but substantial efforts remain in adopting secondary legislation and developing the administrative capacity. The industrial property law has been adopted although short term difficulties remain with regard to data exclusivity arising out of the new pharmaceutical law. While there has been some improvement in administrative structures, efforts need to be intensified with an emphasis on enforcement.

Poland's track record in the free movement of services and capital continues to be good and further work has been undertaken to strengthen the administrative capacity in these domains. There has been considerable legislative progress in the area of public procurement and some progress in terms of the free movement of persons. Further efforts will be necessary to ensure the smooth integration of Poland into the internal market.

In the telecommunications area implementation of the existing legislation has been gradual. There has been limited progress in further aligning rates of indirect taxation and further work is required to ensure that the systems are in place to allow for the exchange of computerised data between the EC and Poland.

With regard to *EMU*, there have been no legislative developments towards reinforcing the independence of the National Bank.

There has been some progress in *industrial policy*. Necessary steps have been taken to resolve outstanding issues in the steel sector but these will need to be followed through with vigour.

In the *agriculture* sector, a coherent strategy for the sector is still lacking. The substantial transformation which is needed, in terms of policy, legislation and structures has not yet taken place in either the agriculture or *fisheries* sectors. In both sectors there has been some progress with regard to primary legislation, notably in the case of veterinary legislation for agriculture. The administrative capacity remains extremely weak for fisheries and considerable weaknesses have become apparent in agriculture in particular with regard to the Integrated Administration and Control System (IACS) and border inspection, both in the veterinary and phyto-sanitary fields.

In the *environment* sector significant progress has been made in terms of primary legislation. The energy and in particular the transport sectors have seen some progress. In all three sectors considerable further work is also required to strengthen the administrative capacity. This is particularly the case for the environment where regional as well as national structures need to be reinforced.

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Poland has made further progress in aligning its legislation notably through secondary legislation. As has previously been noted this effort needs to be matched, in order to adapt and strengthen the structures required with a view to accession. In a number of sectors the level of administrative capacity lags behind. Further efforts are also required in establishing the necessary administrative capacity to ensure the sound, efficient and controllable management of EC funds.

This disparity between progress in the adoption of legislation and the reinforcement of administrative capacity is reflected in the extent to which the short-term priorities of the accession partnership have been addressed. There has been further progress in meeting the *acquis* based elements. Continued efforts are needed to set up or strengthen administrative capacities across the board notably on certification, agriculture, fisheries and regional policy, the social field, customs and justice and home affairs.

Poland has started to make progress in meeting all the medium-term priorities. Progress has been varied, with the most obvious developments relating to the legislative elements of the

priorities. This will provide the basis for the development of the necessary administrative capacity to ensure implementation. Efforts commenced in this regard will need to be intensified.

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

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

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

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

### 1. Accession Partnership

In the following assessments the main sub-headings are indicated in bold type and further key concepts taken from the Accession Partnerships highlighted in italics<sup>29</sup>

#### *Short-term priorities*

**Economic Criteria:** *economic stability* has largely been achieved although some concerns exist with regard to the current level of unemployment and the situation with regard to government finances. On the ground *steel restructuring* continues to take place primarily through further job losses in the sector. A revised national restructuring plan has been prepared but no substantive progress with regard to the restructuring and privatisation of the largest steel mills. This aside, the process of *privatisation* has continued. There has been some, progress towards improving the functioning of the *land register* and in *improving bankruptcy procedures*. **There has been good progress in meeting a number of the priorities but others notably steel and the land register, require considerable further efforts.**

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

There has been further progress as concerns the legislative elements of upgrading *industrial and intellectual property rights* however, much remains to be done on the *administrative* aspects. There has been good progress in the adoption or amendment of primary legislation, the existing law on standardisation has been amended and the new law is now awaited. The legal conditions have been met for the establishment of an administrative framework in line with the

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<sup>29</sup> For the detailed text of the short and medium term priorities established in the 1999 Accession partnership please refer to Council Decision 1999/851/EC, OJ L 335, 28/12/1999.

*acquis*. There has been some progress in the transposition of *new approach directives*, but rather less with regard to chemicals framework legislation or the *alignment of traditional technical legislation*.

There has been some limited progress in meeting the priority concerning *free movement of capital*. With regard to *competition* there has been further progress as concerns the primary and secondary legislation. *Administrative structures* still require reinforcement. The alignment of the Special Economic Zones remains outstanding as far as the existing regime is concerned.

The *Telecommunications* regulatory authority put in place but issues of implementation remain problematic. The priority relating to *audio-visual* issues has not yet been met. The priority for *taxation* has been partially met with a change in the excise regime for cigarettes and a gradual convergence of duties on spirits. The adoption of the *Custom's* strategy continues. The application of the customs code remains variable. **There has been further progress in meeting the legislative aspects of a number of priorities. However where implementation and administrative capacity featured in the priority progress remains less marked.**

**Agriculture:** The *Rural Development Plan* is being slowly implemented; *tariff barriers* have to some extent been reduced although *non tariff barriers* have been raised, *competitiveness* remains an issue which requires considerable further attention; there has been some limited progress with regard to both alignment and the reinforcement of *inspection arrangements*; there has been some limited progress in the rationalisation and up-grading of *testing and diagnostic facilities*. There has been some *alignment of veterinary and phytosanitary primary legislation* **Overall there has been limited progress in meeting the short-term priorities.**

**Transport:** **There has been some progress in meeting the priority on maritime safety standards.**

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

**Employment and Social Affairs:** a *national employment strategy* was prepared and the *joint employment policy review* launched with the Commission. The "Joint Assessment of Employment Policy Priorities" was signed by both sides in January 2001. There has been no progress in meeting the priority concerning the strengthening of the *social partners* through the bi-partite dialogue. **Progress remains limited in meeting this priority.**

**Environment:** there has been further significant progress in the *transposition and implementation* of specific directives notably water and waste. There has been little progress with regard to implementation of the *acquis*. There has been progress in developing *financial investment* plans and the content of *Environmental Impact Assessment* directive has been adopted through the Act on Environmental Impact Assessment. There has been little progress made in strengthening the environmental administration and its *enforcement capacity* both at

national and regional level. **While further legislation has been adopted, , there has been limited progress in meeting the administrative capacity elements of this priority.**

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

**Reinforcement of administrative and judicial capacity, including the management and control of EC funds:** there has been some progress in meeting this priority in particular with regard to *the Rural Development Plan* which has been adopted. However, regarding the National Development Plan virtually no progress has been made at all. The legislative framework for *external financial control* is almost complete. With regard to *internal financial control* further work is required on the *audit trail, procurement rules and the establishment of a payments agency for SAPARD*. Considerable further efforts are required regarding the sound and timely implementation of EC funded programmes. **To meet this priority further legislative work and a great deal of institution building is required**

#### *Medium-term priorities*

**Economic criteria:** further efforts are required to establish the *fiscal surveillance procedure*, with regard to *competitiveness* further progress has been made in SME policy the promotion of exports and through a range of legislation in the development of the *legal and commercial environment*. *Coal and steel* restructuring, *social insurance* reform and the consolidation of the *land market*, including the property register are all works in progress. **There has been some progress in meeting this priority**

**Internal Market:** while new *public procurement* legislation has been adopted this does not meet the priority of abolishing the national preference clause by 2002. Some progress has been made to adopt the necessary secondary legislation to transpose *new approach directives* although the process of implementation is still some way off and further efforts are required with regard to *market surveillance*. Efforts have continued to strengthen *regulatory bodies* in the area of capital movements, the remaining restrictions of *short term capital* movements remain in place. Further efforts have been made to develop monitoring and regulatory bodies in the field of *services*. Some progress has been made with regard *mutual recognition of diplomas* so as to facilitate free movement of persons. The new *state aid* legislation has been supplemented by the appropriate secondary legislation and lays down the basis for the strengthening of the relevant authority, further efforts are required to improve implementation. The regulatory authority foreseen by the *telecommunications* law has commenced operations. With regard to both *consumer protection* and *customs* initial efforts have been made to reinforce the institutional capacity but these require intensification. **There has been initial progress in meeting this priority**

**Agriculture:** some effort has been made to commence implementation of the *rural development plan*. With regard to the administrative structures for rural development and for the *Common Agricultural Policy* management mechanisms considerable further efforts are required further progress has been made in the upgrading of *meat and dairy* facilities. Substantial efforts are required in order to implement *phytosanitary* and *veterinary* administration border inspection posts development programme; very little progress has been made with regard to completing the system of *animal identification*; implementing *quality control* system (Hazard Analysis Critical Control Point), animal waste treatment, modernising meat and dairy plants residue and zoonosis *control programmes*; implementing *national laboratory plan* for testing and diagnostic facilities. **There has been limited progress in meeting this priority**

**Fisheries: little if any progress has been made in meeting any of the priorities concerning, legislation, administrative capacity or resources.**

**Energy:** some preparatory work has been undertaken with regard to preparation for the *Internal market* and the amendment of legislation on *oil stocks* has taken place. **There has been some progress in meeting this priority**

**Transport:** there have been some developments in the sector mainly in terms of progress in the restructuring of the railways sector, with some improvements in administrative capacity in specific sub sectors; with legislative advances in particular focused on road transport. In the area of *maritime safety* there has been further legislative alignment; **There has been some progress in meeting this priority**

**Employment and Social Affairs:** There has been some progress in transposing and implementing legislation in the field of *occupational health and safety*. Despite efforts the *labour law* has not yet been adopted, there has been no legislative progress with regard to *equal treatment of women and men*, and some legislative progress in the area of public health, notably concerning alcohol; considerable further efforts are required to reinforce the related administrative structures and those required for the co-ordination of *social security*. **There has been some progress in meeting this priority with the exception of equal treatment where there has been almost no progress.**

**Economic and Social Cohesion:** there has been continued progress in developing *regional structures* and the development of *national policy*. Further efforts are required with regard to the organisation of administrative capacity to deal with *structural policies*; considerable further efforts are required for the establishment of the National Development Plan; the creation of the ministry for regional development was an important step forward towards improved *ministerial co-ordination*. Following legislative developments, efforts are now required to implement the improved *budgetary system* so as to achieve standards commensurate with structural funds standards, including appraisal and evaluation. **There has been good progress in meeting this priority**

**Environment:** significant progress has been made with regard to legislation in the areas of *chemicals* and *genetically modified organisms*, further legislation is required in the areas of noise and waste. Further efforts are required to improve both *water* and *air monitoring*. More needs to be achieved with regard to the integration of *sustainable development* principles into other sectoral policies. **There has been good progress in meeting the**

**legislative aspects of this priority and limited progress with regards the administrative capacity elements.**

**Justice and Home Affairs:** further progress has been made with regard to the administrative capacity of the *judiciary*. *Border control* continues to improve where the necessary investments have been made, but this effort needs to be intensified along the future borders of the Union. Efforts continue with regard to the fight against *organised crime*. Alignment of *visa policy* has progressed slowly. Efforts have been made concerning *police co-operation* with Europol. The alignment of *asylum and migration* policy, bolstered by the adoption of the Aliens act, and police co-operation continues apace. The integrated *border strategy* is being implemented. **There has been good progress on the border aspects and some progress on the other elements of this priority**

**Reinforcement of administrative and judicial capacity, including the management of EC funds:** A new procedure has been developed for the accelerated adoption of *EC legislation*, efforts have been made concerning *statistical capacities*. The legislation if not the administrative capacity for *internal financial control* has been put in place. Further efforts are required with regard to the *anti-fraud* unit and the strengthening of public financial control systems. Progress has been made in ensuring greater *co-operation* within the judicial system and in providing training in *Community law*. There has been some further progress in the reinforcement of *institutions* but further, efforts are required. **There has been some progress in meeting this priority**

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

The 2000 regular report noted the considerable efforts made by the Polish Administration to improve the NPAA or National Programme for the Preparation of Membership (NPPM), as it is termed in Poland. The revised NPPM was adopted by the Polish Council of Ministers in June 2001 and the document represents further incremental progress over the 2000 version of the document.

The strengths of the 2000 document have been built on, notably the uniform tabular style for the report which brings all the relevant information together in a more user friendly manner, coherence between the NPPM and commitments made in the negotiations and the prioritisation of actions.

Efforts have also been made to address the weaknesses of the NPPM, the lack of information on institutional arrangements and the limited information on financial aspects. There has been an improvement in these areas but not to the extent of the other elements of the report. Bearing in mind the importance of these two elements for the effective implementation of the *acquis* further attention will be required in future revisions.

As noted in the 2000 regular report the tendency remains for the NPPM to reflect what has already happened or at least has already been decided, for example in the context of Phare programming, rather than looking towards future areas of work. This will for certain chapters in particular limit the effectiveness of the document as a policy tool for programming future assistance through Phare, Ispa and Sapard.



## **Annexes**

***Human Rights Conventions ratified by the Candidate Countries,  
30 September 2001***

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

X = Convention ratified

O = Convention **NOT** ratified

BG=Bulgaria; CY=Cyprus; CZ=Czech Republic; EE=Estonia; HU=Hungary; LV=Latvia; LT=Lithuania; MT=Malta;

PL=Poland; RO=Romania; SK= Slovak Republic; SV=Slovenia; T=Turkey

## Statistical data

	1996	1997	1998	1999	2000
<b>Basic data</b>	<b>in 1000</b>				
Population (average)	38.618	38.650	38.666	38.654	38.646
	<b>in km<sup>2</sup></b>				
Total area	312.685	312.685	312.685	312.685	312.685
<b>National accounts</b>	<b>1000 Mio Zloty</b>				
Gross domestic product at current prices	387,8	472,4	553,6	615,1	685,6
	<b>1000 Mio ECU/euro</b>				
Gross domestic product at current prices	113,3	127,1	141,3	145,5	171,0
	<b>ECU/euro</b>				
Gross domestic product per capita <sup>30</sup> at current prices	2.900	3.300	3.700	3.800	4.400
	<b>% change over the previous year</b>				
Gross domestic product at constant prices (nat. currency)	6,0	6,8	4,8	4,1	4,0
	<b>in Purchasing Power Standard</b>				
Gross domestic product per capita <sup>31</sup> at current prices	6.600	7.300	7.700	8.200	8.700
Structure of production	<b>% of Gross Value Added<sup>32</sup></b>				
- Agriculture	6,4	5,5	4,8	4,0	3,3
- Industry (excluding construction)	30,1	29,3	27,6	27,1	27,8
- Construction	7,4	7,9	8,7	8,8	8,4
- Services	56,1	57,2	59,0	60,1	60,5
Structure of expenditure	<b>as % of Gross Domestic Product</b>				
- Final consumption expenditure	79,7	79,8	79,0	80,0	80,4
- household and NPISH	63,3	63,7	63,6	64,4	65,0
- general government	16,4	16,0	15,4	15,5	15,4
- Gross fixed capital formation	20,7	23,5	25,1	25,5	25,3
- Stock variation <sup>33</sup>	1,1	1,1	1,0	0,9	1,2
- Exports of goods and services	24,3	25,5	28,2	26,1	31,2
- Imports of goods and services	25,8	29,8	33,4	32,5	38,1
<b>Inflation rate</b>	<b>% change over the previous year</b>				
Consumer price index <sup>34</sup>	19,9	14,9	11,8	7,2	10,1
<b>Balance of payments</b>	<b>Mio ECU/euro</b>				
<b>-Current account</b>	-2571	-5065	-6156	-11716	-10788
-Trade balance	-5739	-8661	-11450	-14142	-14283
<i>Exports of goods</i>	21703	27099	28960	28205	30648
<i>Imports of goods</i>	27442	35760	40410	42346	44931
-Net services	2681	2797	3761	1296	-1827
-Net income	-847	-996	-1051	-948	-825
-Net current transfers	1334	1794	2584	2077	1822
<i>-of which: government transfers</i>	65	106	391	204	282
- FDI (net) inflows	3542	4328	5677	6821	8996
<b>Public finance</b>	<b>in % of Gross Domestic Product</b>				
General government deficit/surplus	-2,3	-4,3	-2,4	-2,1	-3,5

<sup>30</sup> Figures have been calculated using the population figures from National Accounts, which may differ from those used in demographic statistics.

<sup>31</sup> Figures have been calculated using the population figures from National Accounts, which may differ from those used in demographic statistics.

<sup>32</sup> Including FISIM.

<sup>33</sup> These figures include changes in inventories, acquisitions less disposals of valuables and the statistical discrepancy between the GDP and its expenditure components.

<sup>34</sup> These figures include changes in inventories, acquisitions less disposals of valuables and the statistical discrepancy between the GDP and its expenditure components.

General government debt	:	46,9	42,9	44,4	40,9
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<b>Financial indicators</b>	<b>in % of Gross Domestic Product</b>				
Gross foreign debt of the whole economy	28,9	28,2	27,1	31,1	27,3
	<b>as % of exports</b>				
Gross foreign debt of the whole economy	118,9	110,7	96,3	119,0	87,7
Monetary aggregates	<b>1000 Mio ECU /euro</b>				
- M1	13,7	18,6	19,9	23,9	24,4
- M2	38,0	45,5	54,0	63,4	76,5
- M3	:	:	:	:	:
Total credit	:	46,2	52,9	62,9	73,5
Average short-term interest rates	<b>% per annum</b>				
- Day-to day money rate	21,2	22,7	21,1	14,1	18,1
- Lending rate	24,6	25,4	23,6	17,4	20,3
- Deposit rate	17,3	17,2	16,8	10,4	13,5
ECU/EUR exchange rates	<b>(1ECU/euro=..New Zloty)</b>				
- Average of period	3,422	3,715	3,918	4,227	4,008
- End of period	3,601	3,880	4,089	4,159	3,850
	<b>1990=100</b>				
- Effective exchange rate index	37,3	33,7	31,9	29,0	29,5
Reserve assets	<b>Mio ECU/euro</b>				
-Reserve assets (including gold)	14.380	19.405	24.239	27.219	29.551
-Reserve assets (excluding gold)	14.241	19.167	23.413	26.288	28.587

  

<b>External trade</b>	<b>Mio ECU/euro</b>				
Trade balance	-10.055	-14.647	-16.416	-17.420	-18.752
Exports	19.232	22.737	25.179	25.727	34.407
Imports	29.287	37.384	41.595	43.147	53.159
	<b>previous year = 100</b>				
Terms of trade	97,3	99,4	104,3	100,8	96,0
	<b>as % of total</b>				
Exports with EU-15	66,2	64,0	68,3	70,5	69,9
Imports with EU-15	63,9	63,8	65,6	64,9	61,2

  

<b>Demography</b>	<b>per 1000 of population</b>				
Natural growth rate	1,1	0,9	0,5	0,0	0,3
Net migration rate (including corrections)	-0,3	-0,3	-0,3	-0,4	-0,5
	<b>per 1000 live-births</b>				
Infant mortality rate	12,2	10,2	9,5	8,9	8,1
Life expectancy :	<b>at birth</b>				
Males:	68,1	68,5	68,9	68,8	69,7
Females:	76,6	77,0	77,3	77,5	78,0

  

<b>Labour market (ILO methodology)</b>	<b>% of labour force</b>				
Economic activity rate	58,2	57,7	57,3	56,7	56,6
Unemployment rate, total	12,3	11,2	10,6	13,9	16,1
Unemployment rate, males	11,0	9,6	9,1	12,4	14,4
Unemployment rate, females	13,9	13,2	12,3	15,8	18,1
Unemployment rate of persons < 25 years	28,5	24,8	23,2	31,3	35,1
Unemployment rate of persons >= 25 years	10,1	9,3	8,8	11,4	13,3
	<b>as % of all unemployed</b>				
Long-term unemployment rate	39,1	37,9	37,5	32,9	37,9
Average employment by NACE branches	<b>in % of total</b>				
- Agriculture and forestry	22,1	20,5	19,1	18,1	18,8
- Industry (excluding construction)	25,5	25,3	25,0	24,4	23,8
- Construction	6,2	6,6	7,0	6,9	7,0
- Services	46,2	47,6	48,9	50,6	50,4

<b>Infrastructure</b>	<b>in km per 1000 Km<sup>2</sup></b>				
Railway network	75	75	74	73	72
	<b>km</b>				
Length of motorways	258	264	268	317	358

  

<b>Industry and agriculture</b>	<b>previous year = 100</b>				
Industrial production volume indices	108,3	111,5	103,5	103,6	106,8
Gross agricultural production volume indices	100,7	99,8	105,9	94,8	94,3

  

<b>Standard of living</b>	<b>per 1000 inhabitants</b>				
Number of cars	208	221	230	240	259
Main telephone lines	169,1	197,1	227,8	263,2	283,3
Number of subscriptions to cellular mobile services	5,6	21,0	50,3	102,1	174,6
Number of Internet subscriptions	:	:	:	:	:

## Methodological Notes

### Inflation rate

As part of the preparations for the common currency the EU Member States (MSs) have designed a new *consumer price index* in order to comply with the obligations of the EU Treaty. The aim was to produce CPIs comparable between Member States. The main task was to harmonise methodologies and coverage. The result was the Harmonized Index of Consumer Prices (HICP). A similar exercise has been started with Candidate Countries (CC). In respect to enlargement, it is equally important that their economic performance is assessed on the basis of comparable indices. Some progress has already been made towards adapting the new rules. Since January 1999 CCs report monthly to Eurostat so-called proxy HICPs that are based on national CPIs but adapted to the HICP coverage. They are not yet fully compliant with the HICPs of the MSs. In the table, the proxy HICPs are back-calculated to 1996 (rates from 1997).

### Finance

*Public finance:* The government deficit and debt statistics of the Candidate Countries are provisional, in the sense that they do not yet fully comply with EU methodological requirements. Broadly speaking, the general government deficit / surplus refers to the national accounts concept of consolidated general government net borrowing / net lending of ESA95. General government debt is defined as consolidated gross debt at end-year nominal value. The series are available from 1997; the 1996 data are an approximation derived from the IMF's GFS methodology.

*Gross foreign debt* is of the whole economy, covering both short- and long-term, but excluding equity investment and money market instruments. The source for stock of outstanding debt is OECD, while the source of GDP is Eurostat. For the ratio of gross foreign debt to exports, the national accounts definition of exports of goods and services is used (source: Eurostat). The data for 2000 are Eurostat estimates, based on joint OECD/IMF/BIS/World Bank series.

*Monetary aggregates* are end-year stock data, as reported to Eurostat. Generally, M1 means notes and coin in circulation plus bank sight deposits. M2 means M1 plus savings deposits plus other short-term claims on banks. M3 means M2 plus certain placements in a less liquid or longer-term form. Not all countries produce an M3 series. Total credit means loans by resident monetary financial institutions (MFIs) to non-MFI residents.

*Interest rates:* Annual average rates based on monthly series reported to Eurostat. Lending rates refer to bank lending to enterprises for over 1 year. Deposit rates refer to bank deposits with an agreed maturity of up to one year. Day-to-day money rates are overnight interbank rates.

*Exchange rates:* ECU exchange rates are those that were officially notified to DG ECFIN until 1 January 1999, when the ECU was replaced by the euro. Euro exchange rates are reference rates of the European Central Bank. The effective exchange rate index (nominal), as reported to Eurostat, is weighted by major trading partners.

*Reserve assets* are end-year stock data, as reported to Eurostat. They are defined as the sum of central bank holdings of gold, foreign exchange, SDRs, reserve position in the IMF, and other claims on non-residents. Gold is valued at end-year market price.

## **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 incurred in the course of transport up to the customs frontier are charged to the seller. The term CIF means that the purchaser pays the additional costs. Exports are recorded here on FOB basis. Recording of data is realised with the date on which the commodities cross the customs border. Value of external trade turnover in the case of imports is expressed in terms of CIF.

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

*Imports and exports with 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 a country and the one calculated by Eurostat is caused by an under reporting or delay in reporting of migration.

## **Labour market**

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

Labour force: employed and unemployed persons according to the ILO definitions stated below.

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

are ready to take up a job within a fortnight.

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

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

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

## **Infrastructure**

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

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

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

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

## **Industry and agriculture**

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

*Gross agricultural production volume indices.* Indices based on evaluation of all individual products of gross agricultural production in constant prices of the year preceding the examined

one. The indices of the gross agricultural production are calculated on the basis of the previous year.

### **Standard of living**

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

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

*Telephone subscribers.* Excluding mobile phone subscriptions.

### **Sources**

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

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