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Enlargement and the *European Union (Accessions) Bill*

Bill 98 of 2002/03

> "Our common wish is to make Europe a continent of democracy, freedom, peace and progress. The Union will remain determined to avoid new dividing lines in Europe and to promote stability and prosperity within and beyond the new borders of the Union. We are looking forward to working together in our joint endeavour to accomplish these goals. Our aim is One Europe".
>
> *Joint Declaration: One Europe*, Treaty of Accession

The *European Union (Accessions) Bill* was published on 30 April 2003, and is due to have its Second Reading on 21 May 2003.

The Bill arises in the context of the Treaty of Accession to admit ten new Member States to the European Union (Cm 5805-I-XI). It provides for the implementation of the Accession Treaty in UK law; it also provides a power to grant the nationals of eight of the acceding states the same right to work in the UK from accession on 1 May 2004 as nationals from the European Economic Area (EEA).

This paper considers the provisions of the Bill and the content of the Treaty of Accession, including institutional provisions and two Protocols on Cyprus. It explains the stages on the road to accession and looks at referendums and public opinion in the accession states and Member States. It also discusses the implications of enlargement for several policy areas and describes the position of the remaining candidate states (Bulgaria, Romania and Turkey).

Detailed information on the enlargement process is available in Library Research Papers 98/55 and 00/62 and in a series of updating Standard Notes.

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Summary of main points

- Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia are due to accede to the European Union from 1 May 2004. Accession negotiations were concluded in Copenhagen in December 2002 and the Treaty of Accession was signed in Athens on 16 April 2003.
- All the European Union Member States and the accession states need to ratify the Treaty of Accession by 30 April 2004, according to their constitutional traditions, in order for the ten accession states to become members of the European Union.
- The *European Union (Accessions) Bill* will provide for the implementation of the Accession Treaty in UK law and it also provides a power to grant the nationals of eight of the acceding states the same rights to work in the UK from 1 May 2004 as nationals from the European Economic Area (EEA).
- The Treaty is composed of 11 volumes. Volume 1 contains the Act of Accession, with the core provisions on the institutional, financial and legal effects of enlargement; Volumes 2 – 10 contain provisions on EU policies as they apply to all or to individual accession states. Protocols attached to the Treaty are also in Volume 10. Volume 11 contains the Final Act and Declarations.
- Because of the difference in timing between accession and EU terms of office, the Act of Accession includes both interim and permanent institutional provisions.
- Referendums are being held in all the accession states except Cyprus.
- Bulgaria and Romania are still engaged in accession negotiations and have an agreed target date of 2007 for accession; Turkey has not yet opened negotiations, because it has not fulfilled the political criteria for accession, but its position will be reassessed in December 2004.
- The accession states continue to participate in the Convention on the Future of Europe, although their role in the ensuing Intergovernmental Conference (IGC) is unclear, as the date for launching an IGC has not yet been confirmed.

- **Section VII** discusses the implications of enlargement for several policy areas.
- **Appendix 1** provides a summary of the political and economic situation in the accession states.

CONTENTS

I Introduction

The enlargement of the European Union that is due to take place from 1 May 2004 is of a different scale and nature from previous enlargements.[1] Between 1994 and 1996 ten states from Central and Eastern Europe applied for EU membership. Eight of the ten states now preparing for accession have made the transition from Communism within little more than the last decade,[2] with all the associated implications for their economies, infrastructure and judicial and administrative processes. For the last five years, the candidate states have been engaged in accession preparations and negotiations, in order to fulfil the criteria for EU membership agreed at Copenhagen in 1993,[3] and the accession negotiations were finally concluded, again at Copenhagen, in December 2002. The European Union has also had to make significant financial and institutional adjustments in preparation for this enlargement.

The *Joint Declaration: One Europe,* which is annexed to the Final Act of the Accession Treaty and is signed by all 25 signatories, states that, as a result of this enlargement, "75 million people will be welcomed as new citizens of the European Union".[4] This means that:

> In the past 30 years the EU has grown from 6 members with a population of 185 million into an international entity of 15 members with 375 million people. It is now on the eve of expanding to 25 members with 450 million citizens.[5]

Wim Kok, former Prime Minister of the Netherlands, commented in his recent report on enlargement for the European Commission:

> The benefits and opportunities of enlargement by far outweigh the potential obstacles, cost and risks. It is the most successful act of foreign policy that the EU has ever made. A delay in enlargement, or its abandonment, as a result of non-ratification by any of the EU members, would be a major political failure for Europe. Moreover, it would have considerable costs both for the EU and for the applicant countries.

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1 The UK, Denmark and Ireland joined in 1973; Greece in 1981; Spain and Portugal in 1986; and Austria, Finland and Sweden in 1995

2 The Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovenia and Slovakia The other accession states are Cyprus and Malta.

3 The Copenhagen criteria are: 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; membership presupposes the candidate's ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union.

4 Treaty of Accession, Cm5805-XI

5 Wim Kok, "Enlarging the European Union: achievements and challenges, Report to the European Commission, European University Institute, March 2003, at http://europa.eu.int/comm/enlargement/communication/pdf/report_kok_en.pdf

> But a badly managed enlargement would be almost as bad. If the EU does not move ahead with the reforms and adjustments that enlargement now demands, it will miss the chance – perhaps for ever – to make Europe stronger and safer, in the interest of its citizens, its neighbours and the world.[6]

The British Government's position on enlargement is set out in the Explanatory Memorandum (EM) on the Accession Treaty:

> The Treaty represents a good outcome for Europe. The Government fully supports the process of enlargement and endorses the terms and conditions for accession of the ten new Member States, as agreed at Copenhagen. The terms are good for the UK and for the EU as a whole.
>
> Enlargement is an historic achievement, uniting the continent after decades of division. It will spread European values, standards and norms, ensuring, e.g. the application of human rights and protection of minorities, and raising environmental and health and safety standards.
>
> It will also be good for the UK economy. A larger Single Market will remove trade barriers and stimulate investment, helping British firms to expand production, boosting profits and UK jobs. Since 1990, UK trade with the new Member States has increased nearly ten times as fast as with the rest of the world. There are around 14,000 UK firms who were exporting to Central and Eastern Europe in 2001. Independent estimates are that UK GDP will increase by up to £1.75 billion in the medium term.
>
> Enlargement will also improve the EU's ability to tackle global issues. It will help to control migration, as full access to the Single Market raises living standards and provides better opportunities for new Member State nationals in their own countries. The prospect of enlargement is boosting co-operation between current and new Member States on tackling organised crime, drug trafficking and people smuggling. The new Member States are bringing their police forces and border controls up to EU standards and will participate in EU anti-crime institutions.
>
> In the months leading to accession, the ten new Member States will need to pursue the commitments entered into during the accession negotiations and at Copenhagen in December 2002. The Commission will continue to monitor the preparation for the implementation and enforcement of the body of EU law (the acquis communautaire) by the ten new Members, and will produce a comprehensive monitoring report in November 2003. After accession, the Commission will continue to check how the acquis are being implemented, using the same mechanisms as those applied to the existing Member States. The Government welcomes this process, and continues to support the new Member States through, for example, twinning projects and bilateral programmes.

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[6] Wim Kok, ibid

The Regulatory Impact Assessment on the *European Union (Accessions) Bill* includes a more detailed assessment by the Government of the anticipated benefits and costs of enlargement, and the relevant extract is reproduced as **Appendix 3** to this paper.

II Treaty Ratification in the UK

The 1957 Treaty of Rome, as amended by the Treaties of Maastricht, Amsterdam and Nice, provides in Article 49 for adjustments to the EC Treaties as a result of new accessions. This Article states:

> The conditions of admission and the adjustments to the Treaties on which the Union is founded, which such admission entails, shall be the subject of an agreement between the Member States and the applicant State. This agreement shall be submitted for ratification by all the contracting States in accordance with their respective constitutional requirements.

In the UK treaties are ratified by the Foreign Secretary or his/her representative, acting on behalf of the Crown (the so-called 'Royal Prerogative'). Parliament does not have a direct role in treaty ratification but there can be parliamentary activity relevant to it. Starting in the 1920s, and continuously since the 1930s, there has been a constitutional practice (not a law) known as the Ponsonby Rule, which requires that treaties subject to ratification should be laid before Parliament for 21 sitting days before ratification, for information and to give Parliament an opportunity (not always taken) to debate them.

When the UK joined the Community in 1973, accession was preceded by the passing of an Act of Parliament which made the obligations under the Treaty and the law deriving from it applicable within the UK. This was the *European Communities Act 1972* (ECA).[7] On all subsequent occasions when new treaties have been agreed, including treaties of accession, there has been new legislation in the UK to amend the 1972 Act so that those parts of the new treaties which are intended to have domestic legal effect are also made applicable within the UK.

The passage of the implementing legislation is not formally part of ratification, but it is necessary if ratification is to proceed smoothly. Without legislation, the Government might be faced with a conflict between its obligations under the treaty and the domestic legal order. The present Bill will amend the ECA to take account of the Accession Treaty and to make the necessary changes in UK law which will then allow Britain to ratify the Treaty.

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[7] Chapter 68

III Purpose and Content of the Bill

The Bill has two purposes:

- to provide for the implementation of the Accession Treaty in UK law;
- to provide a power to grant the nationals of eight of the acceding states the same rights to work in the UK from the date of their accession on 1 May 2004 as nationals from the European Economic Area (EEA)[8]

Title

Like the last accession bill to take account of the accession of Austria, Finland, Norway and Sweden in 1994,[9] this Bill does not refer in the title to the ten countries to which it applies, which would be cumbersome and possibly inaccurate, if one or more of the ten current accession states decided not to join the European Union.[10]

Clause 1 Accession treaty

Subsection (1) amends the ECA by inserting the new Accession Treaty in the list of 'Treaties' or 'Community Treaties' implemented by the ECA. This would make the Treaty for UK constitutional purposes a Community Treaty as defined in Section 1(2) of the 1972 Act. The list of Treaties in this section will include the present Accession Treaty with the names of the acceding states. If, following a negative referendum on membership, one or more of the accession states does not join the European Union, the Act might need to be amended. When Norway decided not to join the EU in 1994, the Council of Ministers adopted a Decision to take account of this,[11] but no adjustments were made to amend the ECA, which still refers to Norway in Section 1(3)(n). However, the present Bill makes specific reference in Clause (2) to its non-applicability to states that do not ratify the Accession Treaty (see below).

Subsection (2) approves the provisions of the Treaty in so far as they relate to the powers of the European Parliament for the purpose of Section 12 of the *European Parliamentary Elections Act 2002*. This states that "No treaty which provides for any increase in the powers of the European Parliament is to be ratified by the United Kingdom unless it has been approved by an Act of Parliament".[12]

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8 The 15 Member States, with Norway, Iceland and Liechtenstein

9 The *European Union (Accessions) Act 1994*. Norway voted not to join in a referendum in November 1994.

10 Compare the *European Communities (Greek Accession) Act 1979* and the *European Communities (Spanish and Portuguese Accession) Act 1985*

11 Council Decision 95/1/EC, Euratom, ECSC, OJL 1, 1 January 1995

12 C.24, section 12 (1) This requirement originated in Section 6 of the *European Parliamentary Elections Act 1978*

Exactly how the Accession Treaty increases the powers of the European Parliament (EP) is not immediately obvious. According to the Government's Explanatory Memorandum (EM), the extension of EP powers lies in the provisions of Articles 11 and 25 of the new Treaty. Article 11 specifies the number of EP seats allocated to each accession state for the next elections in 2004, while Article 25 does the same for the transitional period from 1 May 2004 (the date of entry) until the EP elections in June 2004. Article 43 of the Accession Treaty requires the EP to make the necessary changes to its Rules of Procedure to take account of these differences.[13] The EM concludes:

> Although none of these provisions creates new powers for the Parliament, they have the effect of applying existing powers to persons to whom they could not otherwise have been applied prior to the entry into force of the Accession Treaty. For this reason, approval is required under the 2002 Act.

The 1994 EU accession bill contained a similar clause to take account of Austria's intention to hold EP elections at the same time as general elections in autumn 1994, prior to accession in January 1995. Provision had been made for this in Protocol No.8 of the 1994 Accession Treaty, extending the traditional powers of the EP to apply to elected members of a candidate state before it had acceded to the EU. In the event, Austria did not hold EP elections until 1995, but the clause stayed in the bill as a precautionary measure.

Clause 2 Freedom of movement for workers

This clause provides for an earlier application of the EU and European Economic Area (EEA) provisions on the free movement of workers than is required by the Accession Treaty for eight of the ten accession states. The 'relevant states' are the Central and East European (CEE) accession states.[14]

Sub-section (1) authorises regulations to provide that the rights of EEA nationals to enter and reside in the UK in order to work should also apply to nationals of the relevant acceding states.

Sub-section (2) allows for the extension of this right to be modified or only partially applied, as 'safeguards' in case it becomes necessary to restrict entry from some of the relevant states.

Sub-section (3) allows for further flexibility in the regulations by authorising transitional, supplementary or consequential provisions and different provisions for different states.

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13 Institutional adjustments linked to accession are discussed in more detail in Section VI.

14 The two Commonwealth countries, Cyprus and Malta, are granted the same rights to work in the other EU Member States as existing EU nationals from the date of accession, while the Accession Treaty provides for transitional measures allowing restrictions on the free movement of workers from the eight 'relevant states'. This is discussed in more detail in Section VII (A)

Sub-section (4) limits the application of these regulations to those states that have ratified the Accession Treaty. This resolves to some extent the question of whether failure to ratify the Accession Treaty would need an amendment of UK legislation.

Sub-section (5) makes the regulations subject to the negative resolution procedure.[15]

The Explanatory Notes state that the Bill extends to the whole of the United Kingdom.

IV The Treaty of Accession

Following the conclusion of accession negotiations with ten of the candidate states at Copenhagen in December 2002, the Treaty text was finalised and approved by the various EU institutions.[16] The Treaty of Accession and the Final Act were signed by the Heads of State or Government and other representatives of the fifteen Member States and the ten prospective members in a ceremony at the Acropolis in Athens on 16 April 2003. The Prime Minister and the Foreign Secretary signed on behalf of the UK. The new Treaty provides for the accession to the EU of the new Member States on 1 May 2004 and sets out the terms and conditions under which their accession will take place.

A. Structure and content

In the UK, the Treaty of Accession, including the Protocols and Final Act with Declarations, was published as Command Paper Cm 5805, in eleven volumes and running to some 5,000 pages. It was laid before Parliament on 28 April 2003.[17] During the current parliamentary session the Government will introduce the legislation required to implement certain requirements arising from the Treaty by the end of 2003.[18] Following enactment of that legislation, the Government plans to proceed to ratification before the end of 2003.[19]

The eleven volumes of the Command Paper are arranged as follows:

Volume 1:	The Treaty and the Act of Accession
Volumes 2-9:	Annexes I-XII to the Act of Accession

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15 The instrument is laid after making, subject to annulment if a motion to annul (known as a 'prayer') is passed within 40 days.

16 For further details, see Section V(B)

17 Cm5805-I-XI, European Communities No.2 (2003)

18 Explanatory Memorandum on the Accession Treaty, 1 April 2003, FCO website: http://www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1007029396041&a=KArticle&aid=1051607769822

19 Regulatory Impact Assessment on the *European Union (Accessions) Bill)*, April 2003, FCO website: http://www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1007029392925

Volume 10: Annexes XIII-XVIII and Protocols 1-10

Volume 11: Final Act and Declarations; Exchange of letters between the EU and the acceding states on an information and consultation procedure for the adoption of certain decisions and other measures to be taken during the period preceding accession

As described in the Explanatory Memorandum (EM), the Treaty falls into three main parts:

- **A Treaty between the fifteen existing and the ten new Member States**, setting out briefly the names of the new Member States, the process and timetable of accession (including what should happen in the event that any of the acceding States do not ratify the Treaty), and the official languages in which the Treaty will be drawn up.

- **An Act** setting out the conditions of accession and the consequent adjustments to the Treaties on which the European Union is founded ('the Act of Accession'), as agreed in the accession negotiations.

- **The Final Act of the parties to the Treaty**, including declarations, both joint and individual, by current and new Member States.

The Act of Accession constitutes the core provisions of the Treaty, setting out the institutional, financial and legal consequences of accession: "In very broad terms, the Act distinguishes between the permanent, technical changes to EU law that are necessitated by enlargement and the transitional measures negotiated by the new Member States."[20]

As in previous enlargements, new Member States are required to adopt in full the whole body of EC law (the *acquis communautaire*), and transitional measures are strictly limited in scope and duration.

The Government has identified the key provisions of the Act of Accession as:

- Article 3- Schengen[21]
- Article 4- Economic and Monetary Union
- Article 6- Agreements with third parties
- Articles 11-17 (and paragraphs in Articles 43-52)- Institutional provisions.
- Articles 24-36- Transitional measures
- Articles 37-42- Safeguards[22]

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20 EM on the Accession Treaty, 1 April 2003
21 The Schengen agreement provides for an area of free movement with no internal borders.
22 Ibid

Among the annexes to the Act of Accession, Annex II sets out the permanent technical adaptations to EU law necessitated by accession, while Annexes V-XIV and some parts of Annex IV set out the transitional measures for each of the ten new Member States.[23]

The Explanatory Memorandum provides a summary of the key policy implications, the principal transitional measures and the safeguards, which allow for 'protective measures' until 30 April 2007. For convenience, these sections of the Memorandum have been reproduced in **Appendix 2**. The implications of enlargement for selected policy areas are discussed in **Section VII**.

Some forty Declarations are annexed to the Final Act, many of them unilateral statements by candidate states, reflecting specific national concerns or aspirations, and others by groups of states. There is also a Declaration from the present Member States, which stipulates that no unilateral declarations by new member states may permit non-compliance with the Treaty. The UK has made no unilateral declarations.

The ten protocols to the Treaty cover a disparate range of subjects relevant to individual accession states, including the Ignalina nuclear power plant in Lithuania; re-structuring of the steel industry in Poland and the Czech Republic; transit of persons by land between the region of Kaliningrad and other parts of the Russian Federation; the acquisition of second homes in Malta; and abortion law in Malta. Two of the protocols relate to the special circumstances of Cyprus.

B. Protocols on Cyprus and the UK Sovereign Base Areas

Protocol 10 addresses the consequences of EU accession for a divided Cyprus, following the failure to reach agreement on UN proposals for a political settlement between the two communities before the Accession Treaty was signed. While both the EU and the UK hoped that Cyprus would join the EU as a reunited country, the Copenhagen European Council in December 2002 made it clear that Cyprus, whether united or divided, should proceed to accession.

The whole of Cyprus will accede to the EU, but the Protocol will suspend the application of EC/EU law in Northern Cyprus, where the Government of the Republic of Cyprus does not exercise effective control. In the event of a political settlement, it could be amended or repealed. The Protocol invites the European Commission to put forward proposals setting out how EC/EU law will apply along the Green Line,[24] for example what kind of

[23] EM on Accession Treaty

[24] This is the buffer zone dividing the two parts from the coast north west of Morphou through Nicosia to Famagusta, patrolled by UN troops

controls will be needed on goods entering the government-controlled area of Cyprus from the North.[25]

Protocol 3 sets out the relationship between the EU and the UK's Sovereign Base Areas (SBAs) after Cyprus's accession to the EU. The SBAs are to remain outside the EU, with technical adjustments which "will ensure the continued smooth functioning of the relationship between Cyprus and the SBAs and will protect the interests of those Cypriots resident or working in the SBAs."[26]

The Protocol sets out the defined and limited parts of the *acquis* that will apply to the SBAs. Key provisions are that the SBAs will form part of the Community's Customs Territory, and that farmers in the SBAs become eligible for CAP funding and will have to comply with the necessary veterinary and phytosanitary rules.

There are also undertakings from the UK on the controls it will exercise on persons entering the SBAs across their external borders. As long as the island remains divided, the UK will be obliged to treat the boundary between Northern Cyprus and the Eastern Sovereign Base Area (ESBA) as an external border for the purpose of performing checks (as required by the SBAs Protocol to the Accession Treaty) on people, animals and goods entering the ESBA.

The EM notes that Protocol 3

> …reflects UK policy, as announced to Parliament in December 2001, that the case for leaving the SBAs outside the EU, as agreed at the time of the UK's own accession, remains valid. The protocol is compatible with the 1960 Treaty of Establishment and with the undertakings which the UK made at that time in relation to the SBAs.[27]

C. Ratification

The twenty-five signatory states must now take the necessary steps, in accordance with their respective constitutional requirements and conventions, to enable them to ratify the Treaty. In most cases this requires an act of Parliament, and referendums are being held in all the accession states except Cyprus.[28]

Instruments of ratification must be deposited with the Italian Government by 30 April 2004 at the latest,[29] and the Treaty will enter into force on 1 May 2004, provided that all

[25] EM on the Accession Treaty, 1 April 2003; HL Deb 13 May 2003 cc28-9
[26] Ibid
[27] Ibid
[28] See Section V(D)
[29] Article 1 of the Treaty

the instruments of ratification have been deposited before that date.[30] If any of the accession states do not ratify the Treaty in time, it will still enter into force for those states that have done so.[31] In such an event, the Council will decide on the necessary adjustments to the text of the Treaty and the related documents.[32]

V The Path to Accession

A. Conclusion of accession negotiations

On the basis of its October 2002 progress reports on the candidate states, the European Commission recommended that accession negotiations should be concluded by the end of 2002 with the Czech Republic, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia, with the aim of signing an accession treaty in Spring 2003. It considered that those countries would be ready for membership from the beginning of 2004.

The Brussels European Council in October 2002 endorsed the Commission's recommendations and confirmed the EU's determination to conclude accession negotiations with the countries concerned at the Copenhagen European Council in December 2002, and to sign the accession treaty in April 2003. Following a deal struck between President Chirac and Chancellor Schrőder, the Member States were able to agree common negotiating positions on the outstanding financial and budgetary issues. On 28 October the Heads of State or Government of all the candidate states met with the EU Presidency in Copenhagen to be told formally which countries were eligible to close negotiations at the end of 2002.

EU Foreign Ministers decided on 18 November 2002 that the new member states should accede to the EU on 1 May 2004. It had previously been assumed that accessions would take place from 1 January 2004, but the later date would allow more time for the ratification process, while still enabling the new members to participate in the EP elections in June 2004, as decided by the Gothenburg European Council in June 2001.

During November and December 2002, there were intensive negotiations on the sensitive areas of agriculture, institutional provisions and the financial package for enlargement,[33] but all outstanding issues were resolved in time for the overall results of the negotiations to be endorsed by the Copenhagen European Council at its meeting on 13 December 2002.

[30] Article 2 of the Treaty
[31] Ibid
[32] Ibid
[33] These are discussed in Sections VI and VII

B. EU approval

Under Article 49 of the Treaty on European Union (TEU), the decision to admit an applicant state is taken by the Council by unanimity, following consultation with the Commission and the assent of the European Parliament. The first step in this process is the adoption of the Commission's Opinion, which happened on 19 February 2003.[34]

On 8 April 2003, on the eve of the European Parliament vote on the accessions, the EP reached a compromise agreement with the Council on the adjustment of the EU's Financial Perspective up to 2006. Following a longstanding dispute on the subject, this agreement on the financing of enlargement cleared the way for Parliament to vote on the Accession Treaty the following day.

On 9 April 2003 the Parliament endorsed a Report by its Foreign Affairs Committee (the 'Brok Report') on the conclusion of the accession negotiations, adopting the resolution by 458 votes in favour to 68 against, with 41 abstentions. It also voted overwhelmingly in favour of ten separate resolutions for each of the accession states. For accession to be approved, an absolute majority (314) of the Parliament's possible 626 votes is required for each new member state. In the event there were more than 500 votes in favour of all the accession states, except for the Czech Republic, which received 489. The full voting figures are given in the table below.

COUNTRY	VOTERS	FOR	AGAINST	ABSTAINED
Czech Rep	565	489	39	37
Estonia	566	520	22	24
Cyprus	562	507	29	26
Latvia	568	522	22	24
Lithuania	567	521	22	24
Hungary	568	522	23	23
Malta	567	521	23	23
Poland	565	509	25	31
Slovenia	566	522	22	22
Slovakia	567	521	21	25
BROK REPORT	567	458	68	41

Source: *Enlargement Weekly*, 15 April 2003[35]

34 6242/2003, 21 February 2003; Commission press release IP/03/263,19 February 2003

35 http://europa.eu.int/comm/enlargement/docs/newsletter/weekly_150403.htm#B

Following the Commission's favourable Opinion and the Parliament's assent, the General Affairs and External Relations Council took a formal decision on the admission of the ten states on 14 April 2003, thus clearing the way for the signature of the Treaty of Accession on 16 April.

C. Monitoring progress

In the months leading up to accession, the ten acceding states will need to pursue the commitments entered into during the accession negotiations and at Copenhagen in December 2002. The Brussels European Council in October 2002 agreed that the Commission should continue to monitor progress in the accession states after the Treaty had been signed. In November 2003, six months before accession, the Commission will produce a comprehensive monitoring report for the Council and the European Parliament, to report on "the adoption, implementation and enforcement of the *acquis* by the acceding states in line with their commitments."[36]

After accession, the Commission, in its role as guardian of the Treaties, will continue to check how the *acquis* is being implemented by the new member states, using the same mechanisms as apply to the existing Member States.

It was reported in mid-March 2003 that the Commission had completed its first monitoring report, as a result of which nine of the ten accession states (all but Slovenia) were sent 'early warning' letters by the Commission about failing to meet their commitments.[37] The monitoring report does not appear to be a published document, but media reports state that Poland was the biggest offender, with deficiencies noted in nine areas of law, including the internal market rules, competition policy, audio-visual policy, customs union and financial control. Poland is said to be still lagging behind in its commitment to restructure its steel industry and to align its insurance and investment services and securities markets.[38] At the end of April it was reported that the Commission had threatened to introduce safeguard measures against Poland if it failed to meet its commitments by November.[39]

The next Commission monitoring report, expected in May, will cover the justice and home affairs chapter, agriculture, financial and budgetary provisions, which were not included in the first report. By July 2003 the Commission is expected to assess the implementation of commitments necessary for the programming of structural funds.[40]

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[36] Brussels European Council, 24-5 October 2002, *Presidency Conclusions*, paragraph 7
[37] EurActiv.com website, http://www.euractiv.com/ ,12 March 2003
[38] Ibid
[39] EurActiv.com website, http://www.euractiv.com/ , 30 April 2003
[40] EurActiv.com website, http://www.euractiv.com/ ,12 March 2003

D. Referendums and public opinion in the accession states

1. Results of referendums

All the accession states, except for Cyprus, are holding a referendum on EU accession. Five of these have already taken place (in Malta on 8 March 2003, Slovenia on 23 March, Hungary on 12 April, Lithuania on 10-11 May and Slovakia on 16-17 May). All of these have resulted in a vote in favour of EU accession, but with variations in the level of turnout and the strength of support. The remaining referendums will take place on 7-8 June in Poland, 13-14 June in the Czech Republic, 14 September in Estonia and 20 September in Latvia.

The results of the referendums that have taken place are summarised below.

Malta, 8 March

In Malta the two main political parties hold diametrically opposed views on EU membership. Malta's original application for membership in 1990 was made by a previous Nationalist Party Government, headed by the present Prime Minister, Dr Eddie Fenech Adami, and his party has retained a strongly pro-EU stance. By contrast, the Opposition Labour Party has traditionally been opposed to EU membership.[41] This situation produced an unusually high turnout of 91 per cent in the referendum, and it was a closely fought contest, in which 53.6 per cent voted in favour of accession and 46.4 per cent against.[42]

The Prime Minister called an early General Election on 12 April 2003, shortly before the Accession Treaty was due to be signed, and made support for Malta's accession to the EU a central issue in the campaign. The Nationalist Party Government was re-elected by a fairly narrow margin, with 51.8 per cent of the vote, compared with 47.5 per cent for the Labour Party, which had advocated a loose association with the EU, rather than full membership. The Labour Party leader, Alfred Sant, had let it be known that Malta would not sign the Accession Treaty if his party won the election.

Slovenia, 23 March

The referendums on EU and NATO membership were held on the same day.[43] In the EU referendum 89.64 per cent voted in favour of EU accession and 10.36 per cent voted against, with a turnout of 60.4 per cent.[44]

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[41] Malta's 1990 application for EU membership was suspended, following the election of a Labour Party Government in October 1996, but was reactivated in September 1998 after the Nationalist Party returned to power.

[42] Official results, http://www.doi.gov.mt/EN/elections/Referendum/03ref/default.asp and Malta Media, http://www.maltamedia.com/cgibin/news03/print.pl?article=855

[43] In the referendum on NATO membership, 66.08 per cent voted in favour and 33.92 per cent against.

Hungary, 12 April

In the Hungarian referendum, 83.76 per cent of those who voted were in favour of EU accession and 16.24 per cent voted against, but the turnout was low, at 45.62 per cent. *Enlargement Weekly* reported:

> … turnout was low, at less than 50% of the eight million electors, with notable abstentions in some rural areas. The lack of enthusiasm is not being ascribed to the small but voluble "no" campaign, which had warned of sell-outs to foreign capital and risks for Hungarian smallholders (and which garnered some 12% of the votes); instead the choice of a Saturday for the poll, and the apparent certainty of a positive vote, are believed to have kept voters away from the voting booths. The constitutional validity of the result is not affected, in any case: a Hungarian referendum is valid if 25% of eligible voters cast the same vote - and on April 12, 38% of eligible voters voted "yes". Since this was a binding referendum, the Hungarian Parliament is now expected to immediately approve the mandate for the government to sign the Accession Treaty.[45]

Lithuania, 10-11 May

Voting took place over two days, to allow more time for voters to participate. The result of the referendum was strongly in favour of accession, with 89.95% of voters supporting EU membership and just 8.82% voting against. The turnout of 63.37% was comfortably more than the 50% required to make the vote valid.[46] *Enlargement Weekly* regarded this result as "a vindication of the strong pro-EU line taken by the country's political leaders"[47] The strong support in Lithuania may send a positive signal to its more Eurosceptic Baltic neighbours, Estonia and Latvia, which are holding their referendums in September.

Slovakia, 16-17 May

According to official results released on 18 May, 92.46 per cent of voters in the Slovakian referendum supported EU membership, with only 6.2 per cent voting against. There were fears during the second day of voting that the turnout might not clear the 50 per cent threshold required for the result to be binding, but the actual turnout of 52.15 per cent narrowly passed that barrier.[48]

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44 Slovenian Election Commission, Official results, 2 April 2003, http://www.gov.si/vrs/ang/news/news.html

45 *Enlargement Weekly,* 15 April 2003,

46 Central Electoral Committee results, http://www.euro.lt/index.php?LangID=7?TopMenuID=127&LangID=7.

47 *Enlargement Weekly*, 13 May 2003

48 BBC News Online, 18 May 2003

2. Public opinion in the other accession states

For those countries which have not yet held a referendum, recent public opinion polls are the best indication of the likely outcome. At the request of the European Commission, Gallup Europe is monitoring the results of opinion polls in the accession states, and the following summary draws on its recent reports.

Poland (7-8 June)

Poland has modified its electoral law to allow for a two-day referendum over a weekend, presumably with the intention of ensuring adequate voter turnout.[49]

Gallup reports that support for EU accession has increased sharply since March, and especially since the Accession Treaty was signed in mid-April. A survey conducted by *Rzeczpospolita* in late April found that 81 per cent of those who intended to vote would support Poland's accession to the EU, an 8 point increase since March. The percentage who intended to vote had also risen by two points to 56 per cent. The same poll suggested that over 15 per cent of voters would not turn out, with lower participation from those in rural areas. It appears that negative public opinion about the current government is likely to affect the vote: 69 per cent of those surveyed claimed to be influenced by this factor. In Poland a 50 per cent turnout is required by law for the vote to be binding. Otherwise, the Polish Parliament would have to vote by a two-thirds majority to ratify the Accession Treaty.[50]

Czech Republic (13-14 June)

The level of support for accession is reported to be stable. Gallup Europe reports the result of a TNS Factum poll on 30 April 2003, showing 53 per cent in favour of accession and 19 per cent against. Among likely voters (predicted at around 60 per cent), the support level appears to be as high as 81 per cent, but 28 per cent were undecided on how they would vote.[51]

Estonia (14 September)

Gallup has not reported any recent opinion polls, but in a semi-annual EU Index study conducted in Estonia, reported in January 2003, 48 per cent of Estonians said they would vote in favour of EU accession, 35 per cent were against, and 17 per cent were unable to give an opinion. The same report states that, compared with April 2002, support for the

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[49] *Enlargement Weekly*, 25 March 2003

[50] Gallup Europe, *Enlargement Poll Monitor*, 9 May 2003, http://www.gallup-europe.be/epm/default.htm

[51] Gallup Europe, *Enlargement Poll Monitor*, 14-30 April 2003, published 4 May 2003; 9 May 2003 (brief latest poll results)

EU has grown by some 13 per cent, and the proportion of people with no opinion has fallen.[52]

In a recent interview, Estonia's Foreign Minister, Kristina Ojuland, said that opinion polls showed about 55 per cent of Estonians in favour of membership, and this level of support had been stable for some time. She added, however, that she was not taking victory for granted, and warned that it was important that the Convention on the Future of Europe did not bring any major changes to the Union, or this could change the result of the referendum.[53] Elsewhere, she has said that a perception that the EU could suffocate the country with red tape is "creating danger for the referendum".[54]

The *Economist* has commented of Estonia:

> Nordic-mindedly open and transparent, it has virtually no trade barriers, so joining the EU means raising them. Getting into the EU is in some ways a step backwards to more barriers and bureaucracy. Of the three, Estonia is where opinion polls find the lowest support for EU membership; only in the past year has it nudged above 50%.[55]

Latvia (20 September)

Gallup Europe reports that a survey conducted by SKDS in April 2003 showed a four-point increase in support for EU membership since March, to the highest level recorded yet, at 54 per cent. 30 per cent of those surveyed intended to vote against accession and 16 per cent were undecided. However, the same survey found that only 48 per cent would definitely participate in the referendum, with a further 37 per cent stating that they were 'most likely' to do so.[56]

Cyprus (no referendum)

Enlargement Weekly reported on 15 April that an opinion poll in the southern part of the island had shown that 74 per cent of Greek Cypriots were confident that Cyprus would benefit from EU membership. Benefits were expected particularly in the areas of economic development, security, human rights, the rights of workers and environmental protection, and a growing proportion of the population supported joint decision-making on matters ranging from combating drugs to foreign and security policy.[57]

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[52] EU Index study conducted by ES Turu-uuringud, BBC Monitoring Online, 22 January 2003
[53] Interview with the Swedish newspaper *Dagens Nyheter*, 13 May 2003, BBC Monitoring Online
[54] *European Voice*, 17-23 April 2003
[55] *Economist,*14 December 2002
[56] Gallup Europe, 9 May 2003
[57] *Enlargement Weekly,* 15 April 2003

E. Public Opinion in the Member States

Recent public opinion surveys show that members of the public in the 15 Member States are generally in favour of enlargement, although there are significant variations from country to country. In a Flash *Eurobarometer* survey on enlargement, published in November 2002 on the basis of November survey data, 66% of respondents in all Member States said they were in favour of enlargement, while 22% were opposed. The remainder either gave no answer (9%) or said that it depended on the countries concerned (3%). The highest levels of support were recorded in Italy (82%) and Ireland (79%), followed by Spain (73%) and Belgium (72%). The lowest support was found in the United Kingdom (54%), Sweden (52%) and Finland (51%). In Germany and France, levels of support were close to the EU average of 66%.[58]

Responses to other questions in the survey indicated that more than two thirds of respondents considered that enlargement would: allow companies in their countries to expand into new markets; give the EU a stronger voice on the international scene; reduce the risks of war and conflict in Europe; and would make it easier to tackle environmental problems.

On the negative side, a majority believed that it would be more difficult to take decisions in an enlarged EU; enlargement would be very expensive for their country; many citizens from the new members would settle in their country; and opening borders would make it harder to tackle crime and drug smuggling.[59]

VI Institutional Provisions

A. Introduction

The new Member States will be represented in the EU institutions from 1 May 2004. The institutional arrangements for the accession states were agreed at the Intergovernmental Conference in Nice in December 2000 and are set out in Declarations and Protocols attached to the Treaty of Nice.[60] These form the basis for the relevant provisions in the Accession Treaty. Short-term arrangements provide for a transition period between 1 May 2004 and 31 October 2004.

Under Article 58 of the Act of Accession, the official languages of the EU will be supplemented by nine additional official languages (Czech, Estonian, Latvian, Lithuanian, Hungarian, Maltese, Polish, Slovenian and Slovak), bringing the total number to 20.

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[58] Flash *Eurobarometer* 132/2, November 2002
[59] Ibid
[60] Cm 5090, p 48

The majority of the institutional provisions are contained in Volume 1, *The Treaty and Act of Accession*.[61]

B. The European Parliament

The European Parliament currently has 626 Members. The Treaty of Nice,[62] which came into force on 1 January 2003, set out new allocations of EP seats to take account of a phased EU enlargement up to a maximum of 27 Member States.[63] The Nice Treaty limited the EP to 732 in a Union of 27 (the EU-27), with specific arrangements for the allocation of seats during the various phases of the enlargement process. Seats would be reduced sequentially for current Member States as the candidate states acceded.[64]

Protocol A, Article 2 of the Nice Treaty set out the new allocation for the current Member States (the EU-15), while the Enlargement Declaration provided allocations for the EU-27. The new allocations for the EU-15 will apply from the start of the next European Parliament. It was also agreed at Nice that, pending the accession of all current accession states, the reduction in seat allocations would be implemented only to the extent necessary not to exceed the limit of 732.

During the few months between accession in May 2004 and the constitution of the new Parliament following the June 2004 EP elections, the new Member States will be represented by deputies nominated by their national Parliaments.

The new Parliament in the 2004-2009 term will have a total of 732 seats, representing the number of seats allocated in accordance with the Nice Treaty Declaration and the pro rata re-allocation of the 50 seats not taken up by Bulgaria and Romania. Both the Czech Republic and Hungary have been offered 3 additional seats each under this ceiling, in order to ensure an allocation of seats equal to that of current Member States with a similar size of population.

The following table shows the number of EP seats for existing Member States and accession states from May 2004 until the EP elections, and the allocations for 25 Member States from 2004 to 2009 (under Articles 11 and 25 of the Act of Accession):

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61 Cm.5805 – I, April 2003

62 *Treaty of Nice, amending the Treaty on European Union, the Treaties establishing the European Communities and certain related* Acts, Cm 5090, March 2001

63 The current ten plus Bulgaria and Romania

64 The gradual reduction of seats will be achieved in the UK by means of the *European Parliament (Representation) Act 2003*, which received Royal Assent on 8 May 2003, Chapter 7, 2003

Member States	Seats: accession-June 2004	Seats: June 2004-2009
Germany	99	99
UK	87	78
France	87	78
Italy	87	78
Spain	64	54
Poland	54	54
Netherlands	31	27
Greece	25	24
Czech Republic	24	24
Belgium	25	24
Hungary	24	24
Portugal	25	24
Sweden	22	19
Austria	21	18
Slovakia	14	14
Denmark	16	14
Finland	16	14
Ireland	15	13
Lithuania	13	13
Latvia	9	9
Slovenia	7	7
Estonia	6	6
Cyprus	6	6
Luxembourg	6	6
Malta	5	5
EU-25	626	732

C. The Council of Ministers

Article 12 of the Act of Accession is concerned largely with the allocation of votes when the Council is required to act by Qualified Majority Voting (QMV).

For the period between 1 May 2004 and 31 October 2004, the current QMV system has been extrapolated to include the new Member States. After 1 November 2004, the voting system will be amended, based on the principles defined by the Nice Treaty. The following table, based on Articles 12 and 26 of the Act of Accession, shows the system of weighted votes from May until October 2004 and from November 2004 onwards:

Member State	Votes 1.5 - 31.10.04	Votes from 1.11.04
Germany	10	29
UK	10	29
France	10	29
Italy	10	29
Spain	8	27
Poland	8	27
Netherlands	5	13
Greece	5	12
Czech Republic	5	12
Belgium	5	12
Hungary	5	12
Portugal	5	12
Sweden	4	10
Austria	4	10
Slovakia	3	7
Denmark	3	7
Finland	3	7
Ireland	3	7
Lithuania	3	7
Latvia	3	4
Slovenia	3	4
Estonia	3	4
Cyprus	2	4
Luxembourg	2	4
Malta	2	3
EU-25	124	321

The qualified majority threshold is currently 62 out of 87, on a proposal from the Commission, or 62 in favour, cast by at least 10 members. The blocking minority is 26 votes. Initially, the qualified majority will be 88 votes out of 124 on a proposal from the Commission, and 88 votes cast by at least two-thirds of members in other cases. The blocking minority will be 37. The Treaty provides in Article 26(2) that the qualified majority should represent 71.26% of the total number of votes, regardless of the number of countries which accede to the Union during this period.

From 1 November 2004 Council acts will require for their adoption by QMV at least 232 out of 321 votes. The blocking minority will be 90. Furthermore, a Member State may request verification as to whether these 232 votes represent at least 62% of the total population of the Union (Article 12(1)(b)). Article 12(3) provides for the qualified majority threshold to be fixed between 71% and 72.27%, depending on the eventual size of the Union.

D. The Commission

Article 45 (1) of the Act of Accession states that "Any State which accedes to the Union shall be entitled to have one of its nationals as a member of the Commission". As from 1 May 2004, ten new Commissioners appointed by the Council will join the current Commission. Following the EP elections in June 2004, the new EP will approve the nomination of the new President of the Commission, as well as its other members. The new Commission will take office on 1 November 2004.[65]

E. The European Courts

Under Articles 13 and 46 of the Act of Accession, the number of judges of the European Court of Justice and the Court of First Instance will be increased by 10 to 25, one for each Member State. The number of advocates-general is subject to an increase only upon request by the Court.[66]

F. Other EU Institutions

The acceding states will be represented in accordance with the existing rules in the other institutions, bodies, committees and agencies established by the Treaties or secondary law. The numbers of representatives on the Committee of the Regions and Economic and Social Committee are set out in Articles 14 and 15 of the Act of Accession.

VII Some Policy Implications of Enlargement

A. Free movement of persons

1. Introduction

The free movement of persons is one of the EU's fundamental principles. It has several aspects, such as the right to travel to other Member States, the right to reside and work there, and, separately, the frontier-free Schengen area.

Upon accession, citizens of the ten new Member States will have the right to travel freely and live anywhere in the enlarged EU. However, for up to seven years from accession the existing Member States may restrict the right to work of those from the eight Central and Eastern European (CEE) accession countries.[67] The UK and several other Member States

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65 The Nice Enlargement Protocol had set the 1 January 2005 for the start of the new Commission, but the Accession Treaty has brought this forward to 1 November 2004

66 Volume 11, Final Act, 2 Joint Declaration on the Court of Justice of the European Communities, Cm.5805-XI p 10

67 Citizens of Cyprus and Malta will not be subject to employment restrictions

have in fact opted to give full rights to work from 1 May 2004, but will be able to re-impose restrictions if the circumstances require.

The new Member States will not initially be full members of the Schengen area, which requires the reinforcement of external borders and increased exchange of information to compensate for the abolition of internal frontiers, but they will be given grants to help them implement fully the requirements of Schengen.

2. What does 'free movement' entail?

Free movement of people was not originally intended to be a generalised right of free movement open to all; rather it was to be free movement for nationals of Member States moving for the purposes of work, self-employment or the provision of services. However, the original idea has been extended by legislation and case-law.

The people who can exercise free movement rights are nationals of Member States and nationals of any countries with a relevant agreement with the EU, accompanied by their dependants (even those who are not themselves EU citizens). Free movement rights do not extend to third-country nationals (i.e. nationals of non-free-movement countries), even if they are legally resident in a Member State. They cannot use free movement rights to move to another Member State, though proposals to allow this for long-term residents are under consideration.[68]

Full free movement rights have been extended to nationals of the European Economic Area countries (Iceland, Liechtenstein and Norway) and to Switzerland. Some very limited rights have also already been granted via Association Agreements to a number of countries, including ten CEEs,[69] but these do not generally include the right to move to the EU to work.

Those who are eligible for full rights of free movement may travel to work or to look for work, for self-employment, to study, to provide or receive services such as tourism or health care, or to retire (so long as they would not be financially dependant on the receiving state).

3. UK immigration law

The *Immigration (European Economic Area) Regulations 2000*[70] are the current UK regulations which attempt to define and describe the rights of free movement for EEA nationals guaranteed by European law, and to accommodate those rights into the system of UK immigration control.

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68 Commission proposal for Directive on the rights of long-term residents, March 2001: COM (2001) 127 Deadline of June 2003 agreed at Seville European Council (summit meeting) on 21-22 June 2002

69 Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovenia, Slovakia

70 SI 2000/2326

No entry clearance is required to enter the UK in the exercise of free movement rights, and no time limit may be placed on a person's stay. Family members[71] of a person who is exercising rights of free movement in another Member State are entitled to be admitted to and stay in that other country on the same basis as him.

Under EC/EU law certain people who are no longer economically active may stay permanently in the country to which they have moved.[72] UK immigration law also provides additional rights to stay permanently, for anyone (other than a student) who has been in the UK for four years lawfully in any of the free movement categories. Family members can also benefit.

Anyone who wishes to come to the UK to live and work, but who is not an EEA national, must fit into one of the categories of the Immigration Rules[73] which allow him to work. The most obvious category is work-permit holders, but there are many other immigration categories where permission to work is inherent or where it may be granted. These categories include, for example, ministers of religion, 'innovators', Commonwealth citizens with a UK-born grandparent, and spouses of people settled in the UK.

4. The Schengen area

The countries which are members of the Schengen area (the name comes from the town where one of the original agreements was signed) want to allow free movement in an area with no internal borders, by reinforcing external borders and immigration controls, as well as increasing police and judicial co-operation and information-sharing.

By March 2001, 13 EU Member States had signed up to Schengen: Belgium, Denmark,[74] Germany, Greece, Spain, France, Italy, Luxembourg, Netherlands, Austria, Portugal, Finland and Sweden. Ireland and the United Kingdom did not sign up to Schengen and will not end border controls, but they do take part in some aspects of Schengen that deal with illegal immigration and asylum, co-operation between police forces and judicial co-operation. Two non-EU states, Norway and Iceland, apply all the Schengen provisions, on the basis of specific agreements.

The Schengen provisions have now been incorporated into the EU's Treaties[75] (though the opt-outs continue in force). These provisions include what is known as the Schengen

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[71] 'Family member' is broadly defined, and includes spouse, dependant children and grandchildren, dependant parents, grandparents and great-grandparents, even when they are nationals of a non-Member State.

[72] Commission Regulation 1251/70

[73] HC 395 of 1993-94 as amended

[74] Although Denmark has signed up to Schengen, unlike the other Schengen countries it can choose within the EU framework whether or not to apply any new decision taken under the agreement.

[75] Via a protocol annexed to the 1997 Treaty of Amsterdam

acquis, which is a body of law developed under the Schengen framework that must be applied by all the Schengen countries.[76]

5. Current east-to-west migration

Most citizens of the accession states can already travel freely (without visas) in the EU, although if they wish to be employed they need to meet the requirements of a Member State's national immigration rules. The European Commission's study in 2000 estimated the number of people living in the EU who were from the 10 Central and Eastern European states (CEE-10)[77] at 850,000 or 0.2 per cent of the EU population. 300,000 of these were workers, or 0.3 per cent of the total EU workforce. The Commission's study found that around 80% of these migrants live in Austria and Germany.[78]

The number of people from the accession countries who are granted settlement each year in the UK is relatively small. In 2001 this ranged from 945 (from Poland) to as few as 10 (from Slovenia). By far the biggest category was wives of people who are British citizens or settled in the UK. The number of people seeking asylum in the UK from the accession countries has also been quite low, with only Poland, Lithuania and the Czech Republic providing more than 1,000 asylum seekers each year in any of the last eight years. Fewer than 5% of these claims resulted in the granting of refugee status in 2001.[79]

6. Impact of enlargement on EU employment

An in-depth study for the European Commission on the projected impact of enlargement on employment and labour markets was published in 2000.[80] It identified fears that the integration of ten low-income economies into the EU would lead to:

- a drop in the living standards of unskilled workers;
- the displacement of jobs;
- downward pressure on pay; and
- mass migration of cheap labour, affecting labour markets and social cohesion.

An earlier study for the UK Department for Education and Employment had tried to estimate the numbers of people who would emigrate from Eastern Europe to Western Europe when free movement was introduced. It encountered estimates ranging from 5

76 A list of the elements which make up the *acquis*, setting out the corresponding legal basis for each in the Treaties (EC Treaty or the Treaty on European Union), was adopted on 20 May 1999

77 This includes the eight countries in this round plus Bulgaria and Romania

78 Boeri, T., and Brücker, H., *The Impact of Eastern Enlargement on Employment and Labour Markets in the EU Member States*, European Integration Consortium, Berlin and Milano, 2000 (study for the European Commission Directorate General for Employment and Social Affairs), ch 2.3 http://europa.eu.int/comm/employment_social/employment_analysis/impact_en.htm

79 Immigration and Nationality Directorate, Home Office, and Home Office *Control of Immigration Statistics 2001* (Cm 5684)

80 Boeri, T., and Brücker, H, ibid

million to 40 million, but its own reckoning was of 3 million over 15 years (200,000 per year on average), the majority of whom would go to Germany and Austria. The study concluded that the migration flows from the East to the West were expected to be primarily temporary, and the migrants relatively skilled.[81]

The European Commission's study also concluded that concerns about EU labour markets being swamped by migrants from the accession countries seemed to be ill-founded, and that the overall effects on labour and goods markets were likely to be small. It forecast that the number of immigrants from the CEE 10 to the existing Member States would increase to 335,000 per year immediately after the full introduction of free movement of people, but that this number would fall to fewer than 150,000 people within a decade. This would mean that within 30 years about 1.1% of the population of the current Member States would consist of immigrants from the CEE 10.[82] As noted above, currently 0.2% of the whole EU population and 0.3% of the EU workforce is made up of people from the CEE 10.

A recent report by the UN, based purely on demographic considerations, suggested that replacement migration could be an important factor in solving the problems caused by the declining and ageing populations in Europe.[83]

7. Transitional restrictions on working

Despite the relatively low overall numbers of accession state migrants forecast, the European Commission study concluded that there might be an impact on wages and employment in some regions of Austria and Germany, where immigration from Eastern Europe is concentrated. The paper therefore included an argument for keeping actual migration flows from the accession countries under control for a transitional period in order to mitigate any undesirable effects on wages and employment in host labour markets.[84]

Transitional restrictions to labour mobility were adopted in previous EU enlargements (for Greece, Portugal and Spain). Many commentators have referred to the fact that when the restrictions on those countries were lifted, migration flows apparently did not increase significantly, though they also caution that income differentials there were not as large as

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81 Bauer, T.K. and Zimmerman, K.F., *Assessment of possible migration pressure and its labour market impact following EU enlargement to Central and Eastern Europe*, IZA research report No. 3, July 1999 (study for the Department for Education and Employment, UK), Executive Summary p I: http://www.iza.org/ProductFunctions/publication/reports/mp_entries/997283070.823/dokumentFile/IZA_3.pdf

82 Boeri, T., and Brücker, H., Executive Summary p i

83 UN Secretariat, *Replacement migration: is it a solution to declining and ageing populations?* (ESA/P/WP.160), 21 March 2000: http://www.un.org/esa/population/publications/migration/migration.htm

84 Boeri, T., and Brücker, H, pp130-1

those with the current accession countries.[85] Another argument given for transition periods is that they could sustain public support for enlargement in some Member States.[86]

The EU has decided to impose a transition period in this instance for nationals of the eight CEE countries, and has negotiated the conditions with each of these countries. Initially, their nationals will not automatically be allowed to work in the existing Member States. Instead there will be a flexible transition period of up to seven years for limiting the inflow of workers from these eight countries. This scheme is set out in the Act of Accession (in separate Annexes for each country), and described in the FCO Explanatory Memorandum on the Accession Treaty:[87]

> The existing Member States may (in the first two years after accession) through 'national measures' or 'bilateral agreements', choose to keep their labour markets closed to nationals of the eight relevant states (for a maximum transitional period of seven years), or to open them. From 1 May 2006 onwards, Member States may apply Community law on free movement of workers, or continue (until April 2011 at the latest) to restrict access to their markets.

Several of the existing Member States have agreed to extend freedom of movement to workers who are nationals of any of the accession states from 1 May 2004, instead of waiting for between two and seven years. These Member States include Ireland, the Netherlands, Denmark, Sweden, Greece and the UK. In a written Ministerial Statement on 10 December 2002, the Foreign Secretary Jack Straw, explained that the Government had decided to do this as part of its managed migration agenda, and that safeguards would be built in to allow the reintroduction of employment restrictions if necessary.[88]

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85 See Kok, W., *Enlarging the European Union: Achievements and Challenges* (report to the European Commission), European University Institute, 26 March 2003, p38:
http://europa.eu.int/comm/enlargement/communication/pdf/report_kok_en.pdf;
European Commission Directorate General for Economic and Financial Affairs, *The economic impact of enlargement*, Enlargement papers No. 4, June 2001:
http://europa.eu.int/comm/economy_finance/publications/enlargement_papers/2001/elp04en.pdf
and Boeri, T., and Brücker, H. ibid, Executive Summary

86 Summary of a Seminar on the Impact of Enlargement on the EU labour market, Brussels, 15 March 2001: http://europa.eu.int/comm/employment_social/empl_esf/enlargement_en.htm

87 *Explanatory Memorandum on the Accession Treaty*, Foreign and Commonwealth Office, 1 April 2003:
http://www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1007029396041&a=KArticle&aid=1051607769822

88 HC Deb 10 December 2002 cc11-12WS See also 'Straw announces free movement of people rights to EU candidate countries on accession', *Foreign & Commonwealth Office press release*, 10 December 2002:
http://www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1007029391638&a=KArticle&aid=1039457282989

8. Joining the Schengen area

According to Article 8 of the protocol to the Treaty of Amsterdam which incorporates the Schengen *acquis* into EC law, the Schengen *acquis* and associated measures must be accepted in full by all new Member States. Neither of the other areas of closer co-operation in the Treaty of Amsterdam (monetary and social policy) contained such provisions for new Member States.

However, under the terms of the Act of Accession the current accession states will not actually be required to implement and apply all the provisions of Schengen immediately. Article 3 of the Act of Accession states that only certain basic aspects of Schengen (as listed in Annex I to the Act) will be binding on and applicable to the new Member States from the date of accession. The other aspects of Schengen will not apply until each new Member State has undergone an evaluation process conducted by the existing Schengen Member States.[89]

In order to help strengthen the new external borders of the EU to allow the Schengen *acquis* to be implemented fully, the EU will provide lump sum grant payments to the relevant accession countries. This programme is called the 'Schengen Facility', and the details are set out in Article 35 of the Act of Accession.

B. The Budget

The size of the annual EC budget is some €100 billion, although the annual budget is set within a multi-annual (six year) spending framework called the 'financial perspective'. The current financial perspective covering the budget year 2003 runs from 2000 to 2006, and was set at the March 1999 Berlin European Council.[90]

Member States' financial contributions to the EU are based on the provisions of the Community's 'Own Resources Decision' (ORD). The Treaty bases of the ORD are Articles 199 and 201 of the Treaty of Rome and Articles 171 (1) and 173 of the Treaty of Paris. The provisions of the current ORD came into effect on 1 January 1995.

Income comes from four main sources:

- **Custom duties**, including those on agricultural products, paid on non-EU goods imported into the EU;
- **Sugar Levies** charged on the production of sugar to subsidise the cost of exporting the community surplus onto the world market;

[89] *Explanatory Memorandum on the Accession Treaty,* Foreign and Commonwealth Office, 1 April 2003: http://www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1007029396041&a=KArticle&aid=1051607769822

[90] "European Community Finances Statement on the 2003 EC Budget and measures to counter fraud and financial mismanagement". Cm 5800 HM Treasury April 2003

- **Contributions based on VAT;** the VAT base is the amount yielded by applying a notional rate of 1% to an identical range of goods and services in each Member State. This contribution is capped as a share of GNI (Gross National Income);
- **GNI-based contributions;** the GNI resource acts as a budget-balancing item, as the EU cannot run deficits or borrow. The amount due is proportional to each member's GNI.

Member States' total contributions may not exceed the overall annual ceiling on own resources established by the ORD. Under the decision, adopted in accordance with the agreement at the Edinburgh European Council in 1994, this ceiling is now 1.24 per cent of EU gross national income (GNI) which is equivalent to a previous measure of 1.27 per cent of EU GNP.[91] The decision also gradually increases the proportion of GNI-based own resources and reduces that of the VAT-based resources.

1. UK contribution and abatement

The UK currently receives an abatement, the origin of which dates back to a Council meeting at Fontainebleau in 1984, where the then Conservative Government negotiated to reduce the UK's net contribution level through an automatic reduction.

The abatement is equal to sixty-six per cent of the UK's net contribution[92] to the EU Budget, subject to the following points:

- the abatement applies only in respect of spending within the Union. Expenditure outside the Union (mainly EU overseas aid), amounting to around eight per cent of total EU budget expenditure in 2003, is excluded;

- the UK's contribution is calculated as if the Budget is entirely financed by VAT;

- the abatement is deducted from the UK's VAT contribution a year in arrears.

The UK's abatement in 2003 (in respect of our net contribution in 2002) is some £3.3 billion or €5.0 billion, and it was some £3.2 billion (€5.1 billion) in 2002.[93] By the end of 2003, the total abatement made since Fontainebleau in 1984 is forecast to have reached around £39 billion.[94]

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[91] "European Community Finances. Statement on the 2003 EC Budget and measures to counter fraud and financial mismanagement". Cm 5800 HM Treasury April 2003

[92] difference between what the UK contributes and what it receives from the Budget

[93] "European Community Finances. Statement on the 2003 EC Budget and measures to counter fraud and financial mismanagement". Cm 5800 HM Treasury April 2003

[94] European community finances, Treasury April 2003

Essentially, the UK's budgetary imbalance reflects the difference between its share of allocated expenditure (about eight percent of the EU budget) and its VAT contribution (about seventeen percent). Other things being equal, the UK abatement increases if:

- the level of allocated Community spending increases;
- the UK percentage of uncapped VAT contributions rises;
- the UK's share of allocated spending falls and;
- the advantage accruing to the UK from the system of own resources introduced in 1988 declines (principally if the size of the Budget and hence the use of the GNI resource falls).

The UK's abatement is not popular with either other Member States or the Commission and, formally or informally, it is likely to be challenged periodically by them. However, any change to the abatement and the ORD generally requires unanimity, and the UK government and Parliament are unlikely to agree to a reduction or cessation of it.

The UK's net contribution varies quite considerably by year, as the abatement varies. The UK's outturn contribution in 2002 was some £3.6 billion and in 2003 the UK's net contribution is forecast to be some £4.1 billion. The UK was one of nine net contributors to the budget in 2001, according to the Commission. Significant contributors were the Netherlands, France, Italy and Sweden, but Germany was by far the highest net contributor, with its contributions almost 2.5 times higher than any other member state.[95]

2. EU Expenditure

The EU's expenditure breaks down into several broad categories. These are shown below. The percentage figure is the percentage of total commitments in the 2003 Budget represented by that line.

- **Agriculture** is the largest single item of expenditure, which contains all the guarantee expenditure for the European Agricultural Guidance and Guarantee Fund (EAGGF). This is the main budget line for funding the Common Agricultural Policy and there are also monies for rural development (45.9%);

- **Structural operations** include the operations under the European Regional Development Fund (ERDF), the European Social Fund (ESF), the Financial Instrument for Fisheries Guidance (FIFG) and, since 1993, the Cohesion Fund. Expenditure on restructuring the Community fishing fleet is included under this heading (34.2%);

95 "European Community Finances. Statement on the 2003 EC Budget and measures to counter fraud and financial mismanagement". Cm 5800 HM Treasury April 2003

- **Internal policies** covers expenditure on education programmes, labour markets, technological innovation and ICT programmes (6.2%);

- **External actions** covers a wide range of activities. These include the Common Foreign & Security Policy budget, Global Health Fund spending, the East Timor, Latin America and TACIS programmes and democracy and human rights programmes (4.9%);

- **Pre-Accession aid** for the applicant countries was budgeted for in 2003 (2.8%);

- **An administration budget** allowed the Community to employ 500 temporary staff from the Accession countries to help prepare for enlargement (5.5%);

- **Reserves** comprise the emergency aid reserve and loan guarantee reserve, but a monetary reserve ceased to exist in December 2002 (0.4%).

3. Implications of Accession for the EU budget

Since the current financial perspective runs from 2000-2006, the new members will be joining in 2004, midway through.

In the Budget, allowances have been made to take account of the new Member States joining. The accession countries have also been receiving aid from the EU Budget to assist in their convergence towards current EU economy and laws.

The accession Treaty makes three changes with respect to the EU Budget. First, it ends the pre-accession benefits paid to accession countries, and allows them to receive payments when they join (in 2004) as full EU members under headings 1 (agriculture), 2 (structural operations), 3 (internal policies), and 5 (administration), as adjusted by the European Council at Copenhagen in 2002.

The enlargement-related adjustments are made to the overall budget for 2004-2006. When the Budget was originally set, it made allowances for enlargement-related expenditure; the new entrants will be net recipients of funds from the EU. Structural funds will be particularly important for the accession states as they seek greater convergence with the economies of the current EU members. The Foreign and Commonwealth Office (FCO) Explanatory Memoranda on the Treaty state:

> The additional enlargement related commitment appropriations for 2004, 2005 and 2006 are below the global ceilings for enlargement-related expenditure agreed at the 1999 Berlin European Council. As agreed at Berlin, the bulk of these additional costs will be included in the calculation of the UK's abatement. The UK welcomes the agreement on finances reached at Copenhagen, which is a

> good package for the new Member States, representing £28bn (at current exchange rates) between 2004 and 2006, roughly 3% of their GDP.[96]

It is worth noting that the UK will continue to receive its rebate. Because of the way the UK abatement is funded, by taking account of expenditure flows, the calculation will not fully include the expenditure in additional Member States.

Wim Kok, writing for the European Commission, commented on the budgetary impact of enlargement:

> After accession, the EU's net expenditure in the new member states will be modest. Under the deal reached at Copenhagen in 2002, the financial cost to the end of 2006 is a maximum of 40.8 billion euro, including agricultural subsidies, infrastructure and regional aid, and funds to help improve nuclear safety, public administration and border protection. New members will pay contributions of approximately 15 billion euro to the EU budget, and since they may not be able to make full use of the money allocated, the net budgetary cost of enlargement for the period to 2006 in terms of cash actually disbursed is likely to be around 10 billion euro (some of their allocations, such as structural and cohesion funds having a long lead time, will be paid after 2006).[97]

The Treaty allows for some temporary financial measures, including temporary budgetary compensation, a special cash flow facility and other temporary transition facilities. The facilities made available vary between accession states. The Treaty also makes some technical adjustments to take account of timing.[98]

4. Impact on EU Structural Funds

The Treaty allows the accession states to become eligible for structural funding. Structural Funds are the main way in which the EU encourages greater economic and social cohesion across the EU. Structural Funds are available to areas that have been identified as requiring assistance (commonly referred to as having Objective 1 or Objective 2 status). Where EU funds apply they are typically available for up to 50% of the project cost. Extending these funds to the accession countries will require them to make matching investment.

The current budget for Structural Funds runs until 2006. When the budget was set in Berlin in 1999, the current EU Members were allocated €213 billion for Structural and Cohesion funds for 2000-2006, with €40 billion allocated to new Member States after

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96 FCO Explanatory Memoranda on the Treaty, FCO Website as at 16th May, http://www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1007029392925

97 Wim Kok, *Enlarging the European Union : Achievements and Challenges*, for the European Commission, March 2003

98 FCO EM

2002. This was reduced in 2002 at Copenhagen (due to the later enlargement) to €22 billion. The FCO Explanatory Memorandum notes:

> The proportion allocated to the Cohesion Fund is higher than in the current Member States that are recipients of that Fund. It was agreed that this was appropriate for the period 2004 to 2006 as this Fund finances much needed environmental and infrastructure projects. Furthermore, it should be easier for the new Member States to absorb Cohesion Funds due to their being managed on a project basis, the fact that they are run at a national rather than a regional level and because of their lower co-financing requirements compared to the Structural Funds.
>
> The Treaty changes do not affect the programming or financial allocations for the current Member States.[99]

The current allocations of Structural Funds will not change up to 2006. Any impact the accession may have on current Member States will be seen in 2006, when a new budget is implemented. Then, the economic and social positions of the new Member States will be taken into account.

C. Economic and Monetary Union (EMU)

All accession states will implement the Economic and Monetary Union *acquis* as from the date of accession. They will participate in EMU upon accession with the status of a "State with a derogation" under Article 122 of the EC Treaty.[100] The second indent of this Article states:

> If the Council has confirmed which Member States fulfil the necessary conditions for the adoption of a single currency, in accordance with Article 121(4), those Member States which do not fulfil the conditions shall have a derogation as defined in paragraph 3 of this Article. Such Member States shall in this Treaty be referred to as "Member States with a derogation".[101]

Greece (initially) and Sweden have had 'derogations' from the final stage of EMU under this Article. This is a different situation from that of the UK and Denmark, which have 'opt-outs' from adopting the single currency under Protocols agreed at the Maastricht IGC and attached to the Treaty on European Union (TEU).

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99 FCO Explanatory Memoranda

100 Article 122 concerns Member States that do not "fulfil the necessary conditions for the adoption of a single currency".

101 Cm 4434, p. 174. The derogation means that the following Articles do not apply:104(9) and (11), 105(1),(2), (3) and (5), 106, 110, 111 and 112(2)b. Such a Member State and its national central bank are excluded from rights and obligations within the ESCB as laid down in Chapter IX of the Statute of the ESCB.

D. Common Agricultural Policy (CAP)

1. How the Common Agricultural Policy works

Originally the Common Agricultural Policy (CAP) operated mainly by market support. If market prices fell to a certain level, then the European Commission would buy produce into intervention. Those intervention stocks were sometimes later exported with the help of very large subsidies. That still happens, but much of the aid to arable farmers now comes in the form of direct payments to farmers based on the area of their crops. The Commission has been trying to move over completely to direct payments since the early 1990s, by reducing support prices to world levels. Twice, proposed reforms have ended in compromise with support prices left too high. A further attempt is now under way.

The Agriculture Commissioner, Franz Fischler, is currently trying to replace market support completely by direct payments that would be completely decoupled from the level of output, and which would be paid regardless of whether the farmer produces anything at all. Member States have not yet reached agreement, and some compromise on decoupled payments is likely. However, the further the EU moves away from the idea of completely decoupled payments, the harder it will be to reach agreement in the World Trade Organisation (WTO) talks.

Whatever is decided for the future of the CAP, enlargement will not result in a large increase in agricultural spending over the next decade. That is because of the agreement by existing EU Ministers on farm spending up to 2013. The terms of the entry settlement conformed to that agreement.

2. The EU Agreement on Agricultural Spending up to 2013

For several years, there was considerable concern in the European Union about the possible costs of extending the CAP to new entrants, particularly Poland, which has much the largest farm sector. The European Commission's original plan in the Agenda 2000 CAP reform in 1999 was to reduce support prices to world prices so that all farm aid would be in the form of direct payments. They argued that direct payments should not go to the new entrants, because they were compensation for price reductions that the new entrants had not experienced. The plan failed, partly because Agenda 2000 ended in too much of a compromise, and partly because the refusal of direct aid to the new entrants was unacceptable to them.

The debate then moved on to whether the full benefits of the CAP for the new entrants could be delayed. In the previous enlargement, the common market in agricultural produce was extended to all new entrants from the beginning. However, it was not merely fears about costs that led the European Commission to press for delay. Dramatic increases in farm income would result from the CAP, with its high prices and direct payments. Farmers in new entrant countries would prosper, while other industries would face problems with increased competition. The result would be a shift of resources from other industries into agriculture, probably the reverse of what should be encouraged. The new entrants rejected the idea of delayed access, and the stalled negotiations appeared likely to jeopardise the whole enlargement programme.

In October 2002 France and Germany reached an agreement on agricultural spending up to 2013. It accepted that the phasing-in of direct aid payments to new Member States could begin in 2004. From 2007, spending on the CAP would be capped and not increase beyond the rate of inflation up to 2013. The Brussels European Council in October 2002 used the Franco-German deal as the basis for an agreement on the financial arrangements for admitting the new entrant countries into the CAP. *Agra Europe* summarised the deal:

> The heads of government agreed that between 2007 and 2013, the overall ceiling for CAP market support expenditure will rise by no more than 1% per annum on the 2006 level. This will mean that the budget for this part of this CAP, for the EU-25, will be able to rise just over Euro 45bn in 2006 to around Euro 48.6bn by 2013. However, expenditure on rural development policies is not covered by the funding cap, offering the possibility of a significant expansion in this area of CAP spending. In return, it has been accepted by all 15 EU countries that direct aids of the new Member States should be phased in over 10 years, at the rate originally proposed by the Commission. New Member States will thus receive 25% of the full EU rate in 2004, rising to 30% in 2005 and 35% in 2006.[102]

3. The Enlargement Settlement in December 2002

In December 2002 final terms for the enlargement were agreed. The EU had agreed to offer a phasing-in of direct aids, with 25% of direct aids in 2004, 30% in 2005 and 35% in 2006. This would rise to 40% in 2007 and increase by ten percentage points each ensuing year, to reach 100% by 2013. The applicant countries wanted a higher percentage of the aids in earlier years. A compromise was finally agreed, whereby new entrant countries will be able to make top-up payments from their own resources of 30% of the EU level over and above the basic CAP contribution. That would enable them to pay their farmers direct aids at 100% of the CAP level by 2010. In 2011 and 2012 they would be allowed only a reduced level of top-up – 20% and 10% respectively – so as not to exceed the 100% figure. The money paid over and above the basic EU contribution can be sourced either from national funds, or by transferring part of each country's EU rural development allocation into the direct aid budget. Payments from the rural development money are subject to certain rules, and must be co-funded by the States.[103]

An answer to a parliamentary question on 6 March 2003 contained an estimate of the likely cost:

> **The Secretary of State for Environment, Food and Rural Affairs (Margaret Beckett):** Enlargement to a European Union of 25 is forecast by the Commission

[102] "EU Summit Breakthrough puts Enlargement Back on Track", *Agra Europe*, 1 November 2002
[103] "Direct aids to be topped up to 55%", *Agra Europe*, 20 December 2002 EP/2

> to cost €6.3 billion in common agricultural policy direct payments and market support in 2013. This is consistent with the ceilings on agricultural expenditure agreed at the European Council in October 2002.[104]

4. The Effects of Enlargement on Agriculture

New entrant countries have been offered the opportunity of adopting a simplified form of CAP for their first five years. Aid can be paid at a flat rate per hectare, instead of using all the individual schemes that have arisen over the years in existing Member States. Poland has chosen this option, probably to avoid the administrative burden of imposing complex schemes on its very large numbers of small farmers. From that position, it would be straightforward to convert to the system of decoupled payments, if that is indeed the future of the CAP.

One important consequence of that arrangement is that the aid would offer no direct incentive to increase production. Amongst other benefits, that makes the cost of farm support predictable. By contrast, the introduction of market support measures in countries with considerable agricultural potential but low current output would enormously encourage increased production. An increase in direct payments is likely to increase the output of a profitable farmer. He can invest in land improvement like drainage, in fertilisers and in machinery. However, if he cannot produce profitably at the market price, he may reduce output or even give up farming altogether, still receiving the same direct payments.

The effects of the introduction of CAP support payments on agricultural production in the new Member States and on farm prices are unclear. In March 2002 the European Commission published a report estimating a dramatic increase in farm incomes in the candidate countries, on various scenarios. Output increases in those countries (now the accession states) of around a third were forecast if the current CAP was introduced. However, agricultural markets were not seriously disrupted.[105]

In the medium-term, the new Member States, particularly Poland, will be important competitors for West European agriculture. They will face initial problems in conforming to the high quality standards and animal welfare standards expected in the marketplace. However, there is no reason why these obstacles cannot be overcome, and they will be attractive locations for overseas investment.

UK farming tends to be vulnerable to such competition. Few UK products are perceived by consumers as having distinctively high quality or as being closely linked to a particular region. Consequently, very few are covered by the EU Origin Marking scheme, which protects certain names from being used by producers outside the region, and there are few

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[104] HC Deb 6 March 2003 c 954
[105] "EU study to back limits on direct aids for CEECs", *Agra Europe*, 15 March 2002

brands, with the supermarkets acting as powerful intermediaries. Consumers may feel strongly about buying meat from Tesco, for example. They do not necessarily notice or mind where that meat comes from. In their eyes, the supermarket is the guarantor of quality and value for money. The situation is the cause of great frustration among UK farmers who consider that their produce is of very high quality, but is unrewarded by the supermarkets. That leaves UK farmers largely as commodity producers, liable to be undercut by competition from cheaper foreign commodity producers.

E. Trade

On accession, the new Member States will automatically become part of the EU single market, which will simplify trading arrangements within the enlarged EU region.

Until now, Europe Agreements have covered bilateral trade relations between the EU and most candidates.[106] Under these, the EU has made more trade concessions than the candidates. These agreements originated in 1989 when the EU removed import quotas from countries of the former Soviet bloc and extended its generalised system of preferences (a formalised system of trade concessions) to them. In essence, industrial products (apart from sensitive sectors such as agriculture and textiles) have enjoyed virtually free access to the EU since 1995, and bilateral free trade now exists for industrial products (again with exceptions for agricultural products) between the EU and all negotiating candidate countries.

For the twelve candidate countries that have started negotiations (i.e. excluding Turkey) total exports amounted to some €172 billion in 2000, or some 4.7% of total world trade in that year. The countries had a negative balance of trade with the rest of the world of almost €90 billion, since their total imports were worth some €259 billion in the same year.[107]

Of course, their trade is, because of proximity and for political and historical reasons, heavily weighted towards the EU. The twelve candidate countries' exports to the EU, worth some €117 billion in 2000, accounted for some 68% of their total exports (11.4% of total EU imports). By value, they were dominated by machinery, transport materials, and textiles and clothing, followed by agricultural products. The EU's exports to those countries (worth some €150 billion in 2000 leading to a positive balance of trade for the EU) comprised, in order of value, machinery, followed by transportation materials and chemical products.

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[106] Association Agreements with Cyprus and Malta
[107] http://europa.eu.int/comm/trade/issues/bilateral/regions/candidates/docs/econo_cadidates.xls

Looking at foreign direct investment (FDI), in 1999 4.5% of both EU outward stocks and outflows were to the candidate countries. Conversely, their flows of FDI to the EU amounted to only 0.5% of total EU inflows.[108]

The Commission has provided a guide by sector to the significance of changes and the benefits that will accrue through adoption of the *acquis* by the new Member States. For example, looking at trade defence mechanisms, such as anti-dumping rules, the current rules and penalties are expected to suffice for the enlarged area. This is because although the number of acceding countries is larger than in the previous two enlargements, the total economic activity in all candidate countries is lower than 10% of that of the EU-15, so any dumping or injury determinations reached for the EU-15 would probably be appropriate for an EU-25.[109]

One good illustration of how the new arrangements will work is the case of steel, one of the more contentious trade areas:

> What are the benefits which will arise out of the adoption of the acquis by the new Member States?
>
> > Extension of the Single Market will simplify trade within the enlarged EU region. The application of common competition, state aid and environmental disciplines will remove trade distortions and will lead to a cleaner environment in new Member States.
> > Extension of the Common Commercial Policy [CCP] to new Member States will facilitate external trade. New Member States will bring their tariffs down to EU levels. A single set of trade rules will facilitate third country operators' dealings with EU countries. Third countries will benefit from the application of MFN or preferential trade arrangements within a zone accounting for 20% of world trade.
>
> What does implementation of the CCP by acceding countries entail?
>
> > General: new Member States will automatically participate in international agreements to which the Community is a party. This includes commercial policy measures specifically applied to steel products as well as to the steel-related aspects of bilateral trade and co-operation agreements with third countries.
> > Common External Tariff: new Member States will apply the CET. EU steel tariffs are already low and will decrease annually until they are eliminated as from 1 January 2004 in line with Uruguay Round commitments.

108 http://europa.eu.int/comm/trade/issues/bilateral/regions/candidates/docs/econo_cadidates.xls
109 http://europa.eu.int/comm/trade/bilateral/cc/sect_ovw.htm

> Subsidies: a particular EC state aid rules in the field of steel similar to that set up by the ECSC Treaty following expiry of ECSC treaty continues to be applied. …[110]

Generally, the bilateral trading arrangements adopted between the EU and candidate countries has already led to increased trade between these countries, and although the EU is the most important trading partner for the twelve accession states (including Romania and Bulgaria), this is not a one-sided arrangement. They in turn, as a group, are the EU's largest trading partner after the USA, and the enlarged Union is expected to attract more investment:

> The strong trade relations that candidate countries have enjoyed with the European Union since the beginning of the 1990s have contributed significantly to the development of their national economies. Trade with the twelve countries currently negotiating their accession to the EU multiplied by three between 1993 and 2001; EU exports increased from €35,555 million at the time of the signature of the first Europe Agreements in 1993, to €136,427 million in 2001, while EU imports increased from €27,786 million to €106,886 million. The twelve therefore rose to become the EU's second trade partner after the United States, accounting for 12.3% of the EU's total external trade. Conversely, the EU is the most important partner for the twelve: in 2001, 65.7% of the twelve candidates' total exports went to the EU, while 61.7% of their total imports came from the EU. In 2001, the EU's trade surplus with the twelve amounted to €29,540 million.
> […]
> In a pattern similar to that of 2000, the EU's main trading partner among candidate countries in 2001 was Poland (accounting for 23.4% of EU exports to the region and 19.9% of EU imports), while Latvia remained the smallest importer of EU products (1.6% of EU exports to the region). Cyprus was the smallest exporter (accounting for 0.7% of total imports).
> […]
> **Future prospects**
> Trade and investment, both within the enlarged Union and with our external partners, will greatly benefit from an extra 105 million consumers. In addition, a single set of trade rules, a single tariff and a single set of administrative procedures will apply not only across the existing Member States but across the Single Market of the enlarged Union. This will simplify dealings for third-country operators within Europe, thus facilitating investment and trade. Indeed, the Common External Tariff of the EU, which will be applied by acceding countries, is on average lower than national tariffs presently applied in the twelve candidate countries. Developing countries, enjoying preferential access to the EU, will find new markets in the acceding countries. And new members will also improve their access to the markets of developing countries through economic and trade co-operation.

110 http://europa.eu.int/comm/trade/bilateral/cc/sect_ovw.htm

> Finally, this unprecedented enlargement is likely to have a strong positive effect on inward foreign direct investment in the acceding countries. It should also boost investment flows into the enlarged Union.[111]

EU Trade Commissioner Pascal Lamy met with the thirteen candidate countries for the last time before accession of the ten in Bucharest, on 9 and 10 May.[112] The meeting included discussion on preparations for the next WTO meeting in Cancun in September 2003, at which a stock-take on the new trade round is due.

F. State aids and competition policy

In general, EU law prohibits the provision of state aid (Article 87 of the Amsterdam Treaty[113]). This is because providing aid and assistance to certain industries and regions can distort competition, reducing the benefits of a single market. EU law allows exceptions to these rules in geographical areas which are economically deprived, and in industries where providing aid will not have an adverse effect on the effective operation of the market. Additional state aid restrictions, on the other hand, apply in areas where there is European over-capacity, including motor vehicles, iron, steel, coal, fishery and agricultural products, although where state aid is likely to provide technological advances, it may be allowed. State aid is also allowed in areas which have suffered from natural disaster, where there is a cultural or heritage benefit, or where a project is in the common European interest.

The Accession Treaty deals with competition and state aid changes in the new member states. Five of the new members will be covered immediately by EU rules. Meanwhile, the remaining countries will abide by EU law by the following dates: Cyprus by 2006, Slovakia by 2010, Malta, Hungary and Poland by 2012.

The FCO (Foreign and Commonwealth Office) Explanatory Memorandum on the Treaty states:

> These provisions will bring about a level playing field as regards state aid in the enlarged EU and they represent the best achievable result in terms of competitiveness for UK industry overall.[114]

There are also terms which allow three countries to restructure major industries: Malta (dockyards), Czech Republic (steel), and Poland (steel). The treaty allows the EU to

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111 http://europa.eu.int/comm/trade/bilateral/cc/index_en.htm

112 Sixth Enlargement Trade Ministerial Meeting Final Joint Declaration, Bucharest, 10 May 2003

113 Treaty of Amsterdam, Cm 3780

114 FCO Explanatory Memoranda on the Treaty, FCO Website as at 16th May, http://www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1007029392925

monitor the restructuring with checks before any aid is paid. Only Malta can actually pay aid after accession.

VIII The position of the remaining candidate states

A. Bulgaria and Romania

Bulgaria and Romania are still engaged in accession negotiations, in which they have so far closed 23 and 17 chapters, respectively, out of a total of 31 negotiating chapters.

The Commission's regular reports in October 2002 assessed their progress towards accession,[115] and in the accompanying Strategy Paper the Commission undertook to support both countries in achieving their objective of accession in 2007. To that end, it put forward detailed 'road maps' for both countries in November 2002, covering the period up to accession. These identify the tasks ahead, with particular emphasis on the administrative and judicial capacity required to implement the *acquis*, and on economic reform. They provide for increased financial assistance from the date of the first round of accessions, which is linked to progress in implementing the road maps. [116]

In December 2002 the Copenhagen European Council agreed 2007 as a target date for Bulgarian and Romanian accession, subject to further progress in complying with the membership criteria. The Council also endorsed the Commission's road maps, including the proposals for increased pre-accession assistance, and it confirmed that Bulgaria and Romania would participate as observers at the next IGC.

On 26 March 2003 the Commission put forward revised Accession Partnerships (APs) for Bulgaria and Romania. These identify short- and medium-term priority objectives for 2003-4, on which the candidate states should focus their efforts in order to comply with the accession criteria. The pre-accession financial assistance provided by the EU is intended to support their efforts to meet these objectives.[117] The APs were formally adopted by the General Affairs and External Relations Council at its meeting on 14-15 April 2003. On 9 April 2003, when the EP voted in favour of the new accessions, it also gave its formal endorsement to the objective of admitting Bulgaria and Romania to the EU by 2007.

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[115] Bulgaria: http://europa.eu.int/comm/enlargement/report2002/bu_en.pdf
Romania: http://europa.eu.int/comm/enlargement/report2002/ro_en.pdf
The full text of the road maps is available at:
http://europa.eu.int/comm/enlargement/docs/pdf/roadmapbr-ro-2002_en.pdf

[117] The priorities identified in the APs are summarised in *Enlargement Weekly*, 1 April 2003. The full texts are at: http://europa.eu.int/comm/enlargement/bulgaria/pdf/apbg_0303_en.pdf and http://europa.eu.int/comm/enlargement/bulgaria/pdf/apbg_0303_en.pdf

In November 2003 the Commission will publish its next ‘progress reports’ on Bulgaria and Romania, along with its final monitoring reports on the accession states.

B. Turkey

In December 1999 the Helsinki European Council decided that Turkey should be recognised as a candidate state, destined to join the EU on the basis of the same criteria as applied to the other candidates. These include the political criteria for EU membership: “That the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities”.

In December 1997 the Luxembourg European Council decided that compliance with the Copenhagen political criteria would be a prerequisite for the opening of accession negotiations with a candidate state. Because Turkey is not yet judged by the EU to have fulfilled the political membership criteria, it has not yet been permitted to open accession negotiations, although it is involved in pre-accession preparations and is receiving EU financial assistance for this purpose.

Over the last 18 months or so, the Turkish Government has introduced several packages of constitutional and legislative reforms, with a view to complying with the requirements for EU membership. The Copenhagen European Council in December 2002 welcomed “the important steps taken by Turkey towards meeting the Copenhagen criteria, in particular through the recent legislative packages and the subsequent implementation measures which cover a large number of key priorities specified in the Accession Partnership.”[118] However, the EU has made it clear that there is not yet sufficient evidence that the reforms have been implemented in practice. Following a recent raid by Turkish authorities on the offices of the Human Rights Association in Ankara, the enlargement Commissioner, Gűnter Verheugen, told the European Parliament:

> Once again this shows the extent of the gap between the political reforms on the one hand and the attitude of the executive and judicial authorities on the other, in terms of implementation. In this context, I would stress that implementation of reforms is a determining factor in the assessment of compliance with the Copenhagen political criteria.[119]

The Copenhagen European Council made a commitment to open negotiations with Turkey “without delay” if it decided in its December 2004 assessment (based on the Commission’s annual progress report and recommendation), that the country met the political accession criteria. It called on the Commission to submit a proposal for a revised AP and “to intensify the process of legislative scrutiny”.[120] The EC-Turkey Customs

[118] Copenhagen European Council. Presidency Conclusions, 12-13 December 2002, paragraph 18
[119] Commission press release SPEECH/03/243, 14 May 2003
[120] Ibid., paragraph 20

Union should be extended and deepened, and the EU would significantly increase its pre-accession financial assistance to Turkey.

On 26 March 2003 the Commission put forward a revised AP for Turkey and announced a significant increase in pre-accession support. *Enlargement Weekly* reported that the new AP "highlights the need for further efforts in the fight against torture, the alignment with the European Court of Human Rights judgements and the respect of fundamental freedoms of expression, association, and religion."[121] Financial assistance to Turkey for 2004-6 is to be increased, and will be tied in to the priorities set out in the AP.[122] The Commission has also proposed enhanced co-operation in political and economic dialogue, justice and home affairs, maritime safety, the process of legislative scrutiny, and extending the scope of the Customs Union, as well as deepening trade relations.[123]

The new government that came into power in Turkey at the November 2002 parliamentary elections, now led by Prime Minister Recep Tayyip Erdogan, is regarded as firmly committed to EU membership, but the continuing influence of the military in Turkish politics, human rights issues and Turkey's perceived failure to influence the Turkish Cypriot position over a UN settlement on Cyprus have caused concern in the EU.

The British Government has been a strong supporter of Turkey's candidature and advocated a decision at Copenhagen on a date for opening accession negotiations. In December 2002 the Foreign Secretary announced a bilateral action plan between the UK and Turkey, under which just over $3 million per year would be committed by the UK to support a wide range of projects to assist Turkey in preparation for EU membership.[124]

The Commission's next progress report on Turkey will be published in November 2003.

IX The Accession States and the Convention on the Future of Europe

A. Participation by the Accession States

Declaration 23 in Annex IV of the Treaty of Nice concerned the future European reform process. The Declaration set out various items for debate and agreed that "a new [Intergovernmental] Conference will be convened in 2004" to address these issues, with a view to making changes to the Treaties.

121 *Enlargement Weekly*, 1 April 2003
122 The text of the new AP is at: http://europa.eu.int/comm/enlargement/turkey/pdf/com_2003_0144_en.pdf
123 Ibid.
124 FCO press release, 3 December 2002 on FCO website

In accordance with the Nice Declaration, the European Council in Laeken on 14-15 December 2001 established a 'Convention', which in the following months would bring together government and parliamentary representatives from the Member States, the accession states, the EU institutions, civil society and the general public, to prepare an institutional and constitutional reform of the EC Treaties. An Intergovernmental Conference (IGC) would be convened to conclude the reform process.

The Laeken Declaration stipulated:

> The accession candidate countries will be fully involved in the Convention's proceedings. They will be represented in the same way as the current Member States (one government representative and two national parliament members) and will be able to take part in the proceedings without, however, being able to prevent any consensus which may emerge among the Member States.[125]

There are 26 accession state representatives, two from each of the candidate/accession states, including Turkey.

While the Convention is looking at reforms to help make a larger Union function more efficiently and transparently, it has not been part of the enlargement process itself. The Prime Minister said in Prime Minister's Questions on 14 May 2003 that the Convention was "necessary to make the accession work".[126] The Copenhagen European Council Conclusions stated, perhaps more accurately, that: "Without reform the Union will not fully reap the benefits of enlargement".[127] The Convention and its outcome are not prerequisites for accession, the sole legal basis for which is the Accession Treaty. However, the Convention is enabling the accession states to have their say in the future structure and methods of the EU and to contribute their views to the reform process on a more or less equal basis to the existing Member States.

B. Timing of the Intergovernmental Conference

The status of the accession states in the later stages of the reform process is not certain, as it is not yet clear when the IGC will be convened. Laeken had envisaged a period of reflection between the conclusion of the Convention and the launching of an IGC. The Convention is due to present its final constitutional text to the European Council at Thessaloniki on 20-21 June 2003, which would imply the launching of a new IGC in January 2004. However, France, Germany and Italy would like the IGC to be finished by December 2003, with a new treaty agreed during the Italian EU Presidency. This timetable would mean that the accession states probably could not participate fully in the

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125 http://europa.eu.int/futurum/documents/offtext/doc151201_en.htm. Their contributions to the debate on the future of Europe can be accessed on the Europa website at http://europa.eu.int/futurum/congov_bis_en.htm#notmember.

126 HC Deb 14 May 2003 c 306

127 European Council Conclusions, Copenhagen, 12-13 December 2002

final agreement on the constitutional text being drawn up by the Convention. They would like the IGC to be extended or delayed so that the final decisions will not be made until after they become full EU members. Several Convention members have called for the IGC to start in 2004, in accordance with the Treaty of Nice.[128] If the IGC starts in early 2004 the accession states will not be full members, but they would become so by the time the IGC concluded, and would therefore have full voting rights in the final decision on any constitutional text.

[128] For example, CONV 599/03, CONV 566/03 and CONV 626/03 all express concern about the rapid convening of an IGC before the accession states become full members.

Appendix 1 The Accession States: Political and Economic Situation

Eight of the ten accession states are relatively new democracies that have developed since the end of the Cold War. The other two are very small states, with Cyprus presenting a particular political problem in its unresolved internal division. They present the EU with a unique enlargement in terms of their overall size and their individual characteristics.

The ten countries have been preparing over the last decade to join the EU. Some of the key economic indicators for the accession countries are summarised and compared with the current Member States:

Key Economic Indicators for Accession Countries

	Total 2001 GDP in euros billions	GDP per capita at current prices in PPS	GDP per Capita Index at current prices in PPS	Real GDP Growth	HICP Inflation	2001 Unemployment as % of Active Population	2001 Government Debt as % of GDP	2001 Interest Rates
EU15	8,815.0	23,200	100	1.5	2.2	7.3	63.0	3.42
Belgium	256.6	24,600	106	0.8	2.4	6.7	108.5	(d)
Denmark	180.4	27,600	119	1.4	2.3	4.3	45.4	3.45
Germany	2,063.0	24,100	104	0.6	1.9	7.7	59.5	(d)
Greece	130.4	15,500	67	4.1	3.7	10.4	107.0	(d)
Spain	650.2	19,200	83	2.7	2.8	10.6	56.9	(d)
France	1,463.7	23,300	100	1.8	1.8	8.5	56.8	(d)
Ireland	115.4	27,700	119	5.7	4.0	3.9	36.8	(d)
Italy	1,216.7	24,400	105	1.8	2.3	9.4	109.5	(d)
Luxembourg	21.2	44,300	191	1.0	2.4	2.0	5.6	(d)
Netherlands	424.8	26,000	112	1.3	5.1	2.4	52.8	(d)
Austria	210.7	25,900	112	0.7	2.3	3.6	67.3	(d)
Portugal	122.7	17,100	74	1.6	4.4	4.1	55.6	(d)
Finland	136.0	24,000	103	0.6	2.7	9.1	43.8	(d)
Sweden	234.2	23,200	100	1.1	2.7	4.9	54.4	4.10
United Kingdom	1,588.8	23,200	100	2.1	1.2	5.0	39.0	3.75
Cyprus	10.2	18,500	80	4.15 (b)	2.0	4.4	(c)	4.90
Czech Republic	63.3	13,300	57	3.1	4.5	8.0	23.7	5.00
Estonia	6.2	9,800	42	5.0	5.6	11.8	4.8	4.50
Hungary	58.0	11,900	51	3.6	9.1	5.6	53.1	10.90
Lithuania	13.4	8,700	38	6.5	1.3	16.1	23.1	3.40
Latvia	8.5	7,700	33	7.9	2.5	12.8	16.0	5.20
Malta	4.0	11,700 (a)	55 (a)	-0.8	(c)	6.7	65.7	4.70
Poland	196.7	9,200	40	1.0	5.3	18.5	38.7	17.10
Slovenia	20.9	16,000	69	2.9	8.6	5.8	27.5	6.70
Slovak Republic	22.8	11,100	48	3.3	7.0	19.4	44.1	7.30

PPS - Purchasing Power Standards, GDP - Gross Domestic Product, HICP - Harmonised Index of Consumer Prices

Notes : (a) - 1999 Figure (latest available), (b) - provisional, (c) - not available, (d) - EU15

Source - Eurostat

The main difference between the current EU-15 and the accession countries is that GDP (gross domestic product) per capita is much lower in the accession countries. This can be seen in both the GDP per capita figures expressed in euros, as well as the index, both based on PPS (purchasing power standards). Wim Kok pointed this out in his EU enlargement report:

> In simple economic terms, the coming enlargement of the EU is the integration of a group of countries forming a large wealthy economy of 375 million people with a group of countries of 75 million people that are much less wealthy.[129]

Mr Kok noted that the accession countries have an average GDP per capita of around 40% of the current member countries (at purchasing power parity); this is noticeable in the table above. He continued:

> The most comparable event was the accession of Spain and Portugal in 1986, which increased the EU's population by 16%: they had an average *per capita* GDP of about 70% of the existing EU (at purchasing power parity).
>
> Another difference between this enlargement and previous ones is that most of the new members are completing the transition from planned economies to a market-based system, and have been undergoing difficult economic reforms independently of their efforts to join the EU.[130]

The main economic benefit of enlargement of the EU is the creation of a larger single market for all the EU states, both new and old, in which to compete. The new states will benefit from greater trade links, as well as job creation, economic growth and greater inward investment. The current states will enjoy a larger market, while all will benefit from greater competition.

The following geographical statistics are followed by a brief description of the political and economic situation in each of the accession states:

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[129] Wim Kok, *Enlarging the European Union : Achievements and Challenges*, for the European Commission, March 2003

[130] Ibid

	Area (km^2)	Population (million)
EU15	3,237,900	376.4
Cyprus	9,251	0.8
Czech Republic	78,866	10.2
Estonia	45,227	1.4
Hungary	93,030	10.2
Lithuania	65,300	3.5
Latvia	64,589	2.4
Malta	316	0.4
Poland	312,685	38.6
Slovenia	20,273	2.0
Slovak Republic	49,035	5.4

Source : *Enlarging the European Union : Achievements and Challenges* by Wim Kok, for the European Commission

1. Cyprus

a. System of Government

Cyprus is a presidential republic. There is a single-chamber legislature, the House of Representatives, which is elected for a five-year term. Under the constitution the House of Representatives has 80 seats, representing six multi-seat constituencies, but only 56 of these are currently filled. The remaining 24 seats are reserved for Turkish Cypriot MPs, but are currently vacant.

The President is both the Head of State and the leader of the Government. The President is elected by popular vote for a five-year term and exercises executive power through a Council of Ministers appointed by him.

Northern Cyprus

Because of the division of the island since 1974, Turkish Cypriots do not vote in the elections of the Republic of Cyprus. However, democratic elections take place in the North for the Turkish Cypriot authorities (see below).

b. Current Government

The most recent parliamentary elections were held in May 2001. The Restorative Party of the Working People (AKEL) and Democratic Rally (DESY) won the most seats: 20 and 19 seats respectively.

The current President, Tassos Papadopoulos, was elected on 16 February 2003 in the first round of presidential elections, when he defeated the incumbent, Glafcos Clerides, who had been President since 1993. Mr Papadopoulos was inaugurated as President on 28 February 2003.

Northern Cyprus

In 1983 the Turkish Cypriots announced the establishment of the 'Turkish Republic of Northern Cyprus' ('TRNC'), which is not internationally recognized, except by Turkey. Rauf Denktash has been 'President' of the Turkish Cypriots since 1975 and Dervis Eroglu has been 'Prime Minister' of a coalition 'government'. Elections for the 'Parliamentary Assembly' are due before December 2003 and for the 'Presidency' before April 2005.

In March 2003 UN efforts to achieve agreement between the two communities on a political settlement collapsed.

c. Economic Situation

Cyprus has the highest GDP per capita of all the accession states, and also the lowest unemployment rate. The economy is subject to external shocks, due to its reliance on tourism and also the continuing political situation.[131] The IMF notes:

> After posting strong output growth in 2000 and 2001, the Cypriot economy is experiencing a slowdown, driven by a decline in tourism arrivals. Nevertheless, underlying economic fundamentals remain solid.[132]

Northern Cyprus

The situation in Northern Cyprus is very different, as the *CIA World Factbook* notes:

> The Turkish Cypriot economy has less than one-half the per capita GDP of the south. Because it is recognized only by Turkey, it has had much difficulty arranging foreign financing, and foreign firms have hesitated to invest there. It remains heavily dependent on agriculture and government service, which together employ about half of the work force. To compensate for the economy's weakness,

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[131] CIA *World Factbook 2002*
[132] IMF *World Economic Outlook,* Sept 2002

> Turkey provides substantial direct and indirect aid to tourism, education, industry … .[133]

2. Czech Republic

a. System of Government

The Czech Republic became independent following the dissolution of Czechoslovakia in 1993. It operates a bicameral parliamentary system comprising a 200-seat Chamber of Deputies (*Poslanecká Snémovna*) and an 81-seat Senate (*Senát*). The Chamber of Deputies is elected by proportional representation for a four-year term. Members of the Senate are elected for a six-year term in single-seat constituencies, with one third standing for re-election every two years.

Executive power resides with the Prime Minister. The role of Head of State and Commander in Chief of the Armed Forces is fulfilled by the President, whose post is largely ceremonial. Parliament elects the President for a five-year term.

b. Current Government

The most recent general election in June 2002 led to the formation of a centre-left coalition Government under Prime Minister Vladimir Spidla. The parties in the coalition are the Czech Social Democratic Party, the Christian Democratic Union-Czechoslovak People's Party, and the Freedom Union. The coalition has a narrow majority of two seats in the Chamber of Deputies.

The current President, Vaclav Klaus, was elected in late February 2003 after several rounds of voting in Parliament. Mr Klaus, a conservative former-Prime Minister, succeeded Vaclav Havel, a former communist-era dissident who had completed two terms in office, the maximum permitted under the constitution.

c. Economic Situation

The Czech Republic had been enjoying GDP growth of 3% for 2000 and 2001, before it fell to 2% for 2002. For 2003 it is forecast to grow by 3% again[134]. However, this level of economic growth is not as high as some other accession countries, possibly due to it having a higher GDP per capita than some other accession states. Inflation, unemployment or government debt are not particularly high in comparison to other accession states. The country is under a number of pressures to gain greater convergence

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[133] CIA *World Factbook 2002*

[134] Eurostat Website at http://europa.eu.int/comm/eurostat/Public/datashop/print-product/EN?catalogue=Eurostat&product=1-structur-EN&mode=download#Ecoref

with EU fiscal rules, deal with demographic pressures and provide monetary policy to deal with currency and interest rate issues[135].

The *CIA World Factbook* notes:

> Moves to complete banking, telecommunications, and energy privatization will encourage additional foreign investment, while intensified restructuring among large enterprises and banks and improvements in the financial sector should strengthen output growth.[136]

3. Estonia

a. System of Government

Estonia regained its independence in August 1991, 51 years after it was occupied by Soviet troops and forcibly absorbed as a constituent republic of the Soviet Union.

The Parliament (*Riigikogu*) has 101 seats and is elected for a four-year term by means of a system of proportional representation. Executive power is held by the Council of Ministers, which is headed by the Prime Minister.

The President, who is Head of State and Supreme Commander of Estonia's armed forces, is elected by Parliament and may serve up to two five-year terms. The President is also responsible for nominating the Prime Minister.

b. Current Government

The current Government under Prime Minister Juhan Parts came to power after elections in March 2003. The three party coalition, which comprises Mr Part's business-oriented Union for the Republic - Res Publica, the centre-right Reform Party and the centre-left People's Union, holds 60 seats in the 101-seat parliament.

A central feature of Mr Parts' campaign was a pledge to combat corruption and crime and to prepare Estonia for EU and NATO membership. He also promised to reduce taxes and bolster economic growth.

The current President is Arnold Rüütel, who was elected in September 2001. He succeeded Lennart Meri, who had served as President since 1992.

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[135] IMF *World Economic Outlook*, April 2003
[136] CIA World Factbook 2002

c. Economic Situation

One of the poorer accession countries based on GDP per capita, but has benefited from high GDP growth, with the years 2001, 2002, and 2003 all having growth rates of around 5%[137]. However, the economy suffers from relatively high unemployment. The *CIA World Factbook* notes:

> Estonia, as a new member of the World Trade Organization, is steadily moving toward a modern market economy with increasing ties to the West, including the pegging of its currency to the euro. A major goal is accession to the EU, possibly by 2004. The state of the economy is greatly influenced by developments in Finland, Sweden, and Germany, three major trading partners. The trade deficit is a negative factor, whereas the internal government surplus is a plus.[138]

4. Hungary

a. System of Government

Hungary's transition from Communist control began in 1989 and democratic elections were held in 1990. The National Assembly (*Országgyulés*) has 386 members, who are elected for a four-year term using a mixed system of proportional representation and single-seat constituencies. The President, who is also Head of State and Commander in Chief of the Armed Forces, is required to be non-partisan once in office. Candidates for the post are elected for a five-year term by the National Assembly.

b. Current Government

The current Government under Prime Minister Peter Medgyessy came to power following elections in April 2002. Mr Medgyessy, a banker and former finance minister, was the leadership candidate for the centre-left Hungarian Socialist Party, which governs in coalition with the liberal Alliance of Free Democrats. The election was closely fought, leaving the coalition with a narrow ten-seat advantage over the conservative Fidesz opposition of former Prime Minister Viktor Orban.

Shortly after becoming Prime Minister, Mr Medgyessy faced calls for his resignation following an admission that he had served as a counterintelligence officer for the Communist-era secret services during the late 1970s and 1980s. He has pledged to secure accession to the EU in 2004 and to joining the eurozone three years later.

The current President, Ferenc Mádl, was elected by the National Assembly in 2000.

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[137] Eurostat Website at http://europa.eu.int/comm/eurostat/Public/datashop/print-product/EN?catalogue=Eurostat&product=1-structur-EN&mode=download#Ecoref

[138] CIA *World Factbook*

c. Economic Situation

Hungary has enjoyed high growth rates since 1997 as it has progressed towards becoming an EU member. The IMF notes that Hungary will need to deal with a widening fiscal deficit by showing public sector wage restraint, which will in turn keep check on wage inflation and deteriorating competitiveness.[139] They go on to say:

> Fiscal restraint and wage moderation would also help to unburden monetary policy, which has faced conflicts between Hungary's exchange rate and inflation objectives, as seen by the string of recent interest rate cuts in response to upward forint pressures despite inflation that was projected to remain above its end-2003 target.[140]

The *CIA World Factbook* also notes:

> Hungary continues to demonstrate strong economic growth and to work toward accession to the European Union. The private sector accounts for over 80% of GDP. Foreign ownership of and investment in Hungarian firms is widespread, with cumulative foreign direct investment totalling more than $23 billion since 1989.[141]

5. Latvia

a. System of Government

Like the other two Baltic States, Latvia regained its independence in August 1991, 51 years after it was occupied by Soviet troops and forcibly absorbed as a constituent republic of the Soviet Union.

The Parliament (*Saeima*) has 100 seats and is elected for a four-year term. The President, who is Head of State and Head of the Armed Forces, is elected by secret ballot by the Parliament, also for a four-year term. Executive power is exercised by the Cabinet of Ministers under the Prime Minister, who is appointed by the President.

b. Current Government

Parliamentary elections were held on 5 October 2002. The centre-right New Era party won 26 seats and was able to form a coalition with the Greens and Farmers Union, First Party, and Fatherland and Freedom. The Prime Minister is Einars Repse, the leader of the New Era party, who campaigned on an anti-corruption ticket. His Government has pledged to reduce bureaucracy and taxes and to secure membership of NATO and the EU.

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[139] IMF *World Economic Outlook*, April 2003
[140] Ibid
[141] CIA *World Factbook*

The current President, Vaira Vike-Freiberga, was elected by Parliament in June 1999. Her first term in office will expire in June 2003.

c. Economic Situation

From the table above, the poorest of the accession countries by GDP per capita. Like Lithuania it is enjoying high growth and low inflation, but suffers high unemployment. Dealing with current account deficit remains a concern for the government[142].

6. Lithuania

a. System of Government

The largest of the three Baltic States, Lithuania regained its independence in August 1991, 51 years after it was occupied by Soviet troops and forcibly absorbed as a constituent republic of the Soviet Union.

The President, who is also Head of State, is elected directly and serves for a maximum of two five-year terms. The Parliament (*Seimas*) has 141 seats and is elected for a four-year term.

The Prime Minister is appointed by the President with the approval of Parliament. Executive power is held by the Prime Minister and other ministers within the Government.

b. Current Government

Parliamentary elections were held in October 2000, resulting in the formation of a centre-right coalition under Prime Minister Rolandas Paksas. Disagreements over oil privatisation led to the collapse of the coalition and the formation of a new centre-left Government under Prime Minister Algirdas Brazauskas, a former First Secretary of the Communist Party and then President of Lithuania between 1992 and 1998. Mr Brazauskas received strong backing in Parliament for his programme, which centres on securing NATO and EU membership for Lithuania.

The current President, Rolandas Paksas, was elected in January 2003, overcoming incumbent Valdus Adamkus.

c. Economic Situation

By GDP per capita figures, the second poorest of the accession states. It has enjoyed high growth rates over the last number of years, but also high unemployment. Inflation remains low. The *CIA World Factbook* comments:

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142 IMF Sept 2002

Lithuania, the Baltic state that has conducted the most trade with Russia, has been slowly rebounding from the 1998 Russian financial crisis. High unemployment, still 12% in 2002, and weak consumption have held back recovery. Trade has been increasingly oriented toward the West.

7. Malta

a. System of Government

Malta is a democratic republic within the Commonwealth. The President is the constitutional head of state. President Guido de Marco, of the Nationalist Party (PN), was elected in 1999 for a five-year term. Legislative power is held by the unicameral *Kamra tad Deputati*, the House of Representatives. This has 65 members, elected for a five-year term in 13 multi-seat constituencies, by proportional representation (with a possibility of extra seats for the largest party that would otherwise not have an absolute majority in parliament).

b. Current Government

The Prime Minister, Dr Eddie Fenech Adami (PN) took office in 1998 and began a second term in April 2003 following elections on 12 April 2003. The Government is formed by the PN. The results of the elections were as follows:[143]

Party	%	Seats
Nationalist Party (PN, conservative)	51.8	35
Malta Labour Party (MLP, social democratic)	47.5	30
Democratic Alternative (AD, ecologist)	0.7	-
Turnout: 96.2%		

c. Economic Situation

Malta is one of the wealthier accession countries. Due to reliance on the tourism industry it is subject to the health of the global economy. The negative growth figure in the table on page 53 does not reflect Malta's growth generally. In the last few years its economy has grown, except in 2001[144].

[143] http://www.electionworld.org/malta.htm

[144] Eurostat at http://europa.eu.int/comm/eurostat/Public/datashop/print-product/EN?catalogue=Eurostat&product=1-structur-EN&mode=download#Ecoref

8. Poland

a. System of Government

Poland emerged from Communist rule in the late 1980s after a prolonged campaign for political reform that was led by the trade union Solidarity movement. Partially free parliamentary elections were held in 1989, followed by free presidential elections in 1990, which brought the leader of Solidarity, Lech Wałęsa, to power.

The country has a bicameral parliament, comprising the 460-seat lower house (*Sejm*) and the 100-seat upper house (*Senat*). The *Sejm* is elected by proportional representation and the *Senat* is chosen by a regional first-past-the-post system. The President, who is elected by direct ballot, has executive powers, including the right to veto legislation or send it for review. The *Sejm* can overturn a presidential veto by means of a three-fifths majority.

b. Current Government

The current centre-left Government under Prime Minister Leszek Miller came to power after elections in September 2001. Mr Miller's Alliance of the Democratic Left, its smaller partner, the Union of Labour, and the Polish Peasants' Party (PSL), formed a coalition that commanded 258 out of 460 seats in the *Sejm*. The election represented a resounding defeat for the outgoing centre-right coalition Government based around the Solidarity movement, which emerged with little over 5 per cent of the vote.

The new Government pledged to pursue membership of the European Union and a programme of economic reform, aimed at reducing the high unemployment levels and avoiding a financial crisis.

During late 2002 friction was reported between the PSL and its coalition partners, reportedly due to differences over the terms for EU accession. The PSL was expelled from the coalition in February 2003 after it voted against the Government's tax proposals. Consequently, the Government was left 19 seats short of a majority, although Mr Miller has said he believes the coalition can survive until early elections in June 2004. He has also indicated his intention to continue with economic reforms, despite rising public disquiet, saying reform is vital to ensure Poland is ready for EU accession.

c. Economic Situation

Poland has the largest economy of the accession states. It is growing, but at a lower rate compared to 2000. Poland also suffers from high unemployment, while inflation is forecast to continue to fall[145].

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[145] Eurostat at http://europa.eu.int/comm/eurostat/Public/datashop/print-product/EN?catalogue=Eurostat&product=1-structur-EN&mode=download#Ecoref

Poland is generally dependant on the health of the German economy. There are concerns around the level of interest rates and its fiscal deficit. Government debt is set to rise to 50% of GDP this year[146]. The *CIA World Factbook* states:

> Poland has steadfastly pursued a policy of liberalizing the economy and today stands out as one of the most successful and open transition economies. GDP growth had been strong and steady in 1993-2000 but fell back in 2001-02 with slowdowns in domestic investment and consumption and the persistent weakness in the European economy. The privatization of small and medium state-owned companies and a liberal law on establishing new firms have allowed for the vibrant development of a private business sector. In contrast, Poland's large agricultural sector remains handicapped by structural problems, surplus labour, inefficient small farms, and lack of investment. Restructuring and privatization of "sensitive sectors" (e.g., coal, steel, railroads, and energy) have begun. Structural reforms in health care, education, the pension system, and state administration have resulted in larger than expected fiscal pressures.[147]

9. Slovakia

a. System of Government

The Slovak Republic became independent following the dissolution of Czechoslovakia in 1993. The five-year period after independence was marked by growing authoritarianism on the part of Prime Minister Vladimir Mečiar and his Movement for a Democratic Slovakia (HZDS). Slow progress on economic and political reform, coupled with a lack of respect of minority rights and the democratic process, damaged Slovakia's relations with the EU and NATO and undermined popular support for Mr Mečiar.

After years of constitutional stalemate, changes were introduced in 1999, allowing for the President to be chosen by direct election for a five-year term. Further constitutional changes were implemented in 2001, resulting in a decentralisation of power and a strengthening of the power of the judiciary. Executive power resides with the Prime Minister. The President, who is also Head of State, approves legislation but wields little domestic political power.

The 150-seat unicameral parliament, the National Council of the Slovak Republic (*Narodna Rada Slovenskei Republiky*), is elected by proportional representation for a four-year term.

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[146] IMF April 2003
[147] CIA *World Factbook*

b. Current Government

Prime Minister Mikulas Dzurinda first came to power in 1998 when his centre-right coalition defeated the authoritarian HZDS in a general election. He won a second term in September 2002. The HZDS emerged as the largest party, but could not command a majority. Mr Dzurinda was able to reassemble a centre-right coalition comprising four parties: the Slovak Democratic and Christian Union (SDKU), the Hungarian Coalition Party (SMK), the Christian Democratic Movement (KDH), and the pro-business Alliance of the New Citizen. Some splits have emerged within the coalition since the election, although it appears broadly united in seeking further structural reform, such as an overhaul of public pensions, healthcare and education, and the completion of the privatization programme.

Rudolf Schuster, the government coalition candidate for the 1999 presidential election, defeated Mr Mečiar in a second round of voting. Mr Schuster had campaigned on a platform advocating economic and political reform and closer integration with NATO and the EU.

c. Economic Situation

The IMF note that Slovakia is gaining momentum in its recovery,[148] and GDP growth for the last 3 years is set to exceed 3% each. While inflation is under control, it has a forecast unemployment rate of 18.6% for 2003.

The *CIA World Factbook* notes:

> Slovakia has mastered much of the difficult transition from a centrally planned economy to a modern market economy. The DZURINDA government has made excellent progress in 2001-02 in macroeconomic stabilization and structural reform. Major privatizations are nearly complete, the banking sector is almost completely in foreign hands, and foreign investment has picked up. Slovakia's economy exceeded expectations in 2001-02, despite the general European slowdown. Unemployment, at an unacceptable 17.2% in 2002, remains the economy's Achilles heel. The government faces other strong challenges in 2003, especially the cutting of budget and current account deficits and the prevention of a revival of inflation.[149]

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[148] IMF *World Economic Outlook* April 2003

[149] Ibid

10. Slovenia

a. System of Government

Slovenia declared independence from the Socialist Federal Republic of Yugoslavia in June 1991. Attempts by the federal authorities to re-impose control by force failed and international recognition of Slovenia as an independent state followed in early 1992.

The first democratic elections took place in 1990. The President holds executive power and is directly elected for a five-year term. The parliament, the Assembly of Slovenia (*Skupšcina Slovenije*), is bicameral: the State Chamber (*Državni Zbor*) has 90 members, elected for a four-year term; the State Council (*Državni Svet*) has 40 members representing local councils and various commercial and other interests.

b. Current Government

The current President, Dr Janez Drnovšek, was elected in December 2002 and took over from Milan Kučan, who had held the post since independence. Dr Drnovšek had previously served as Prime Minister at the head of a centre-left coalition that was elected in 2000. He was succeeded as Prime Minister by Anton Rop, who heads a coalition comprising the Liberal Democratic Party (LDS), the United List of Social Democrats (ZLSD), the Slovenian People's Party (SLS & SKD) and the Pensioner's Party (DeSUS). Mr Rop pledged to focus on fighting inflation, ensuring economic stability and securing accession to the EU and NATO.

c. Economic Situation

Slovenia is the second most wealthy of the accession states and enjoys a GDP per capita (in PPS) greater than Greece. GDP growth has been consistently strong over the last 10 years, only falling below 3% in 2001. Unemployment is below the EU average, but inflation has been running at high level over the last few years[150].

[150] Eurostat website

Appendix 2 The Accession Treaty: Key Policy Implications, Principal Transitional Measures and Safeguards (Extract from the FCO Explanatory Memorandum)[151]

1. **KEY POLICY IMPLICATIONS**

Institutional provisions

2. The institutional provisions of the Act of Accession adjust existing structures and procedures in line with the requirements of an enlarged EU. There are few new policy implications. The key provisions are set out in paragraphs 12-15

Council of Ministers:

3. The Act introduces (Article 12) the new system of voting agreed in the Nice Treaty, based on a requirement to secure:

    - *a qualified majority of weighted votes*
    - *a majority (simple or 2/3, depending on the subject being voted on) of the unweighted votes of Member States*
    - *weighted votes representing at least 62% of the population of the Union.*

4. The number of weighted votes required to secure a qualified majority is set at 232 out of a maximum of 321. The number of votes allocated to each Member State follows the figures agreed at Nice. The new system will come into effect on 1 November 2004. Prior to that date, the Act (Article 26) integrates the new Member States into the existing system, assigning weighted votes to them according to their population size vis-à-vis the current Member States.

European Parliament:

5. The Act provides (Article 11) for a new allocation of representatives to the Member States with effect from the start of the 2004-2009 term. The numbers allocated to each Member State follow closely those established in the Nice Treaty, with the exception that the seats provisionally allocated to Bulgaria and Romania have been re-allocated proportionally across the 25 Member States. Prior to the start of the new parliamentary term, the Act provides (Article 25) for the appointment of a certain number of MEPs in the new Member States.

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[151] Full text on FCO website: http://www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1007029396041&a=KArticle&aid=1051607769822

The Commission

6. The Act grants (Article 45) each new Member State the right to appoint one Commissioner from the date of accession. In accordance with the Nice Treaty, the Act reduces the number of Commissioners each Member State may appoint to a maximum of one. This change, which affects only France, Germany, Italy and the UK, will come into effect with the appointment of the new Commission on 1 November 2004.

Finances

7. The Act of Accession provides (Article 32) for the cessation of financial commitments to the new Member States under the pre-accession strategy, after 31 December 2003. From 1 January 2004, new Member States will receive appropriations under headings 1,2,3 and 5 of the Financial Perspective, as adjusted by the European Council at Copenhagen in 2002.

8. The Act details (Annex XV) the enlargement-related adjustments to the Financial Perspectives (2004-2006). The additional enlargement related commitment appropriations for 2004, 2005 and 2006 are below the global ceilings for enlargement-related expenditure agreed at the 1999 Berlin European Council. As agreed at Berlin, the bulk of these additional costs will be included in the calculation of the UK's abatement. The UK welcomes the agreement on finances reached at Copenhagen, which is a good package for the new Member States, representing £28bn (at current exchange rates) between 2004 and 2006, roughly 3% of their GDP.

9. The Act provides a number of temporary financial measures, including temporary budgetary compensation, a special cash-flow facility and other temporary transition facilities, which form part of the enlargement-related commitment appropriations described above. It also makes the necessary technical adjustments to the acquis to allow for accession in May 2004 rather than January 2004 (the start of the Community's financial year), and provisions to ensure the orderly and timely transfer from pre-accession financial instruments to mainstream Community policies on accession. In addition, the Act requires new Member States to co-operate with the Commission to ensure that the EC budget is used in accordance with the principles of sound financial management and that they take effective measures to counter fraud.

Structural Funds

10. The Accession Treaty includes the changes needed to the current Structural and Cohesion Fund Regulations in order for the new Member States to become recipients of such funding. The current regulations run until the end of 2006 and, as currently drafted, detail the eligible areas within the current Member States and their financial allocations.

11. At the Berlin European Council in 1999, a total budget of 213 beuro was set for the Structural and Cohesion Funds in the EU15 for the period 2000 to 2006. A separate allocation of 39.6 beuro was set for the new Member States, based on the assumption that six new countries would accede to the EU in 2002. The allocation to the new Member States was reduced at the Copenhagen Council in December 2002 to take account of the later enlargement, reflecting the need for the new Member States to build up their absorptive capacity. An allocation of 21.75 beuro for the new Member States was agreed, consisting of 14.16 beuro of Structural Funds and 7.6 beuro of Cohesion Funds. The proportion allocated to the Cohesion Fund is higher than in the current Member States that are recipients of that Fund. It was agreed that this was appropriate for the period 2004 to 2006 as this Fund finances much needed environmental and infrastructure projects. Furthermore, it should be easier for the new Member States to absorb Cohesion Funds due to their being managed on a project basis, the fact that they are run at a national rather than a regional level and because of their lower co-financing requirements compared to the Structural Funds. The Treaty changes do not affect the programming or financial allocations for the current Member States.

CAP

12. The Treaty extends the CAP to the new Member States, in a way that takes account of the development needs of new Member States whilst not prejudicing the UK's aims on CAP reform. The provisions in the Act (Article 23) which empower the Community to adapt the provisions of the Treaty relating to the CAP if necessitated by separate decisions on CAP reform are welcome.

13. Direct payments will be phased in for new Member States starting at 25% of EU 15 levels in 2004, rising to 100% in 2013. By expressing direct payments in percentage steps the Act avoids prejudging future decisions on the CAP. Any topping-up arrangements are for the most part to be nationally funded, although the new Member States have the option of using up to 20% of rural development allocations for this purpose, subject to limitations in time and scope. The fact that the Act makes clear that the use of rural development funds in this way is 'a temporary and *sui generis* provision' is welcome.

14. The Treaty makes available an optional, flat rate, decoupled direct payment scheme (Single Area Payment Scheme) to new Member States for up to five years after accession. This should facilitate the development of more sustainable and market orientated agriculture across the EU as a whole.

15. The Act sets out quotas and base areas for various commodities such as arable crops, milk, and livestock headage payments. These have largely been based on actual production during a specific reference period. The quotas restrict production potential in the new Member States, but for as long as such controls are a feature of the CAP, these restrictions are a concomitant of entry into a controlled agricultural market.

16. The UK considers that the second, rural development pillar of the CAP is a more effective vehicle than the first pillar for underpinning the economic, social and

environmental sustainability of rural areas. Accordingly, the increased focus on rural development measures for the new Member States is particularly welcome. Beneficial co-financing terms and an extended and adapted rural development regulation between 2004 and 2006 should help candidates further to restructure and to modernise their agricultural economies in their first years after accession. Member States will make limited, if any, use of the option of diverting rural development funds into direct payments.

17. Where transition periods have been agreed, they have been strictly limited in time and in scope. They include more time for several Member States to upgrade individually specified food production establishments to meet EU structural standards. Food that does not meet full EU rules cannot be marketed in other Member States.

Fisheries

18. The main fisheries issues relate to the catch quotas for the new Member States, two special conservation management zones, the addition of two new fish species to the EU list of regulated stocks and the transfer of jurisdiction over international fisheries agreements to the Commission.

19. No transitional measures have been agreed in terms of fishing quotas. All new Member States have undertaken to abide by Community rules, including access to waters and stocks (known as the principle of 'relative stability'). Catch quotas will be set for species and areas based on historic track records, in the same way as they are set for the EU 15. Only **Poland** and the three **Baltic States** have track records in EU waters, and only **Poland** has access to UK waters. **Poland** will get a mackerel quota corresponding to its current NEAFC (North East Atlantic Fisheries Commission) quota (1400 tonnes for 2002) which, from accession, can be fished for in EU as well as international waters. However **Poland** will only be allowed to catch its traditional amount. The UK will not have to give up any of its quotas to **Poland** or to any other new Member State.

20. **Latvia** and **Malta** have secured respective agreements to limit fishing in the Gulf of Riga and in a 25-mile zone around **Malta**. Both conservation regimes will limit fishing access by boat size and engine power to ensure fishing access does not exceed the level of recent years. Two new species will be added to EU regulations- Baltic herring and 'dolphin-fish' (*Coryphaena Hippurus*) Marketing sizes will be set in the light of scientific advice.

EMU

21. Candidate countries will participate in Economic and Monetary Union (EMU) from the date of their accession, although not adopt the Euro at the outset. The new Member States do not have the option of an 'opt-out' (such as that of the UK) and are therefore expected to adopt the Euro at some point in the future. In technical terms, they will participate in EMU upon accession with the status of a country with a derogation as set out under Article 122 of the EC Treaty. In

practical terms, it is unlikely that any new Member State will join the Eurozone before 2007 and some have indicated that they do not expect to join until nearer 2010.

Schengen/ JHA

22. Article 8 of the Schengen Protocol annexed to the Treaty establishing the European Community and the Treaty on the European Union states that all new Member States must accept the Schengen acquis in full. However, the new Member States will only be required to apply those provisions of the Schengen acquis listed in Annex I to the Act of Accession, covering some, but not all, provisions relating to external borders, visas, illegal immigration, police and judicial co-operation, narcotic drugs, firearms and protection of personal data. This means that on 1 May 2004, the new Member States will have in place only the basic structures of Schengen external frontier controls, police and judicial co-operation. They will not at that point be expected to lift their internal borders nor will they participate in the cross-border surveillance and 'hot pursuit' provisions of Schengen.

23. After accession, the new Member States will continue their preparations for implementing and applying the remainder of the Schengen provisions. This will involve adopting such legislation and implementing regulations as may be necessary, ensuring that all relevant staff are adequately trained, and investing in the necessary equipment and infrastructure. Those provisions not listed in Annex I to the Treaty will apply only once the new Member States have undergone an evaluation process conducted by existing Schengen Member States. If an evaluation of a new Member State is successful, a Council Decision will enable its internal frontier controls between it and existing Member States to be lifted and the Schengen Information System (SIS) to go live. The UK will take part in such a decision only insofar as it relates to the provisions of Schengen in which it participates. There will be a separate Council Decision in respect of each new Member State.

24. The adoption of Schengen provisions not listed in Annex I does not need to happen for all new Member States simultaneously if some do not meet the evaluation requirements. It is not expected that they will have all the Schengen provisions in place until at least 2006, when the SIS II is expected to become operational.

Cyprus

Accession of a divided Cyprus

25. Protocol 10 deals with the consequences of EU accession by a divided **Cyprus**. The whole of **Cyprus** will accede to the EU. However, the Protocol provides for suspension of the acquis in northern **Cyprus** (those areas where the **Republic of Cyprus** does not exercise effective control) after **Cyprus**' accession. In the event of a settlement, it could be amended or repealed. The Protocol invites the

Commission to bring forward follow-up proposals for secondary legislation that will set out how EU law will apply along the Green Line, e.g. what kind of controls will be needed on goods entering the government controlled area of **Cyprus** from the north.

Sovereign Base Areas (SBAs)

26. Protocol 3 sets out the relationship between the EU and the UK's Sovereign Base Areas (SBAs) in **Cyprus** after **Cyprus**' accession to the EU. Under the Protocol, the SBAs are to remain outside the EU, with technical adjustments which will ensure the continued smooth functioning of the relationship between **Cyprus** and the SBAs, and will protect the interests of those Cypriots resident or working in the SBAs. The Protocol sets out the clearly defined and limited parts of the acquis that will apply to the SBAs. Among the key provisions:

    - The SBAs will form part of the Community's Customs Territory.

    - Farmers in the SBAs become eligible for CAP funding, and will have to comply with the necessary veterinary and phytosanitary rules.

27. The Protocol also contains undertakings from the UK on the controls it will exercise on persons entering the SBAs across their external borders.

28. The Protocol reflects UK policy, as announced to Parliament in December 2001, that the case for leaving the SBAs outside the EU, as agreed at the time of the UK's own accession, remains valid. The Protocol is compatible with the 1960 Treaty of Establishment and with the undertakings which the UK made at that time in relation to the SBAs.

29. For as long as the island remains divided, the UK will be obliged to treat the boundary between northern **Cyprus** and our Eastern Sovereign Base Area (ESBA) in **Cyprus** as an external border for the purposes of performing checks (required by the SBAs Protocol to the Accession Treaty) on people, animals and goods entering the ESBA.

PRINCIPAL TRANSITIONAL MEASURES

30. As explained above, in becoming members of the EU, the new Member States agree to take on the full body of EU law. Nevertheless, certain transitional measures have been agreed for each new Member State. The measures, which are limited in time and scope, are set out in Annexes V-XIV. The principal transitional measures and their policy implications are outlined below.

Free Movement of Goods

31. Most of the acquis will apply in full from the date of accession. Transitional arrangements will apply in two areas:

32. **Malta** will not fully open its petroleum market until 2006 due to the difficulty in transportation and supply to the market.

33. **Cyprus, Lithuania, Malta, Poland** and **Slovenia** are to be allowed additional time (up until 2009 in **Poland**'s case) to renew local market authorisations of pharmaceutical products, on account of the bureaucratic burden involved. The impact of this will be to allow products to remain on sale in the local markets beyond the time when their market authorisation should have been renewed, but they will not be allowed to move to other Member States until properly renewed.

34. Neither of these measures should have a significant detrimental impact on either the Single Market or UK competitiveness.

Free Movement of Persons

35. After accession, nationals from the new Member States and members of their families will be able to travel freely throughout the EU for all purposes, for example to study or to retire. However, except for nationals of **Malta** and **Cyprus**, they will not automatically be allowed to work in the existing Member States. The existing Member States may (in the first two years after accession) through 'national measures' or 'bilateral agreements', choose to keep their labour markets closed to nationals of the eight relevant states (for a maximum transitional period of seven years), or to open them. From 1 May 2006 onwards, Member States may apply Community law on free movement of workers, or continue (until April 2011 at the latest) to restrict access to their markets. The UK Government announced on 10 December 2002 its intention to allow nationals of all the new Member States the right to work in the UK on the same basis as those from the existing Member States.

Free Movement of Services

36. The *acquis* in this chapter relates to the freedom to provide services across areas such as Banking, Insurance, Investment services and Securities Markets.

37. For several of the new Member States, transitional periods in this area have been agreed for up to five years (e.g. for reaching minimum levels of guarantees for banking deposits or investor protection). A number of the new Member States have been accorded, in line with existing Member States, exemption from the banking acquis for very small institutions e.g. credit unions.

Free Movement of Capital

38. Transitional arrangements will apply in each of the new Member States as regards the purchase of capital. Most are to be allowed to place restrictions on the purchase of agricultural land for up to seven years, with a possibility of extending this by a further three years, if they can convince the Commission that it is necessitated by the prevailing circumstances at the time.

39. These arrangements were agreed because of fears in the new Member States that nationals of current Member States might buy up good quality agricultural land, pushing prices beyond the means of the local inhabitants. The transition period will permit a more gradual adjustment in prices. As it is not necessary to be able to buy land in order to use and farm it, these restrictions on land purchase do not necessarily represent a major Single Market distortion. Moreover, in most cases, the restrictions will not apply to self-employed farmers who have farmed locally for a certain period.

40. Because of the lack of domestic accommodation and its small geographical size, **Malta** is to be allowed to maintain restrictions on the purchase of property on the island below certain prices. The restriction will be applied to all non-inhabitants, whether Maltese or not. There are also temporary restrictions on the purchase of secondary properties in **Cyprus, Czech Republic, Hungary** and **Poland**. Again the ability to rent property will not be affected and these transition periods are comparable to similar measures previously enjoyed by some existing Member States.

Company Law

41. The level of patent protection in the enlarged EU will not be uniform across all Member States. Patent legislation comparable to that in the existing EU has only been introduced in the last ten years in most of the new Member States. Since patents typically last for 20 years, this will lead to some discrepancies, most marked in the pharmaceutical field. In some new Member States, patent protection to EU standards will only be available for pharmaceutical products introduced after 1 January 2000. In order to minimise the impact of this difference on the domestic markets of existing Member States, a 'specific mechanism' is to be introduced. This will help companies in existing Member States to identify products that are to be imported from the new Member States, which may contravene local patent protection. Companies will then be able to take action accordingly (including through the courts) and, if necessary, prevent importation.

Competition

42. Five of the new Members will be fully covered by the rules on competition and state aid from accession. The others will not be allowed to grant new aid which is outside the EU rules. In limited circumstances, however, they will be allowed to honour commitments on aid made prior to the conclusion of the negotiations. As a result, existing incompatible fiscal aid schemes will be phased out in periods by the following dates: **Cyprus** in 2005, **Slovakia** in 2009, **Malta, Hungary** and **Poland** in 2011. The agreements will bring these schemes as close as possible to those allowed under EU rules and under the Commission's scrutiny.

43. **Malta** (dockyards), **Czech Republic** (steel) and **Poland** (steel) are also being given time to restructure major industries, although only **Malta** will be allowed to pay aid for this purpose after accession. The Treaty specifies detailed terms for the aid and monitoring in each of these countries. They have to submit restructuring plans for EU approval before any aid can be granted.

44. These provisions will bring about a level playing field as regards state aid in the enlarged EU and they represent the best achievable result in terms of competitiveness for UK industry overall.

Agriculture/ Food Standards

Phasing in of direct payments

45. Direct payments for the new Member States will be introduced from 2004 at an increasing annual rate for a transitional period of ten years. The starting rate is 25% of EU 15 levels in 2004, rising to 30% in 2005 and 35% in 2006. This will rise to 40% in 2007 and increase by 10% thereafter to reach 100% of the support level then applicable in 2013. The Commission has estimated that this phasing in of direct payments will cost €1,211 million in 2005 and € 1,464 million in 2006. There will be no costs for 2004, as payments are made a year in arrears. Thereafter, direct payments will be subject to ceilings for the EU 25 agreed at the European Council in Berlin and confirmed by the Act of Accession.

National top-ups

46. New Member States may make top-up payments to farmers equivalent to a further 30% of the EU level. Alternatively, they can top up to maintain the overall aid rate at the level of their domestic (CAP-like) aid schemes applicable in 2003, on a product-by-product basis, increased by 10 percentage points.

47. Most of the top-ups are intended to be nationally funded, but for the 2004-2006 period only, the new Member States may use up to 20% of their rural development allocation to finance top-ups to 40% of EU 15 levels. Alternatively they can use up to 25% of their rural development allocation 2004, 20% in 2005 and 15% in 2006. The Act notes that use of rural development funds in this way is a 'temporary and *sui generis* provision'. There are slight variants on topping up measures for the **Czech Republic, Lithuania** and **Slovenia**.

48. In no case may topped-up payments exceed 100% of EU 15 support levels. However, special provisions apply to **Cyprus**, which is allowed to top up to maintain the aid rate of domestic CAP-like aid schemes at 2001 levels.

Single area payment scheme

49. There are almost 30 types of direct payment under the CAP and the administrative system is complex. New Member States have the option of applying a decoupled, flat rate payment per hectare of agricultural land. This is applicable for all utilised agricultural area, irrespective of production, providing that it is kept in good agricultural condition compatible with the protection of the environment. The total amount of money available to each new Member State for these flat rate direct payments will be based on the designated percentage of the total that it would receive under the standard system. This option would be possible for three years after accession, renewable for two further years.

Rural development

50. Temporary amendments to the Rural Development Regulation for the 2004-2006 period have been made for the new Member States, which offer them the possibility of additional rural development measures. These include a flat rate aid scheme to help semi-subsistence farms restructure; aid for meeting EU standards; aid for technical assistance in implementing rural development policy; aid for the establishment of producer groups and aid for advisory services to farmers. Rural development projects are co-financed by the EU up to a maximum percentage of the project's cost. In order to facilitate the take-up of funds in the new Member States, a maximum co-financing rate of 80% applies. The Commission has estimated that the costs for rural development policy will amount to 1.57 beuro in 2004, 1.71 beuro in 2005 and 1.82 beuro in 2006.

51. Certain country-specific rural development transitional measures have been agreed for **Estonia** (afforestation); **Lithuania** (early retirement for dairy farmers) and for **Malta** (various, to help the agriculture sector adapt to increased competition within the Single Market).

Other CAP transition periods

52. Various other time-limited transition periods apply to certain acceding countries for particular CAP commodities, including fruit and vegetables, wine, alcohol, organic produce, suckler cows, stocking density and (following the precedent of the last accession), for fat content of drinking milk. The most significant is a one-year transition period for the allocation of individual milk quotas secured by **Poland** and **Slovenia**, during which they are exempt from additional levies (the penalties imposed on farmers for overproduction). In addition, certain transitional measures for national aids have been agreed, most notably for **Malta** in recognition of its unique agricultural situation.

Veterinary, phytosanitary and food standards

53. The new Member States have agreed to apply all food safety and veterinary rules, and to have appropriate control mechanisms in place. However a number of time-limited and tightly controlled transitional measures have been agreed for six acceding countries, to allow individual food production premises more time to correct specified structural defects. They comprise **Czech Republic**: 52 establishments (44 meat, 1 egg, 7 fish); **Hungary**: 44 red meat establishments; **Latvia**: 117 establishments (29 fish, 77 meat & 11 milk); **Lithuania**: 20 establishments (14 meat, 5 fish, 1 milk); **Poland**: 485 establishments (332 meat, 113 milk, 40 fish) and **Slovakia**: 2 establishments (1 meat, 1 fish). All establishments in transition must be specified individually along with their shortcomings and must follow a planned upgrading programme, becoming fully compliant by the end of 2006 (2007 for **Poland**). Crucially, all products from food establishments in transition will be specially marked and may not be marketed in any form in any other EU country. Progress will be monitored by the Commission.

54. In addition, **Malta**'s sole dairy (until 2009) and a maximum of 56 EU compliant dairies in **Poland** (until 2006) may accept deliveries of non-EU compliant raw milk under the condition that it will be processed separately, be specially marked and unable to enter the Single Market.

55. Other transition periods have been agreed in respect of raw milk quality (**Latvia, Lithuania, Malta** and **Poland**); 2 animal waste plants (**Latvia**), hen cages (**Czech Republic, Hungary, Malta, Poland** and **Slovenia**); potatoes (**Poland**); quality requirements for seeds (**Cyprus, Latvia, Malta** and **Poland**); plant variety rights (**Lithuania**); feeding stuffs (**Czech Republic**) and pesticides (**Poland**). There are also provisions for a temporary Border Inspection Post at **Hungary**'s border with **Romania**.

Environment

56. The Treaty provides for a limited number of transition periods before full compliance with the environment acquis, in most cases reflecting the cost and complexity of full implementation of the EU's environmental legislation. The transition periods relate mainly to waste water treatment, waste management and industrial pollution (notably the directives on integrated pollution prevention and control and the new large combustion plants directive). They generally include detailed and legally binding intermediate targets and, wherever possible, are made specific to named installations. They are not expected to lead to significant distortions of competition. Only very tightly drawn transitional periods on nature protection have been granted to two accession countries (**Malta** and **Estonia**).

Energy

57. All the new Member States other than **Hungary** are to be given additional time (up until 2009 in some cases) to meet EU requirements on oil stocks, reflecting the high cost of building up stocks in comparison to new Member States' budgets. This is unlikely to have a significant impact on the competitiveness of the UK.

58. **Estonia** is also to be given more time in which to open its electricity market, due to the unique nature of its power generation facilities and the need for restructuring of the sector. The very small size of this market means that the transition measure is not expected to have a notably adverse affect on the development of the Single Market for electricity in the EU as a whole.

SAFEGUARDS

59. The Treaty recognises implicitly that there are certain risks from the current enlargement process. For this reason, the Act sets out specific safeguard mechanisms, allowing for 'protective measures,' until 30 April 2007. The EU has agreed that these measures shall be proportional. Priority shall be given to measures which disturb least the functioning of the internal market and, where appropriate, to the application of the existing sectoral safeguard mechanisms. Such safeguard measures shall not be invoked as a means of arbitrary

discrimination or a disguised restriction on trade between Member States. Safeguards will be available in the following areas and circumstances:

- ***Economy*** - if economic difficulties arise in a new Member State, which are serious and liable to persist or which could bring about serious deterioration in the economic situation of a given area.

- ***Internal Market*** - if a new Member State has failed to implement commitments undertaken in the context of the accession negotiations, which causes or creates an imminent risk of a serious breach of the functioning of the internal market.

- ***JHA*** - if there are any serious shortcomings in the implementation of mutual recognition decisions by a new Member State, before as well as after accession.

60. Safeguards are also available for ***Free Movement of Workers*** until 30 April 2011 in the event that there are 'disturbances to the labour market which could seriously threaten the standard of living or level of employment in a given region or occupation' (see also paragraph 44 above).

Appendix 3 Benefits and Costs of Enlargement (Extract from the Government's Regulatory Impact Assessment on the *European Union (Accessions) Bill)* [152]

Benefits

Because the Bill has little or no direct impact on business, charities and the voluntary sector in the UK, the costs and benefits of the Bill can only be weighed and expressed indirectly – in terms of the overall costs and benefits of enlargement. Assessing these costs and benefits is a complex task, not least because of the impracticality of predicting the impact of future decisions taken by the institutions of an enlarged Union. The greatest benefits of enlargement are also those that are hardest to measure – e.g. the security and stability which enlargement will bring. Where appropriate, this impact assessment refers to specialist and academic literature on the economic impact of enlargement[153].

The economic benefits of EU enlargement arise from substantial extra opportunities for trade in goods and services rooted in the expansion of the single market. EU growth is also expected to be enhanced by the dynamic effect of extra competition in the EU single market. In addition, it is expected that new Member States will achieve higher growth rates as members of the EU given the additional security this gives investors.

The impact of enlargement on the existing members is difficult to predict, but recent studies[154] estimate that enlargement will add 0.2% to EU GDP growth overall, and that the UK's share of that growth will be about 14% and worth up to £1.75 billion (in 1999 prices).

Enlargement will have an indirect impact on a range of UK sectors, as UK markets are further opened to trade with the new Member States. This will continue a process of market opening that started under the Europe Agreements, and through which many UK sectors have already been exposed to competition from the new Member States.

In 2001, 5.1% of goods exported by the new Member States went to the UK; 3.7% of their imports came from the UK. The UK's total trade with the candidates has grown at a faster rate than our total trade. Since 1990, UK trade with the new

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152 FCO website: http://hcl5.hclibrary.parliament.uk:81/weblink/, April 2003

153 See, in particular, Wim Kok, "Enlarging the European Union: Achievements and challenges", European University Institute [2003]

154 Richard E. Baldwin, Joseph F. Francois and Richard Portes, "The costs and benefits of eastern enlargement: the impact on the EU and Central Europe", Centre for Economic Policy Research [1997]; H. Grabbe, "Profiting from EU enlargement", CER Pamphlet [2001]

Member States has increased by 400%, compared with a 43% increase in our trade with the rest of the world.

Accession and full implementation of the *acquis communautaire* will remove the further barriers, tariff and non-tariff, which remain under the Europe Agreements. Removal of non-tariff barriers is likely to have a significant impact on trade, particularly in the service and consultancy sectors. Trade opportunities will be available to business from a wide range of sectors.

Enlargement has the potential to increase UK investment in the new Member States, and to secure the process of economic reform and liberalisation across the enlarged Union, thus providing further momentum to the Lisbon Agenda promoted by the UK Government and UK business. UK sectors will benefit from more open access to product, labour, service and capital markets in the new Member States. Many UK sectors including retail, IT, pharmaceuticals and financial services have already invested in the new Member States. Such investments, which currently represent a small fraction of UK outward investment, are likely to increase as the single market becomes more of a reality in the new Member States.

On accession, the new Member States will have to comply with EU standards and regulations. This will make them a less risky trade and investment environment for UK firms. UK businesses will also benefit from the creation of a wider, more level playing-field in the single market – both for goods and investment. Although various transition measures will be in place, these have been carefully negotiated and are limited in scope and time. Full enforcement of the single-market *acquis communautaire* by the Commission across the EU25 will bring benefits to a wide range of UK business sectors. Improved protection of intellectual property rights is also likely to benefit UK businesses.

Businesses in accession countries will be obliged to implement EU environmental standards in full, subject to certain limited transition periods. These standards will apply principally to control of emissions, waste minimisation and recycling, and product standards (e.g. fuel, vehicles). A recent report[155] concluded that the benefits of implementing the EU environmental *acquis* are likely to be of the same order of magnitude as, if not larger than, the costs. Benefits accrue both to those in the new Member States and to those in other countries in the region (due to reductions in cross-border pollution).

UK business will benefit from a potential increase in the available pool of labour. Although its impact is likely to be limited (see para.2(ii) above), free movement of

155 "The benefits of compliance with the environmental *acquis* for the candidate countries", ECOTEC et al. (for the European Commission) [2001]

workers between the Member States will help UK employers to fill labour shortages, especially in terms of skilled occupations.
Enlargement will also bring benefits in terms of security and stability. New Member States will be involved in the fight against terrorism, organised crime and drug trafficking. The closer co-operation which accession will bring will bolster the EU's efforts against serious and organised crime. Enlargement will also add to the stability of former Communist states in Europe. It is very difficult to quantify these benefits.

Costs

The Bill itself will not impose any additional regulation on UK business. Once the Bill is enacted, minor amendments of a technical nature may be required to some transposed UK legislation (as explained above) in order to take account of an enlarged EU. But this will not change the substance of the regulation, or add appreciably to the compliance costs of UK business. Regulatory impact assessments will, where appropriate, be produced when and if amending regulations are introduced in Parliament.

UK firms that have operations in the new Member States may encounter additional compliance costs when those operations are brought within the scope of existing EU regulations for the first time. These costs are impossible to quantify, not least because they depend substantially on the manner in which the new Member States choose to_implement their commitments under Community law, where such choices are available.

The budgetary framework for the EU-15 was agreed by the European Council at Berlin in 1999. The financial agreement for the new Member States reached at the Copenhagen European Council in December 2002 does not change the budgetary framework for the current member states. As a result, UK receipts from the Community budget will not be affected during the current financial perspective (2000-06) as a consequence of enlargement. The cost of enlargement – £28bn[156] between 2004 and 2006 – represents some 3% of the GDP of the new Member States and some 0.15% of the GDP of the EU-15.

Concerns that enlargement will cost UK firms the loss of existing markets to more cheaply produced manufactured goods from the new Member States are unlikely to be realised, since:

- the new Member States already enjoy tariff-free access to EU markets in most sectors under the Europe Agreements;

[156] This figure is subject to fluctuations in the rate of currency exchange.

- subsidies will be limited as the new Member States will be bound by the same state-aid rules as the existing Member States;
- UK firms compete on a world market and are likely to encounter tough competition from countries where production and labour costs may be even lower than in the new Member States; and
- UK firms do not compete on labour costs alone, but seek to maximise productivity and higher value-added activities.

Appendix 4 Further Reading

The Treaty and the Bill

Treaty between member states of the European Union and the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and the Slovak Republic, concerning the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and the Slovak Republic to the European Union, in eleven volumes including the protocols and final act with declarations and an explanatory memorandum (Athens 2003). Cm 5805 I-XI. 28 April 2003

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http://www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1007029396041&a=KArticle&aid=1051607769822

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http://www.publications.parliament.uk/pa/cm200203/cmhansrd/cm030430/debtext/30430-04.htm#30430-04_spnew9

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Kok,Wim, *Enlarging the European Union: achievements and challenges*. Report to the European Commission. European University Institute, Robert Schuman Centre for Advanced Studies, 26 March 2003. [e-document only]
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European Parliament Report on enlargement progress report. Rapporteur: Elmar Brok. EP Doc A5/371/2002, 7 November 2002

Towards an enlarged Union- strategy paper and report of the European Commission on progress towards accession by each of the candidate countries. COM(2002)700 - 12839/2002, 14 October 2002 (includes summary of country reports). For individual progress reports on candidate countries see EC documents 12839/2002/ADD1-12839/2002/ADD13..
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