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The Challenge of Eastwards Enlargement After the Treaty of Amsterdam. Viewed From the EU and Poland¹

1. Introduction

The history of Eastern enlargement began in the early 1990s in line with the introduction of political and economic transformation measures in Central and Eastern Europe countries (CEEC). Since the beginnings of the transformation process the transition countries have been expressing their willingness to build closer links with the European Community. A positive reaction on the part of the Community to the aspirations of the CEECs has led to the preparation and implementation of association agreements and the PHARE programmes. As closer relations were built on the basis of the Europe agreements and PHARE a perspective of transition from association to membership became one of the main targets on both sides. The EU and CEECs looked to the challenge of enlargement as a matter of common concern, the accomplishment of which would require partnership and structural dialogue. Within the European Union the issue of enlargement appeared to correspond with the deepening programmes as envisaged in the Maastricht Treaty. The CEECs faced the problem of how to tackle the parallel implementation of transformation objectives and integration obligations in order to prepare an effective strategy for future accession.

The political debate on enlargement became more vocal after the June 1993 Summit in Copenhagen where the European Council adopted the principle of eastern enlargement and set out criteria for accession. Enlargement became one of the major topics in the post-Maastricht debate on the future architecture of the European Union. Most of the theoretical and political inputs into this

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debate have emphasised the evolutionary nature of European integration, which calls for internal transformation processes in reaction to changing situations and common ambitions. It was also stressed that the evolving construction of Europe should in no way be permitted to hinder or to destroy the main achievements of the previous forty years of European integration based on the *acquis communautaire* and the fundamental principles of European identity. Consequently, the issue of enlargement was discussed in relation to the general concept of the EU's evolutionary character with a focus on its evolving institutional and legal systems and structures. This way of thinking has been applied by the EU in all initiatives and processes that have been undertaken in the last years within the broadly defined pre- and post-Amsterdam debate. For the purposes of this paper the broad Amsterdam debate will embrace the agenda of the IGC, the Treaty of Amsterdam, and the post-Amsterdam initiatives, including the Commission "Agenda 2000".

The focus of the paper is eastern enlargement as viewed within the broad Amsterdam framework. The first section looks at the institutional and political framework for cooperation between the EU and CEECs. The debate on the type of accession within the framework of present EU enlargement is examined in the second section, while section three deals with models of integration in a within a broader European context. The final parts of the paper review the challenges to Poland and the Union posed by the enlargement process.

2. Institutional and political framework for co-operation between the Union and the CEECs

Ten Central and Eastern European countries have already signed the Europe Agreements which cover the liberalisation of trade, the right of establishment, economic co-operation and political dialogue within the structure of the relationship between the national institutions of these ten countries and those of the Community. An agreement between Poland and the Community came into force on February 1, 1994, while its commercial part has been in force since March 1, 1992. The Europe Agreement did not constitute a formal stage leading to full membership. It provided, however, a mutual recognition of the fact that the final objective of Poland is to "*become a member of the Community*" and that association will help to achieve this objective. Article 1 of the Europe Agreement gave further clarification of the objective of full integration by setting "*an appropriate framework for the political dialogue and for Poland's gradual integration into the Community*". The Europe Agreement has introduced a conditional clause into the EU justification of the progress of adjustment made by the candidate countries. This clause became an important tool in the hands of the Community in monitoring and evaluating all steps

undertaken by the CEECs. Three types of conditional clauses can be identified on the basis of the provisions of the Europe Agreement:

- “*the necessary condition clause*” related to Poland’s commitment to fulfil the necessary conditions (the minimal essential socle);
- “*the market economy clause*”, which envisages a regular evaluation of the implementation of the Agreement and of Poland’s accomplishments in the process leading to a market economy system;
- “*the satisfactory progress clause*” linked to a provision on the evaluation of the results of the first stage before taking a decision to move on to the second stage of the transition period.

The assessment of the Europe Agreement is left with the Association Council, which is composed of representatives from the European Commission and the Polish government. In this respect one can truly speak of the responsibility being shared by both the Union and Poland. Many politicians in the EU and Poland argue that the main aim of this dual conditionality is to motivate Poland and the other CEECs towards a fuller application of the Agreement and closer integration with the Union. The provisions of the Europe Agreement have become the political and economic anchor of continuity in the transformation process. In November 1992 the Polish government adopted “A programme of Activities adjusting Poland to the Requirements of the Europe Agreement” with the aim of identifying the main objectives and tasks of various public institutions involved in the fulfilment of agreement provisions. In 1993 the programme was extended to the harmonisation of Polish laws with those of the Community, while in 1994 the government passed a regulation concerning the assessment of the conformability of legal acts with the obligations of the Europe Agreement. Within the EU a conditional principle is used to ensure the continuity of European integration in accordance with the shape designed by the Maastricht and Amsterdam treaties. If Community interests are to be secured, eastern enlargement cannot be permitted to endanger the current and future development of European integration.

The prospect of transition from association to membership became a real target as a result of the Copenhagen Council held in June 1993. The European Council concluded: “*the associated countries of central and eastern Europe that so desire shall become members of the EU. Accession will take place as soon as an associated country is able to assume the obligations of membership by satisfying the economic and political conditions required*” and adopted the following criteria: „*membership requires that the candidate country:*

- *has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities,*
- *the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union,*

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

The Council also pointed out the need for "*considering the Union capacity to absorb new members while maintaining the momentum of European integration*". This need has been confirmed in various Community documents on enlargement. In its 1996 document the Commission emphasised that "*enlargement must be undertaken with safeguards for the achievement of forty years of European integration*". Similarly, the commitments undertaken in the Treaty on European Union must be fully respected.² In this way the principle of conditionality has been confirmed.

The Copenhagen decision on enlargement was a turning point in the debate on the new European architecture. The political and economic aspirations of the CEECs received positive feedback from the Community. Simultaneously, the Community expressed its willingness to secure the achievements and dynamics of European integration built upon the *acquis communautaire* and political cooperation. Both parties agreed to work on the future of Europe through partnership and permanent dialogue.

The 1993 decision of the European Council paved the way for debate on the rationale of the accession criteria set out unilaterally by the Community in rather broad terms. These criteria cover a number of political and economic issues linked to democracy, the market economy and the EU *acquis*. In certain areas the criteria go beyond the *acquis*, for example with respect to the administrative and judicial capacity of the CEECs.³

The following problems have been raised in the course of political and academic debate:

- do the Copenhagen criteria concern minimal, necessary or sufficient requirements set out for the candidate countries?
- what is the bench-mark for the minimal essential socle?
- what is the footing for assessment: the present situation, past or future trends over the medium term, or the progress expected?
- does the attainment of the minimal essential socle constitute a sufficient condition for a positive evaluation of a country's application?
- is the Community entitled to impose additional obligations after the positive assessment of a candidate's application for membership has been made?
- does the positive opinion of the Commission as regards the implementation of the Copenhagen criteria mean an automatic opening of accession negotiations?

² *Reinforcing Political Union and Preparing for Enlargement*, European Commission, COM/96/90 final, Brussels 2/28/1996.

³ *Agenda 2000. For a wider and stronger Union*, European Commission, "*Bulletin of the EU*", Supplement 5/1997.

- should the Commission co-operate with the candidate countries on the content of particular criteria, or should the whole responsibility for the procedure be left with the Community?
- in what ways will the accession criteria be combined with the expansion of the EU *acquis*, particularly in areas such as common foreign and security policy CFSP, justice and home affairs as well as the progressive realisation of a political, economic and monetary union?

In order to cope with the above problems several steps have been undertaken as a follow-up to the Copenhagen decisions. The creation of a general framework for the pre-accession procedures to be followed by the acceding countries and by the Union became the main target. In December 1994 the Essen European Council adopted “A Strategy to Prepare the Countries of Central and Eastern Europe for Accession”. With the aim of assisting the CEECs in preparing for accession the Commission launched the *White Paper* on the alignment with the internal market, addressing it to the associated countries in April 1995. The White Paper was adopted by the European Council at its meeting in Cannes in June 1995. It concerns only one strand of the pre-accession strategy linked to internal market legislation, and provides guidelines for the content and organisation of the pre-accession processes in this field. The *White Paper* contains indications of the type of sequence in which Poland could tackle the approximation of laws, and formulates the conditions necessary to bring the legislation into operation. Nevertheless, the acceding countries remain free to focus on their own priorities and to determine the nature of their own adjustment strategy and timetable.⁴ Progress in the alignment with the internal market will be monitored by the institutions set up by the Europe Agreement. The Essen pre-accession strategy and the Cannes *White Paper* constitute an important source of information and a bench-mark for the adjustment processes in Poland, but they have no legal effect on enlargement. The Europe Agreement still remains the legal basis and operational institutional framework for co-operation. In response to Community proposals, in the spring of 1997 the Polish government adopted a „National Strategy for Integration” (NSI), outlining the strategic directions and objectives of Poland’s accession. The “Strategy” includes “*tasks stemming from the adjustment process in the period preceding membership negotiations, during these negotiations and also in the initial post-accession period. (...) NSI takes as its point of reference the criteria cited in the conclusions of the European Council in Copenhagen in June 1993*”.⁵ The NSI tends to contribute to the debate about the rationale of the Copenhagen process by giving its own interpretation of the adopted criteria and by adding new tasks related to

⁴ A.Zielińska-Głębocka, *Preparation for Eastward Enlargement from Perspectives of the European Union and Poland*, “*Yearbook of Polish European Studies*”, vol. 1 1997.

⁵ *National Strategy for Integration*, “*Yearbook of Polish European Studies*”, vol. 1 1997.

legislation in the area of CFSP, justice and home affairs. The formulation of the NSI took place in accordance with the EU requirement to prepare an opinion on Poland's application for membership.

The opinion for Poland was published in July 1997 in a series of *avis* prepared for the whole group of the candidate countries. It was drawn from various sources of information: the questionnaire sent out to the national authorities in April 1996, bilateral follow-up meetings, reports from the embassies of Member States and the Commission's delegation in Warsaw, reports compiled by international organisations and non-governmental institutions, etc.⁶ In assessing the situation of Poland the Commission primarily consulted the framework of the Copenhagen criteria, although the Europe Agreement, the *White Paper* and the pre-accession strategy also served as crucial tools.

The document prepared by the Commission shed some light on the state of Poland's preparedness for accession in consideration of a general evaluation of Poland's situation and prospects with regard to the conditions of membership in the Union. The full responsibility of assessment rested with EU institutions in this case. The assessment made on the basis of satisfactory achievements in respect of the Copenhagen criteria was generally positive for Poland. The considerations on political and economic conditions led the Commission to conclude that "*negotiations for accession should be opened with Poland*". The Commission's opinion implied recommendation although it could not anticipate the formal opening of negotiations, which required the political decision of the European Council (the December 1997 EC Summit in Luxembourg saw the making of such a decision). It referred to the expected progress made by Poland with regard to political and economic criteria and its capacity to take on the obligations of membership including the obligations outlined in the Europe Agreement, the measures set out in the *White Paper*, and a progressive transposition of the other parts of the *acquis*. By the standards of the terminology used in this paper, expected progress refers to more than the minimal socle but less than the establishment of fully sufficient conditions. The opinion does not exclude further assessment on the progress that Poland has already achieved, particularly in the areas that had previously shown shortcomings. The possibility of imposing additional obligations before or during negotiations has also been confirmed. The link between the Copenhagen criteria and the expansion of the EU *acquis* was left out of the scope of the analysis.

3. What type of accession should Poland opt for?

⁶ *Commission Opinion on Poland's Application for Membership of the European Union*, European Commission, COM/97/2002 final, Brussels, 15.07.1997.

The precise nature of the CEECs accession to the Union has been debated in many respects in recent years. The following problems received particular attention in literature and practice:

- full membership or partial second-class accession;
- full implementation and enforcement of the EU *acquis communautaire* or opt-outs and derogations;
- the timing and transitional arrangements of accession;
- the type of enlargement: group accession, i.e. the simultaneous accession of ten or fewer of the candidate states, versus the individual accession of each country.

The idea of partial membership saw its birth at the hands of the EU in the early 1990s in the course of the critical evaluation of the pace and scope of economic transformation in the associated countries. Many economists and politicians argued that the gap in economic development and living standard between the EU Member States and the CEECs has increased to such an extent that the accession of the latter to the economic pillar could threaten the economic integrity of Europe. Therefore they brought forth the concept of the partial accession to non economic pillars such as the CFSP or justice and home affairs. This type of accession would unavoidably lead to the development of a sort of second class membership status, which could endanger the formal unity of the EU and produce inequality as a substitute for diversity. The concept of second class membership thus became an element of the EU debate on diversity. Gillespie wrote “*diversity is nothing new to the EU, as even a cursory acquaintance with its history will show*”.⁷

The candidate countries, particularly Poland, have been rejecting the idea of second class membership since the beginnings of transformation. For these countries full integration with the Union based on the principle of solidarity constituted a historical compensation for the division of Europe after World War II. The demand for full inclusion in EU structures and policies has always been the top priority of Polish authorities. In the recent “National Strategy for Integration” the statement that “*Poland’s membership in the Union will include integration in all areas*” was put forth as one of the four main assumptions. The Community institutions have also opted for full membership rather than partial accession. In its recent document “Agenda 2000. For a stronger and wider Europe” the Commission stressed that the Union should not take into account any kinds of second class membership. This means that “*the new members should accept the basic obligations on accession otherwise their right to*

⁷ P.Gillespie, *Models of integration in: Constitution-building in the European Union*, ed. B.Laffan, Institute of European Affairs, Dublin 1996, p.158.

*participate fully in the decision making process may be put in question. (...) Accession should ensure a balance of rights and obligations".*⁸

The debate on opt-outs and derogations for the CEECs cannot be separated from the general discussion on the future European model of integration which will be dealt with in the next paragraph. The Commission's strategy for accession favours the elimination of opt-outs and derogations as well as the application of limited transition measures as agreed upon in the course of negotiations. The debate about derogations and transition measures reflects the various possible approaches to the timing of accession. Two political options deserve particular attention: the concept of a quick accession with a longer transition period lasting up to 7-8 years as in the Iberian model of integration; and the idea of a somewhat longer pre-accession period followed by a transition period limited to 4-5 years as in the case of the last enlargement which incorporated the three EFTA countries. The candidate countries seem to be supporting the first option or any modified form thereof, while the EU institutions favour the second solution.

In its "National Strategy for Integration" the Polish government expressed its will to make Poland's transition periods as few as possible. Nevertheless, a number of integration tasks has been identified as subject to transition measures. These tasks touch upon the areas of technical norms and standards, the trade in sensitive goods, social regulations, state subsidies, environmental protection, EMU convergence criteria, agriculture, etc. The recent position of the European Commission is supportive of shorter transition periods and the limitation of transition measures in their scope and duration with their application limited to "*duly justified cases*", such as agriculture and the free movement of persons. Kiraly in his analysis of transitional measures in the case of Hungary⁹ has pointed out that the Union is becoming more and more reluctant in offering transition measures to newcomers. This is evident in the big number of concessions offered to Spain and Portugal upon the Iberian enlargement and the relatively few concessions given to Austria, Sweden and Finland during the last enlargement. The limitation of the number of transition measures granted to the EFTA countries can be partly explained by their relatively good starting conditions. Nevertheless it also reflects the EU's determination not to place the internal cohesion and dynamism of the integration processes in jeopardy in the course of enlargement. Generous transition measures may thus become a real threat.

⁸ *Agenda 2000*, op.cit., p.51.

⁹ M.Kiraly, *Transitional measures in the act of accession of the EFTA states – A model for Hungary? General legal preconditions of accession*, in: *On the state of the integration process – enlargement and institutional reforms. International ECSA conference in Budapest 6-10 November 1996*, ed. F.Madl, Budapest 1996.

In their political dialogue the Community and the CEECs have reached consensus on two points: that the final conditions for transition measures should be the subject of negotiations; and that the bulk of adaptations should be realised in the course of the pre-accession period with the use of the EU reinforced strategy (SPAR) as an important tool of adjustment.

The general picture of eastern enlargement will also be affected by the EU's final position concerning the opening and closing of negotiations with the ten associated countries. The initial decision of the 1995 Madrid Council that negotiations with the CEECs will start six months after the conclusion of the Intergovernmental Conference, was followed by the Commission's issuing of opinions on the applications of particular countries. On the basis of the opinions presented the Commission gave its recommendation to five of the CEE countries, Poland, Hungary, the Czech Republic, Slovenia and Estonia. Regardless of the recommendations given however, the main EU assumptions as regards enlargement were maintained: first, that enlargement is an inclusive process embracing all of the applicant countries, second that the decision on the simultaneous opening of negotiations with the five countries (plus Cyprus) does not imply that negotiations will be concluded simultaneously. The first assumption tends to confirm the Union's position on the inclusion of all of the associated countries but in several stages if necessary, while the second assumption is likely to reflect the bilateral and conditional nature of the negotiations in which the final result will depend on the applicant country's efforts to accelerate the pre-accession process and remove deficiencies. The second assumption thus clearly indicates that the concept of conditionality introduced in the Europe Agreement will be widely applied.

4. The debate on the model of European integration within a wider Europe

Political and academic considerations of the EU as the model of integration are crucial inputs into the debate on eastern enlargement. Theories of integration deliver a number of theoretical instruments and ideas that can be used to examine the original and exemplary nature of the Union. Federalism, neo-functionalism, realism or intergovernmentalism are the most important streams of integration theory that have dominated the debate about the Union's future in recent decades. These schools are making attempts at understanding the complex nature of inter-state relations linked to issues such as: the role of the nation state and supranational institutions, federal and intergovernmental cooperation, national and European sovereignty, etc. Laffan argues that *"no one theory or approach to the study of integration can capture the complex interaction"*

*of political, economic and social forces that mould inter-state relations in Western Europe”.*¹⁰

The result of these rich theoretical interpretations is a long list of concepts, approaches and paradigms of European integration all holding their place in the political debate on the variety of institutional forms, in which the evolving integration objectives can be accomplished. The fully supranational state, the constitution-based federation, co-operative federalism, pure intergovernmental cooperation and any possible mutations or hybrids of the like constitute possible models for European integration. The crucial question is of which of the models is the best suited to the goal of maintaining the up-to-date achievements of the European Union, and which of them would receive the political support of all of the Member States and their citizens.

The problem is likely to grow in light of eastern enlargement. Enlargement will increase the scope of European diversity in terms of economic development, national preferences, national culture and political structures. It will bring about new approaches to shared goals and commitments to solidarity and cohesion.¹¹ Therefore, enlargement is likely to affect the model of European integration and the direction of institutional reform in the future. The Commission has stated that *“because of its scope and its diversity this enlargement will be different from previous ones: an extended Europe is bound to be more heterogenous and therefore more complex”.*¹² The choice of an integration model for a wider Europe has to be made in the course of a political debate, into which different states and nations should bring different perspectives. The Amsterdam Council introduced additional safeguards for national preferences in an amended Article F of the TEU which provides that *“the Union shall respect the national identities of its Member States.”* It also made a declaration in the respect of the status of churches and religious associations and communities. Both initiatives will be highly welcome by the right wing of the Polish political scene. A proposal to organise a 26-27 nation-inclusive conference that would gather all countries applying to join the EU as well as its 15 Member States in the spring of 1998 is likely to meet with the demand for a wider political forum.

The relationship between diversity and unity is the primary subject of the political debate about the European model. The perspective of Eastern enlargement also points to the establishment of a framework for a Union of 25-30 members characterised by a relatively high degree of divergence as an important feature. The debate is giving rise to considerations about **differentiated integration**,

¹⁰ *Constitution-building in the European Union*, ed. B.Laffan, Institute of European Affairs, Dublin 1996, p.15.

¹¹ P.Gillespie, op.cit.

¹² *Commission's opinion on Poland's application*, op.cit.

a concept which describes various forms of integration that lie between loose cooperation and pure supranationalism. Eccentric ellipses, concentric circles, variable geometry, flexibility, core groups or *directoire*, multi-speed and multi-tier systems are among the most interesting theoretical ideas that form the platform for discussion. The multi-tier system like opt-outs or second-class membership belongs to a set of relatively controversial concepts that imply the differentiation of the legal rights and obligations of membership among member countries. Such differentiation could break up the unitary nature of the EU institutional system and produce a hierarchy in political or financial goals. Three pillars of the EU are often given as examples of vessels that can be put either into a unitary decision-making process or, in a multi-tier system, that would contain separate legal rights and obligations. The legality of a multi-tier membership has always caused doubts in the Community. Therefore, it is not surprising that it continues to have few advocates and many active opponents.

Various forms of flexibility, variable geometry and multi-speed are considered to be less radical variants of European differentiation and therefore are receiving growing support in the political debate about Europe.

Flexibility and variable geometry can pave the way towards a closer cooperation between Member States, based on an agreement regarding the nature of policy objectives as well as the pace of their implementation. Closer cooperation must not, however, threaten the existing EU legal and institutional system. Curtin writes that “*in this context it is seen as particularly important that the prevailing *acquis communautaire* is respected by all*”.¹³ The concept of a multi-speed Europe is based on an assumption that all Member States generally accept common objectives but declare a differentiated speed at which these objectives are realised by individual states or groups of countries. The discussion on the various forms of differentiated integration was an informal part of the IGC agenda. The final report of the IGC Reflection Group chaired by Carlos Westendorp made a contribution to this discussion by putting forth a concept of flexibility that would preserve the unitary institutional system of the Union and the “critical mass” of the *acquis communautaire*. The proposals of the Reflection Group exerted a strong influence upon the final provisions of the Treaty of Amsterdam. The Treaty clarifies its vision of European integration in terms of differentiation. Such clarification is critical for the acceding countries which should know what type of an integrated structure they are going to join. A transparent vision of Europe can make adjustment easier and more effective.

Three of the concepts listed in the Amsterdam agenda are crucial:

First, the rejection of ideas such as opt-outs, a pick and choose Europe and a Europe a la carte. No new opt-outs are envisaged for the candidate countries,

¹³ D.Curtin, *The debate on IGC priorities for 1996* in: *Constitution-building ...*, op.cit., p.185.

which will be obliged to adopt the whole *acquis* as it exists at the time of their accession. This condition will ensure a balance of rights and obligations and guarantee full participation in the EU decision-making process. Full adoption of the *acquis* by the candidates for present enlargement will be much more difficult than in the case of past enlargements because the legislation of the Community has expanded considerably in recent years. The Commission has already brought attention to the fact that “*new obligations have arisen regarding the single market, CFSP, EMU and justice and home affairs. (...) Certain policies which were limited in that time today consist of an impressive set of principles and obligations*”.¹⁴

Second, the adoption of a relatively precise definition of flexibility based on the combination of multi-speed in areas covered by the *acquis* and a possibility of open enhanced partnerships leading to closer cooperation in certain spheres unless the EU is not affected. The idea of multi-speed involves a common EU base in which participation is mandatory for the Member States. An example of this is the EMU which envisages the gradual involvement of subsequent countries as they fulfil the convergence criteria. Open partnership implies enhanced cooperation between the Member States, however only as a last resort as provided for in the new Article 1 of the TUE introduced by the Treaty of Amsterdam. The Treaty refers explicitly to some fields where such a form of cooperation may be applied. There are the Schengen agreement (Article K.12) and police and judicial cooperation (Article K.1). Nevertheless other fields are not formally excluded. The Amsterdam provisions do not specify what countries can initiate closer partnerships. The only condition is that enhanced cooperation must concern at least a majority of Member States and not a small core group. This is a reaction to the various concepts of the so-called core countries that have been advocated by certain politicians in the course of the IGC debate. The idea of core countries addresses either the “*critical mass of countries without which further integration cannot proceed*” or the “*leading group*” being able to define new directions for European integration.¹⁵

The Treaty of Amsterdam has rejected the concept of core countries. For the acceding countries the confirmation of the multi-speed approach to the EMU guarantees more autonomy in respect of the path and timing of their full integration with the monetary union. The close cooperation principle, in turn, means that in certain areas these countries are not obliged to participate in enhanced partnership and can operate within the “normal” scope of the *acquis*. The laggards are not obliged to catch up with their partners but they must not impede the implementation of closer cooperation. The closer cooperation principle

¹⁴ *Agenda 2000*, op.cit., p.44.

¹⁵ D.Curtin, op.cit., p.185.

allows a number of EU Member States to proceed with more advanced cooperation regardless of the position of the countries left behind. Open partnerships in which participation is voluntary may further integration in specific areas. The shift of these partnerships to a common core is possible; however, relevant procedures are yet to be worked out. The Amsterdam provisions on flexibility on the whole reduce the danger of permanent division between the elite group of countries that are either in the first stage of EMU or are the initiators of closer cooperation, and the laggards who catch up at a slower pace or remain outside open partnerships. Nevertheless, such a danger cannot be fully eliminated, particularly in the case of the candidate countries. The more intensive the efforts of these countries to catch up during the pre-accession period, the less probable the threat of their permanent retardation within the Union.

Third, the strengthening of the principle of subsidiarity and proportionality in order to meet the Member States' expectations and guarantee as much scope for national decision as possible. The provisions of the Treaty of Amsterdam are very promising for the CEECs, particularly for Poland, where political and social pressures on securing national sovereignty and national identity are relatively strong. The growing role of the principle of subsidiarity at the EU level is likely to facilitate territorial decentralisation and the application of subsidiarity at the national level in the acceding countries. This is crucial for Poland where a delay in the introduction of territorial self-management has impeded the progress of political and economic transformation over the last four years.

5. Challenge to Poland

The broadly defined Amsterdam process is likely to affect Poland's preparation for EU accession in a number of ways.

First, Poland will have to adjust its laws and policies to the extended *acquis communautaire*. The Treaty of Amsterdam has confirmed the common core set out in previous treaties in fields such as the single market, EMU, CFSP and justice and home affairs. The scope of cooperation in the Second and Third Pillars has been extended by new or amended provisions on a Common Foreign and Security Policy, the incorporation of the Western European Union into the EU, the free movement of persons, asylum and immigration, police and judicial cooperation, and the integration of the Schengen *acquis* into the framework of the Union. Closer cooperation is envisaged in specific areas listed in the previous paragraph. The Treaty also provides for new or increased Community competence in fields such as employment policy, social policy, environmental protection, public health and consumer protection. The integration of the

agreement on social policy into the EU *acquis* is likely to fulfil the European social model based on relatively high labour and social standards.

In this light Poland will face new obligations concerning not only the approximation of laws but also the enforcement of new rules at government and enterprise level. The full implementation of the EU social and labour standards may be relatively costly for Polish enterprises. This is particularly true in respect of rules on the protection of workers' health, safety and hygiene, which is where Poland significantly lags behind Europe. Poland will also be obliged to tackle the problem of environmental protection, listed as a primary concern in the Treaty Amsterdam. The new Article 3d of the TEC provides for the integration of environmental protection into all sectoral policies of the Union in view of promoting sustainable development. The harmonisation of Polish environmental standards with those of the Community as well as the general upgrading of environmental infrastructure should gain primary status in the preparation process. Poland will probably insist on transition measures in this respect in the course of its accession negotiations.

Second, during the pre-accession period Poland will also be obliged to remove or reduce the deficiencies identified in the Commission's opinion. This commitment is linked to the conditional principle applied by the Community in its strategy towards association and enlargement. A satisfactory level of progress will be required for the EU decision on the conditions and date of accession. Having assessed Poland's capacity to take on the obligations of membership, the Commission identified areas that show a high degree of deficiency and areas that will need substantial efforts in order to be improved. The former group included the following: the environment, in terms of massive investment and the administrative capacity to enforce legislation; transport infrastructure; structural problems in agriculture; legislative adaptation in the field of technical rules and standards; justice and home affairs. The latter group embraces telecommunications, fisheries, consumer protection, health and safety at work, the administrative and financial control framework for the implementation of regional and structural policies in large, mainly state-owned sectors. All of the above areas where progress is lagging behind need to be identified as a priority concern in the national strategy for integration, which should be modified on the basis of the Commission's opinion. Two types of action are recommended: the intensification of the ongoing adjustment processes and the reshaping of strategic objectives in order to reinforce the implementation of pre-accession strategy measures.

Third, In December 1997 Poland was officially invited to undertake membership negotiations starting spring 1998. By then a complex negotiation strategy balancing the fundamental expectations of the nation and commitments to the Community will have to have to have been worked out. Preparation of the

negotiation mandate must receive top political priority within both the executive and the legislative institutions.

Fourth, preparations for accession need the critical mass support of public and private bodies, individual citizens and social groups, formal organisations and informal interest groups. For this purpose information about Europe as well as the costs and benefits of accession should be made available to the whole society. The formation of a web of governmental and non-governmental networks capable of transmitting information from top to bottom and along multiple horizontal routes is of crucial importance. Information networks can be used for promoting European identity in order to overcome national prejudice and support European solidarity.

6. Challenge to the EU

The perspective of enlargement, confirmed in the Amsterdam debate, gave an impetus to the Community to further facilitate its capacity to absorb new members. Two tasks received top priority: first, the completion of internal reform within the Union before enlargement can proceed, and second, the reinforcement of the pre-accession strategy. The agenda for the accomplishment of these tasks has been set out in the Intergovernmental Conference, the draft Treaty of Amsterdam, the Presidency's conclusions of the Amsterdam European Council and the follow-up to this Council in the form of the Commission "Agenda 2000". The agenda focuses on the completion of the steps undertaken in the Maastricht Treaty, preparations for enlargement, and setting out the broad perspectives for the development of the Union and its policies beyond the turn of century.

Internal reform within the EU is a complex issue that embraces: the restructuring of institutional and political frameworks, the creation of a new financial framework, and the reform of internal policies, including controversial ones such as the CAP. The Westendorp Report to the IGC identified three challenges which may weigh heavily upon the Union in the process of internal reform: first, the internal challenges related to the EMU, freedom and internal security as well as the role of citizens; and second, the external challenges linked to foreign policy and security and the issue of eastern enlargement. All of these challenges should be taken into account in the formulation of internal reform programmes.

7. Institutional and political reform

The IGC initiated a substantial reform of the EU institutional and political framework. The Conference debate was focused on five fundamental questions:

- the reduction of the democracy deficit;

- the increase in effectiveness of the EU institutions and decision-making process;
- making European legislation more transparent;
- the preparation of a legal framework for a wider Europe composed of more than 20 Member States;
- the availability of Union services to European citizens.

The stakes of the IGC formed the basis of the provisions of the Treaty of Amsterdam. The Treaty opened up new Community domains and made major steps towards a “*more democratic and more effective Union*”. Nevertheless, the institutional reforms were only partial and did not succeed in removing deficits and deficiencies inherited from the Maastricht Treaty in many important areas. The federal approach with a wider application of the subsidiarity principle was confirmed. The Treaty also made attempts to reduce the democratic deficit by strengthening the role of the European Parliament as co-legislator. The general reform of the decision-making process was nonetheless still relatively modest. The scope of the qualified majority voting in the Council remained limited, and the reform of EU institutions and their functioning was limited to a single clause set out in the Protocol on the future of institutions, which merely stated that reform must be completed before enlargement.

Taking into account the prospect of enlargement one must ask whether a failure in the completion of institutional reform will be disadvantageous to the candidate countries. The answer is not simple. On the one hand, the effective functioning of a wider Union requires strong and efficient institutions and a transparent decision-making process unencumbered by unnecessary legal complexities and an excessive administrative burden. The Maastricht pillars in the fields of Common Foreign and Security Policy and justice and home affairs call for a unitary legal and institutional system. To this end reform of the main institutions, in particular the Council and Commission and the decision-making procedure should be completed prior to the first enlargement. On the other hand, the institutional and political framework of the EU has been evolving throughout the history of European integration. The evolutionary nature of Europe is a reflection of its dynamics created by the political, economic and legal interdependence and interaction between national and supranational bodies, public and private actors, citizens and nations. There is no one view of the path to be taken and the end vision of EU evolution.

In his elegant paper of 1997 Wessels presented various points of view on political and institutional change in the Union.¹⁶ He showed that the concepts vary from the neofunctional or neofederal idea of linear growth, i.e. a rather smooth

¹⁶ W.Wessels, *An ever closer fusion? A dynamic macropolitical view on integration processes*, “*Journal of Common Market Studies*”, vol. 35, no. 2 1997.

upward-going process seeking to establish a federal union, through to Wallace's thesis of cyclical ups and downs leading to an "*unstable equilibrium*", up to the Wessels theory of fusion which describes integration as a structural growth "*sometimes overshadowed by cyclical ups and downs*". The fusion concept assumes a permanent upward trend in the development of European integration with cyclical spill-overs and spill-backs. The process of integration would then remain relatively open-ended, with the fusion of national actors and public institutions occurring simultaneously on different levels. From this point of view the final stage of integration would not be easily identifiable or foreseeable. The future history of European integration will verify the scientific value of these theoretical concepts. Whatever the real path and end of European integration may be, it is true that all Member States will make their political contribution to the development of Europe. This is also true for the acceding countries which will be involved in the internal institutional and political reform of the Union after accession. In light of the above considerations, satisfactory progress in terms of the effectiveness and democratic nature of the EU institutional and political system may prove sufficient.

8. New financial framework and enhanced policies in the Union

The financial reform of the Union was excluded from the IGC agenda and temporarily shelved along with the post-Amsterdam package. In the "Agenda 2000" the Commission presented the new financial framework for the years 2000-2006, prepared on the basis of studies assessing the impact of changes in certain Community policies, the transitional measures for the countries involved in the first enlargement, and the pre-accession aid for all the applicant countries. The proposal put forth by the Commission emphasised the fact that the new system should be based on the reinforcement of financial solidarity needed in order to maintain a high level of economic and social cohesion after enlargement.

This aim will require increased discipline in the financial arrangements of the EU. In order to achieve this discipline the Commission suggested that the ceiling for own resources should be maintained beneath 1,27% of the Union GNP, while financing for structural operations should be put at the 1999 level of 0,46% of the Union GNP. A sweeping reform of structural funds and operations is envisaged. The total transfers from structural funds and the Cohesion Fund should not exceed 4% of a country's GNP, and the number of structural objectives and Community initiatives will be reduced considerably. The reform of structural allocations should go hand in hand with an increased usage of forms of assistance other than grants. This will require a greater involvement of the EIB and the EIF. The Union's new financial system will certainly be less generous towards the candidates for this enlargement than it had

previously been towards countries involved in past enlargements. A certain measure of financial compensation is however envisaged in the form of pre-accession aid, which would be made available from the year 2000. The total structural assistance to all of the acceding countries, amounting to ECU 45 billion, will be granted at a constant rate of ECU 1 billion per year, and should be supplemented by agricultural aid estimated at about ECU 500 million a year. The disbursement of EU pre-accession aid among particular countries should be the subject of negotiations. The Commission's proposal on financial arrangements will be the topic of political debate within the Union and in the operation of pre-accession partnerships with the candidate countries. In consequence, a re-examination and re-evaluation of the whole structure of the proposed system is in order.

The reform of Community policies is the important result of the Amsterdam process. The Amsterdam Treaty introduced new domains into European policy, and the post-Amsterdam initiatives paved the way for reshaping the policies of the Union beyond the year 2000. A new approach to the reform of common agricultural policy and the impact study of the effects of enlargement on EU policies, are crucial elements of the Commission's "Agenda 2000". Both concepts tend to give a long-term perspective of possible modifications of EU policies in the future. The general EU position that enlargement must not jeopardise the objectives and achievements of European development and policies thus far is maintained. This position will be taken into account in evaluating the Union's capacity to absorb new members.

9. Reinforced pre-accession strategy

The reinforced pre-accession strategy is a new initiative taken by the Community with the aim of creating a single framework for the different forms of support provided by the Union to the candidate countries; encouraging the candidate countries to participate in Community programmes, and facilitating the flow of pre-accession aid (ECU 1 billion of structural aid and 500 million of agriculture aid) in addition to PHARE (ECU 1,5 billion per year). The Accession Partnership is to be the main basis of a unified framework. It will replace structured dialogue and supplement the negotiations, the Europe Agreements and PHARE. Accession partnerships would involve:

- a clearly defined programme to prepare for membership;
- precise commitments on the part of the applicant countries;
- mobilisation of all the resources needed for preparation.

Partnerships will be set up individually for each candidate country. This confirms the bilateral character of pre-accession cooperation, although a multilateral framework is not excluded in the case of certain horizontal accession-related issues. The reinforced strategy tends to intensify the preparation process on

the part of the candidate countries and thus reduce the risks and the cost of enlargement on the part of the Union. For the EU it should act as a political safeguard against the possible negative effects that enlargement may have upon the momentum of European integration.