

**Comprehensive monitoring report  
on  
Poland's  
preparations for membership**

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## A. INTRODUCTION

The accession negotiations with Poland were successfully concluded on 13 December 2002 and the Treaty of Accession was signed on 16 April 2003. In a referendum held on 7-8 June 2003, a majority of Poles expressed their support for membership of the European Union. Following ratification of the Treaty of Accession, Poland will join the EU on 1 May 2004.

In its Strategy Paper “Towards the enlarged Union”, which accompanied the 2002 Regular Reports, the Commission stated that:

*“Acceding countries need to implement the acquis by the date of accession, except in cases where transitional arrangements have been agreed. Commitments undertaken in the negotiations must be fully met before accession. The Regular Reports point to a number of areas where further improvements need to be made in the context of the political and economic criteria and in relationship to the adoption, implementation and enforcement of the acquis. These should be vigorously pursued. In order to analyse progress and to facilitate successful membership of the European Union, the Commission will regularly monitor this and report to Council. The Commission will produce six months before the envisaged date of accession a comprehensive monitoring report for the Council and the European Parliament.”*

The Copenhagen European Council in December 2002 concluded that:

*“Monitoring up to accession of the commitments undertaken will give further guidance to the acceding states in their efforts to assume responsibilities of membership and will give the necessary assurance to current Member States.”*

and the Thessaloniki European Council in June 2003 stated that:

*“...the ten acceding States are encouraged to keep up their efforts so that they are fully prepared to assume the obligations of membership by accession. This also includes the necessary translation of the Community acquis. With a view to making a success of enlargement, the monitoring of these preparations has been intensified on the basis of reports submitted regularly by the Commission.”*

As the accession date of 1 May 2004 draws closer, this report presents a comprehensive state of play of the findings of the regular monitoring carried out by the Commission, building upon the findings of the 2002 Regular Report for Poland. The report contains two main parts.

The first part deals with economic issues. It describes briefly economic developments in Poland, and then goes on to assess the implementation of the necessary economic reforms in the areas highlighted in the conclusions of the 2002 Regular Report for Poland as being in need of further improvements.

The second part gives an overview of where Poland stands in implementing all commitments and requirements arising from the accession negotiations for each *acquis* chapter, both in terms of legislation and from the perspective of implementing structures, including administrative capacity and enforcement. In view of their importance for the implementation and enforcement of the *acquis*, the overall state of readiness of the public

administration and the judicial system and the development of effective anti-corruption measures are assessed in an introductory section to this part.

This report reflects the situation at the end of September 2003. It records decisions actually taken, legislation actually adopted, measures actually implemented and structures actually in place and functioning by that date.

For each chapter of the *acquis*, this report identifies the areas in which Poland is expected to be, or is already, in a position to implement the *acquis* and the areas where further action is still needed. Where relevant, the report also points out issues where lagging or deficient preparations are a cause of serious concern. This assessment starts from the premise that Poland must be fully prepared for membership from the date of accession. In cases where transitional arrangements have been agreed in the accession negotiations, their effect on Poland's obligations is duly reflected in the assessment.

Numerous sources of information have been used to compile this report. Poland was invited to provide information on its state of preparedness. The Report also draws on information provided by Poland within the framework of the Association Agreement and the accession negotiations, as well as on peer reviews that have taken place to assess its administrative capacity in specific areas. Council deliberations and European Parliament reports and resolutions have been taken into account in drafting it.<sup>1</sup> Where relevant, the Commission has also drawn on assessments made by various international organisations such as the Council of Europe, the OSCE and the international financial institutions, and by non-governmental organisations.

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<sup>1</sup> For the European Parliament the rapporteur is Mr Jas Gawronski.

## **B. ECONOMIC ISSUES**

In its 2002 Regular Report, the Commission concluded that

*"Poland is a functioning market economy. The continuation of its current reform path should enable Poland to cope with competitive pressure and market forces within the Union.*

*Improvements can be made to fiscal policy through the implementation of the government's new expenditure norm at all levels of government as part of a more broadly based structural reform of public finances to support fiscal consolidation. Furthermore, restructuring and privatisation, mainly in heavy industry, the financial sector, energy distribution and agriculture, needs to be completed. In addition bankruptcy procedures and the land registry call for further improvement. Finally, central bank independence must be preserved to ensure macroeconomic stability and investor confidence."*

The principal purpose of this part of the Comprehensive Monitoring Report is to assess the implementation of recommendations for improvements in the areas identified in last year's Regular Report. The focus is on the change since last year and not on the overall degree of functioning of the market economy or degree of competitiveness. The assessment can be found in Section 2. Section 1 briefly describes recent economic developments in Poland including the continuation of the reform path since last year's Report.

### **1. Economic developments**

*Poland has maintained a stable macroeconomic situation and is experiencing a gradual recovery, mainly driven by external demand. After a sharp slowdown in 2001, Poland experienced a modest recovery in 2002. Real GDP grew by only 1.4%, against 1% in 2001. Private consumption and net exports were the main motors of growth, while fixed investment continued to contract sharply. Recent economic developments suggest that the recovery is gradually gaining momentum. Real GDP grew by 2.2% year-on-year in the first quarter of this year and growth accelerated to 3.8% year-on-year in the second quarter. The recovery is mainly driven by exports, despite weak growth in Poland's main trading partners. The competitiveness of Polish exports has been in part strengthened by the real effective depreciation of the zloty observed since mid-2001. Last year, the strong performance of exports, together with the economic slowdown, resulted in a further reduction of the current account deficit to 3.6% of GDP. Thus, the current account deficit is now at levels that can be easily financed by inflows of foreign direct and portfolio investments. However, the fall in FDI inflows experienced in 2002 for the second consecutive year suggests that the Polish economy has become less attractive to foreign investors. Inflation continued to decline sharply in 2002, with headline inflation falling to 0.8% year-on-year in December 2002. Since the beginning of the year, inflation has remained very low. The sharp fall in inflation and the absence of inflationary pressures have allowed the Monetary Policy Council to gradually cut its key reference rate from 19% in February 2001 to 5.25% in June 2003. However, real interest rates in Poland are still high. The loosening of monetary policy has not been matched by an adjustment in the fiscal stance. The growing fiscal deficit and debt, together with high unemployment, are the main economic challenges facing the Polish authorities. On the basis of the Labour Force survey, the unemployment rate almost reached the 20% mark in 2002, while the employment rate stood at 51.5%. Although a moderate improvement of the labour market situation has been visible since February, the pace of the recovery will not*

be strong enough to make a significant dent in the high level of unemployment (see also Joint Assessment of the Employment Policy Priorities and subsequent progress reports).

Main Economic Trends							
Poland		1998	1999	2000	2001	2002	2003 latest
Real GDP growth rate	per cent	4.8	4.1	4.0	1.0	1.4p	3.8 Q2
Inflation	rate per cent	11.8 E	7.2 E	10.1	5.3	1.9	0.7
- annual average							August <sup>a</sup>
- December-on-December	per cent	8.6	9.8	8.4	3.5	0.8	0.7
Unemployment	rate	10.2	13.4	16.4	18.5	19.9	August
- LFS definition	per cent						
General government budget balance	per cent of GDP	-2.3	-1.5	-1.8	-3.0	-4.1 p	
Current account balance	per cent of GDP	-4.4	-8.1	-6.1	-2.9	-3.6 p	
	million ECU/Euro						-2673
		-6156	-11716	-10812	-5916	-7188 <sup>b</sup>	Jan.-July <sup>b</sup>
Gross foreign debt of the whole economy	Per cent of exports of goods and services	82.8	96.7	85.0	78.8	:	
- debt export ratio	million ECU/Euro	32 932	36 787	42 763	45 184	:	
Foreign direct investment in flow	Per cent of GDP	4.0	4.7	5.7	3.1	2.2 p	
- balance of payments data	million ECU/Euro	5677	6821	10133	6377	4335 <sup>b</sup>	1833
							Jan.-July <sup>b</sup>

Sources: Eurostat. National sources. OECD external Debt Statistics

<sup>a</sup> Moving 12 months average rate of change.

<sup>b</sup> Source: Website of the National Bank.

P= provisional figures ; E= estimated data

*The reform path has nearly come to a halt since last year's Report.* Privatisation considerably slowed down in the past two years and the pace of privatisation in the first months of this year has been disappointing. In 2002, actual privatisation proceeds turned out to be significantly lower than planned, with only one major privatisation deal completed. Despite the government's so-called "anti-crisis" package of July 2002 and the adoption of several sectoral restructuring plans, progress in the restructuring of the remaining state-controlled industries has been insufficient. The economic slowdown has taken a toll on the financial performance of banks. The net profit of the banking sector fell by 37% in 2002, and the first half of this year saw another drop in net profit by about 11% year-on-year. The deterioration in the profitability of banks also reflects the continued increase in non-performing loans. Their share in loan portfolios rose to 20.5% in 2002 against 17.9% in 2001. As a result, banks maintained a very cautious approach to lending. Loans to the non-financial sector grew by only 3.4% in 2002. The rapid rise in housing loans in foreign currency, generally unhedged, accounts for most of the growth in credit. In March, the government gave its broad support to the fiscal reform plan proposed by the former Finance Minister. But the government has so far adopted only the less controversial measures of the plan, including a reduction in the corporate income tax rate from 27% to 19%. The government's willingness to push ahead with the public finance reform is in doubt. A major reform of the labour code was adopted in July 2002. It is designed to enhance the flexibility of the labour market by making it easier for

employers to use fixed-term contracts, permitting more flexibility in working hours and cutting overtime pay. Also, initiatives were taken to promote the employment of young graduates as part of the programme "First Job". These measures are welcome, but further reforms are needed to ensure the appropriate balance between flexibility and security, notably to reduce the high tax wedge and increase wage flexibility and to continue with the reform of the education and training systems. In July, the government adopted its Pro-Growth Action Plan for the years 2003 and 2004, which aims at improving the business environment, promoting employment and reducing poverty. The plan includes measures to reduce administrative barriers for firms but additional measures are required to improve the functioning of the judiciary and reduce corruption.

Main Indicators of Economic Structure in 2002		
Population (average)	Thousand	38,214
GDP per head <sup>a</sup>	PPS Per cent of EU average	39
Share of agriculture <sup>b</sup> in:		
- gross value added	Per Cent	3.1
- employment	Per Cent	19.6
Gross fixed capital formation/GDP	Per Cent	19.1
Gross foreign debt of the whole economy/GDP <sup>c</sup>	Per Cent	22.1
Exports of goods & services/GDP	Per Cent	30.0
Stock of foreign direct investment <sup>d</sup>	Million Euro Euro per head	36783 963
Long term unemployment rate	Per Cent of labour force	10.9
<i>Source: Eurostat</i>		

- a Figures have been calculated using the population figures from National Accounts, which may differ from those used in demographic statistics.  
b Agriculture, hunting, forestry and fishing.  
c Data refer to 2001.  
d Data refer to 2000.

## 2. Implementation of recommendations for improvements

*The Polish authorities have shown so far some reluctance to tackle the needed fiscal adjustment. A deep restructuring and reduction of public expenditure are, however, crucial in order to further improve the policy mix, reverse the rapid rise in public debt, and prepare Poland's public finances for accession.* There was a further deterioration of Poland's fiscal position last year as a result of the economic slowdown and the relaxation of fiscal policy. The general government deficit based on ESA95 increased to 4.1% of GDP from 3.0% in 2001. This deterioration of fiscal accounts combined with the slowdown in privatisation resulted in an increase in the debt-to-GDP ratio by 4.5 percentage points. While remaining low by international standards, the debt ratio is now approaching the thresholds that trigger corrective mechanisms under the fiscal rules laid down in the Polish Constitution and the Public Finance Act. The Polish authorities could have seized the opportunity of the small rebound in growth this year to start the process of reining in the government deficit and the high level of spending. But the spending rule limiting real growth in expenditure to 1%, which the authorities had envisaged applying to the 2003 budget, was finally abandoned. More recently, the preparation of the budget for 2004 gave rise to strong concerns as regards the determination of the Polish

authorities to push ahead with the needed reforms. Most significantly, the fiscal reform plan broadly approved by the government in March has been virtually abandoned. Also, the fact that the government initially envisaged the transfer of part of the revaluation reserve of the National Bank of Poland to the state budget reflects a certain reluctance on its part to tackle the fiscal problems. The draft budget for 2004 includes a cut in corporate income tax but contains no adjustment measures on the expenditure side. The adopted deficit target points to a substantial loosening of fiscal stance next year.

The Polish authorities should ensure that any decision on the use of the revaluation reserve does not undermine the financial **independence of the central bank**. In the ongoing discussions between the monetary authorities and the government on the use of the revaluation reserve, careful consideration should be given to the impact of the decision on the financial ability of the central bank to perform its tasks. In this regard, attention must also be paid to completing the alignment of central bank legislation with the acquis e (see also Chapter 11 - Economic and monetary union).

*Progress in restructuring heavy industries, energy distribution and agriculture has been modest since last year and considerable efforts still need to be made to advance the reform agenda in this area.* Poland needs to finish the restructuring of the remaining state-controlled industries, in particular in the coal mining, gas, electricity, chemicals, steel and defence sectors. These industries remain a drain on public resources through tax and social security arrears and a build-up of corporate debt. The "anti-crisis" package of July 2002, designed to promote enterprise restructuring and preserve employment, has had disappointing results so far, even though about 50 000 companies applied for the scheme linking debt relief with restructuring commitments. In April 2002, the government adopted a new strategy for the transformation of the energy sector by 2020. The document envisages separation of transmission and distribution in all sub-sectors. In the coal mining sector, political pressure from trade unions forced the government to suspend the restructuring programme adopted in November last year. However, the government adopted a new restructuring programme for the years 2003-2006 in September. There has been little progress in restructuring the gas sector, while in the electricity sector, the main barrier to the creation of a competitive market remains the unresolved issue of long-term contracts. With regard to the still largely state-owned chemicals sector, the government has adopted a new strategy and plans to prepare a restructuring plan that will have to comply with state-aid rules. In the steel sector, a new restructuring programme, including state aids, was submitted to the Commission in April. Subsequently, in July, the Council adopted a decision on the compatibility of the programme with the negotiation commitments. The defence industry is still in need of restructuring. The restructuring of the agricultural sector is still lagging, although progress has been made in land privatisation.

*The pace of privatisation has stalled in Poland since last year's Report, and the Polish authorities need to take decisive action to accelerate privatisation.* The privatisation process in Poland is not completed yet. At the end of 2002, 76% of GDP was produced in the private sector, and the Treasury still owned or had a majority or controlling stake in about 2100 firms. Last year, the Treasury sold equity shares in only 98 companies and privatisation proceeds amounted to about one third of the revenue target set in the budget for 2002 (PLN 6.8 bn or 0.9% of GDP). The pace of privatisation was also slower than foreseen in the first months of this year. As of end of June, privatisation proceeds amounted to only 16.5% of the PLN 9.1 billion target for the year. Several major privatisation deals initially planned for this year have been cancelled or postponed until 2004. As a result, privatisation proceeds this year will likely fall short of the



government's initial expectations. The slowdown in the privatisation process partly reflects the fact that the most profitable firms have been already sold, and that most of the remaining state firms do not easily attract investors. The additional conditions attached to the sales, notably to safeguard employment, further hamper the privatisation process. Also, the insistence of the government on restructuring state-owned companies first before privatising them limits the number of firms up for privatisation.

*The new insolvency law adopted in February upgrades the **bankruptcy and liquidation framework** and brings it into line with the requirements of a modern market economy.* The law on insolvency and restructuring which was adopted in February and will enter into force on 1 October, protects creditors rights better than the previous law which was excessively favourable to the debtors. Creditors can petition for liquidation of the debtor firm before the court takes a decision, and at any time after declaration of bankruptcy with the option of concluding an arrangement. However, much will depend on the implementation of the law, in particular on the capacity of the courts to enforce it effectively. In general, the inefficiency of courts remains a major obstacle to the proper enforcement of laws and contracts.

*Little progress has been achieved as regards the functioning of the **land registry**, and the authorities need to pursue their efforts at modernising the system.* The absence of a properly functioning land registry makes it difficult to establish ownership over land, and hence, to use property as collateral in loans. This also hampers green field investment, which usually entails the acquisition of new plots. The government is expected to present its long-awaited master plan for the modernisation of the land registry in December.

### C. COMMITMENTS AND REQUIREMENTS ARISING FROM THE ACCESSION NEGOTIATIONS

As we approach the actual date of accession and the entry into force of the mutual rights and obligations enshrined in the Treaty of Accession, it is necessary to focus efforts on ensuring that Poland is fully prepared in all areas of the *acquis* from the start of its membership. In other words, Poland must meet its commitments and requirements arising from the accession negotiations.

In the 2002 Regular Report on Poland, the Commission found that:

*“Poland is generally meeting its commitments made in the negotiations. However, delays have occurred in the areas of agriculture (implementation of the animal identification and registration system), fisheries (adoption of legislation related to resource management, inspection and control, and in the area of market policy), environment (adoption of implementing legislation with regard to water quality, industrial pollution control and risk management, and chemicals). These issues need to be addressed.*

*Bearing in mind the progress achieved since the Opinion, the level of alignment and administrative capacity that Poland has achieved at this point in time, and its track record in implementing the commitments it has made in the negotiations, the Commission considers that Poland will be able to assume the obligations of membership in accordance with the envisaged timeframe. In the period leading up to accession, Poland needs to continue its preparations in line with the commitments it has made in the accession negotiations.”*

As regards the administrative capacity to implement the *acquis*, the overall findings were as follows:

*“There continues to be some disparity between progress in the adoption of legislation and the reinforcement of administrative capacity. Continued efforts are needed to set up or strengthen administrative capacities across the board, notably on market surveillance, agriculture and food safety, fisheries and regional policy, the social field, environment, customs and justice and home affairs. Particularly close attention is required regarding the structures necessary to implement those parts of the *acquis* which will become applicable only from the date of accession, with a special focus on those parts which are essential for the sound and efficient management of EC funds.”*

As part of its continuous monitoring, the Commission services addressed letters to Poland in March and June 2003 expressing concern over its preparedness in the fields of free movement of goods (alignment with the *acquis* contained in the new and old approach directives, and in the non-harmonised area), free movement of services (legal alignment in the fields of insurance and investment services and securities markets, Polish language requirements in the banking and insurance sectors and the capacities and independence of the supervisory authorities), agriculture (the setting-up of the Paying Agencies and the establishment of the Integrated Administration and Control System, the management of the milk quotas, the setting-up of an animal identification system, upgrading of agri-food establishments and the establishment of an animal waste system), fisheries (the reinforcement of administrative capacities, including with respect to control functions at both central and regional levels), social policy (alignment with the *acquis* on

labour law and equal treatment), audiovisual policy (legislative alignment), customs union (computerisation and interconnectivity) and financial control (legal alignment and implementing structures in the area of structural action expenditure), competition policy (steel restructuring), and calling for urgent action to remedy these shortcomings.

In order to give further guidance to Poland in its preparation efforts and to give the necessary assurance to current Member States and other future Member States, this part of the comprehensive monitoring report, in Section 2, gives an overview of where Poland currently stands in implementing all commitments and requirements arising from the accession negotiations for each of the 29 chapters of the *acquis*. It covers the whole body of the *acquis*, on a chapter-by-chapter basis, both in terms of legislation and from the perspective of implementing structures, including administrative capacity and enforcement.

The principal commitment undertaken by Poland in the accession negotiations is to be fully prepared for membership in all areas by the date of accession. In a number of areas, however, commitments were made to put in place and implement the *acquis* according to specific timetables even before accession. This report examines the extent to which these commitments have been met, and where delays have occurred, but the principal focus of the assessment remains the requirement that Poland must be fully prepared as from accession. Naturally, in cases where transitional arrangements have been agreed, their effect on Poland's obligations is duly reflected in the assessment. On the other hand, it should be underlined that, in order for Poland to make effective use of its eligibility for Community structural funds from 1 January 2004, the relevant *acquis* in areas such as public procurement, state aid and environmental protection will need to be fully respected from 1 January 2004 in relation to the implementation of structural funds actions<sup>2</sup>.

For each chapter, a conclusion is provided, which is structured in the following way.

*Firstly*, it identifies those areas where Poland is essentially meeting the commitments and requirements arising from the accession negotiations and is expected to be, or is already, in a position to implement the *acquis* from accession. This does not exclude the possibility that certain actions are still to be taken, but these should under foreseeable circumstances not pose particular difficulties.

In a *second* paragraph, the assessment identifies any areas where important further action is still needed in order to complete preparations for membership. In some cases these preparations are on-going, but enhanced efforts or quicker progress may be called for. These are issues which can still be remedied taking into account the accession date of 1 May 2004 but which require the special attention of the authorities.

*Thirdly*, where relevant, the assessment also identifies issues that are of serious concern. These are areas where serious shortcomings exist which are likely to persist after accession unless immediate remedial action is taken. These issues require the urgent attention of the authorities. In view of their importance for the implementation and enforcement of the *acquis*, the *overall* state of readiness of the public administration and

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<sup>2</sup> See also the Commission Communication on the implementation of commitments undertaken by the acceding countries in the context of accession negotiations on Chapter 21 - Regional policy and coordination of structural instruments, 16 July 2003 (COM(2003) 433 final).

the judicial system and the development of effective anti-corruption measures, together with the question of the translation of the *acquis* into Polish, are evaluated in a separate Section 1.

## **1. Administrative and judicial capacity**

### ***Public administration***

The legislation and structures necessary for the proper functioning of the civil service, as well as the public administration as a whole, are in place, and no major changes are foreseen in the near future. The civil service law has been in force since July 1999 and is generally in accordance with EU standards. It clearly defines the status of civil servants and other public administration employees (i.e. the civil service corps), and describes recruitment procedures, employment and remuneration conditions, and the principal responsibilities of employees. The implementation of the law has, however, proved difficult, and it has not fully addressed the problems it was intended to solve, namely politicisation and lack of professionalism in the public administration. An amendment to the civil service law introduced in January 2002, allowing the appointment to senior posts in the public administration of candidates from outside the civil service corps, was judged unconstitutional by the Constitutional Tribunal.

The public administration is under the constitutional responsibility of the Prime Minister, who appoints the Head of the Civil Service, who in turn is responsible for implementing the civil service law. The Prime Minister has also at his disposal an advisory body, the Civil Service Council, composed of 16 members, half chosen by the Parliament and half by the Prime Minister himself.

The size of the central administration is relatively modest, amounting to about 120 000 employees, and the number of civil servants appointed from open competitions remains minute. The extremely limited share of civil servants among the employees of the central administration (a total of slightly above 1 500 or some 1%) and its persistently slow growth continue to be the main problem in creating a properly functioning, fully professional public service. Political influence in top management remains strong in some areas, but the pace of normalising the situation has speeded up.

The necessary implementing legislation is also in place, but there is no horizontal legislation standardising all aspects of the functioning of the civil service. The segmented structure of the administration means that the approach to strategic planning and policy-making capacities differ significantly from one institution to another, so that any evaluation can only be made case by case. Similarly, the hierarchical character of the Polish administration hampers the development of inter-ministerial or inter-service co-ordination. There is neither a legal definition nor an established practice for the accountability of a public administration employee for his/her individual decisions. This results in a widespread reluctance at lower and middle levels to assume responsibility and a tendency to refer all types of decision to superiors.

Openness and transparency of the public service is guaranteed by the law on access to public information, which has been in force since January 2002. The law provides a good legal basis for the transparent functioning of the public administration, ensuring individual citizens access to the rationale for any decision that concerns them. The basic weakness of the law lies in its incorporation of all the currently binding laws that limit public access to information on the ground of confidentiality.

The Office of the Committee for European Integration is the main co-ordination body dealing with European integration issues. Most of the structures dealing with European integration issues need further strengthening, and some will have difficulty being fully

capable of dealing with these new duties in an efficient, timely and professional manner by the date of accession.

General training for the public administration, except for EU-specific training, is supervised by the Office for the Civil Service. The majority of training is planned, organised and financed in a decentralised manner and depends mainly on the commitment of directors-general in individual ministries and central offices, as well as on the budget available for the institution. At the request of the Civil Service Council, the Office for the Civil Service is elaborating a “Strategy on training for the public administration in 2004-2007”.

Below the central level, Poland has a three-level administrative structure, introduced in January 1999. It is composed of 2496 gminas (municipalities), 373 powiats (counties), including 65 urban powiats, and 16 voivodships (regions). Regional self-government is conducted through regional governors (voivods) appointed by the central government, and regional assemblies (sejmiks). The voivods are responsible for supervising the compliance of the activities of self-government with national law. The voivodships are also entitled to enter into bilateral and multilateral economic co-operation with foreign partners. However, the introduction of the three-level administrative structure in 1999 was not accompanied by a clearly oriented, long-term programme for local and regional self-government and this could complicate the further implementation of the decentralisation process.

The administrative capacity in specific areas of the acquis shows that for most of them administrative structures are in place, but only in few cases has the capacity reached an optimal level. Human resources, training (including language training) and budgets need to be strengthened, and inter-institutional co-ordination needs to be improved. Generally, the problems result from budgetary constraints, even though the additional amount necessary to correct these shortcomings is often relatively small. In particular, the areas that are critical for Poland to function properly within the EU need to be reinforced. Even within the existing constraints, better results could be achieved if priorities were clearly identified and targeted.

### *Judicial capacity*

The judicial system in Poland comprises 325 district courts, 44 regional courts, 10 courts of appeal and the Supreme Court. The prosecution services have a parallel organisational structure incorporating district, regional and appellate levels. After undergoing substantial reform, the structure of the judicial system has changed, but the impact of the reform and of the reorganisation accompanying it cannot yet be fully evaluated. Despite steady progress, efforts are still needed to improve the efficiency and transparency of the judiciary, so as to enhance the reliability of the quality of judgements. The access of the public to the judicial system remains limited, especially access to general information on procedures, legal aid and the state of play of an individual’s own pending case. In general the level of public trust in the efficiency and fairness of the judicial system remains low and the perception of corruption by the public is high.

The most important changes have been introduced at the lowest level of the Polish judicial system, mainly with the introduction of a new layer of courts – borough courts – to deal with misdemeanour cases. This reform is highly significant, because between 85% (2001) and 88% (2002) of all court cases are dealt with at the level of district courts.

However, the creation of this new layer of courts was not accompanied by a proportional increase in the number of judges, administrative staff and equipment.

As of December 2002, there were 9 024 judges (appointed judges and assessors) and 5 477 public prosecutors (prosecutors and assessors). In 2002 the courts increased their staff by 230 judges' posts and 50 associate judges' (assessor) posts. Further ambitious increases are planned in 2003, so as to reach the target number of 450 posts for judges and associate judges, 100 senior court clerks and 700 administrative staff. It is intended also to create 100 new posts for prosecutors in the course of 2003. As for administrative support, at the end of 2002 there were 21 083 administrative employees in the courts and 3 695 in the prosecution service, resulting in ratios of 2.2 administrative staff per judge and 0.67 per prosecutor. The figure for the prosecution service is still considered low. The number of computers and printers in the courts and the prosecutors' offices has been increased but remains quite limited. New objective criteria for recruiting judges and prosecutors are in place. However, objective criteria for career assessment, promotion and demotion do not exist yet.

On the other hand, improvement in the efficiency of the courts does not seem to necessitate a further increase in the number of magistrates, but rather changes in procedure and in the organisation and distribution of work. Extensive IT projects are under way in the judiciary, including the development of a nation-wide communication network for courts and public prosecutors' offices to facilitate access to the central databases on legislation in force and international legal co-operation.

There is no clear separation of functions of the Minister of Justice and the Attorney General. Draft legislation addressing this issue is being discussed within the government. It is aimed at separating the two functions, but the provisions as currently formulated will not result in the Attorney General becoming more independent. Further initiatives could be considered to address the question of the hierarchical link to a political authority that may influence indirectly and obliquely the activity of the public prosecutor.

The immunity of judges is provided for in the Constitution, which gives a very broad interpretation of such immunity. The immunity applies to the judge in his professional and private life, as well as after his retirement. It can only be lifted by a collegium composed of randomly chosen judges, and only this part of the procedure is open to the public. The law does not specify explicitly the grounds for lifting immunity. The very wide interpretation of penal immunity of judges, alien to other legal systems in Europe, is not in itself a guarantee of independence, but is viewed rather as a privilege in Poland.

On 1 July 2003, the amendments to the code of criminal procedure, the act on "crown witnesses" and the act on the protection of classified information entered into force. The new provisions aimed at simplifying and accelerating criminal proceedings, so as to reduce the backlog of cases and the number of pending cases, and at ensuring adequate enforcement of judgements. Amendments to the code of civil procedure aimed at accelerating and simplifying procedures entered into force on 14 August 2003. The effects will become evident only after a period of enforcement of the new rules. To reduce the increasing backlog of cases it will be necessary to make frequent use of the simplified procedure and to extend the possibilities of alternative settlement of cases (mediation proceedings).

In the area of criminal law, the length of cases has further declined: in 2001 the average length of proceedings was 6.1 months; in 2002 it was 5.8 months. In the area of civil law

it rose slightly from 6.8 months to 7 months. These are average figures for courts all over Poland, but there remains a large difference between the capital, Warsaw, where the situation is still very critical in terms of delays, and the rest of the country. In Warsaw, the average duration of criminal proceedings is around 12 months, while civil cases take 24 months. The situation is similar for commercial cases and transactions associated with the land register.

The system of legal aid is still under-developed and organised in a non-transparent way, with the result that citizens are not informed about their rights. In the criminal procedure code there is no obligation to inform a defendant about the possibility of obtaining legal aid. This lack may lead to the conclusion that the enforcement of the legal aid provisions is not sufficient in the light of the Convention for the Protection of Human Rights and Fundamental Freedoms. The Ministry of Justice does not have statistical data on the granting by judges of requests for legal aid.

The reform of professional training of staff in the justice system (judges, prosecutors, administrative employees) started on 1 November 2002 with the creation of a unit called the “Judicial Training Centre” in the Ministry of Justice. By the end of 2003 this unit intends to develop proposals to unify and harmonise the training system, so as to increase efficiency and to provide new forms of training for all professional groups concerned.

### *Anti-corruption measures*

Corruption is perceived to be increasing from an already relatively high level in Poland. It is considered to affect all spheres of public life. There has been very little progress in combating corruption, and the existing perception has been borne out in various high-profile corruption cases recently.

In September 2002, the Council of Ministers adopted a programme for combating corruption entitled the “Anti-Corruption Strategy”. The document states that the government is fully aware of the threat posed by corruption to Poland’s development and considers that fighting it is a priority. The strategy is aimed at amending regulations conducive to corruption in areas of public activity that are perceived as most susceptible. The document lists legislation that should be adopted in each of these areas in order to curb corrupt practices, names the institutions responsible for preparing the relevant legislation and sets deadlines for the changes to be accomplished. The strategy does, in itself, not really deal with high-level corruption, with the exception of those issues related to the civil service and financial disclosure by public functionaries.

An official implementation report of July 2003 indicates that while progress in implementing the strategy has been made in a number of areas, the actual impact has been rather limited. One explanation is that the strategy has been overseen by an inter-ministerial team without sufficient administrative and political back-up. Another is the failure to secure broad support for the strategy, which was one of the major assumptions for ensuring its effectiveness.

The number of public officials found guilty of corruption has remained fairly stable. Over two thirds of these offenders were sentenced for giving bribes to public officials (active corruption). Nevertheless, an improvement can be noted with regard to political accountability for corruption offences. Recently several corrupt politicians were



dismissed immediately after the media revealed their offences, while similar events in the past went unsanctioned.

Amendments to the Act on Political Parties and the Election Law passed in 2001 and 2002 were aimed at regulating the financing of political parties with a view to curbing high-level corruption. For the most part they are being well implemented, leading to greater transparency in party funding and severe financial penalties for parties which violate the law. However, the new legislation contains some built-in loopholes that may expose the system to abuse. In particular, a provision allowing the creation of foundations that can employ party personnel and be sponsored by private companies makes it possible to create an alternative and non-transparent financial construction that is not subject to control.

The enforcement of another important law aimed at counteracting high-level corruption, the Act on the Execution of Duties of Deputies and Senators of August 2001, which provides for public disclosure of parliamentarians' asset declarations, is being conducted properly, as far as the submission of declarations and transparency of declared assets is concerned. However, the implementation of other provisions of this law needs to be improved.

There has been no progress in the processing of the draft amendment to the so-called anti-corruption law (limiting business activity by people in public office), which was submitted to the Sejm in autumn 2001. Neither has there been any follow-up to a draft law providing for the establishment of an anti-corruption office, which was submitted to the Sejm at the end of 2001.

The follow-up to the motions of the Supreme Chamber of Control (NIK) is highly unsatisfactory. According to a report on NIK's activity in 2001 presented to the Sejm by the President of NIK in October 2002, out of 136 motions calling for urgent changes of the law with a view to counteracting mismanagement of public funds and corruption, only 22 were carried out fully and 12 partly. A special unit within the Agency for Internal Security, which was established in order to tackle corruption of senior officials, is generally perceived to be performing poorly and to lack political independence. It has not disclosed any of the most serious cases of corruption, launching investigations only after they have been revealed by the media.

Poland continues to participate in the Council of Europe Group of States against Corruption (GRECO). In its March 2002 evaluation report GRECO stated that corruption in Poland threatens to undermine the functioning of many public spheres. GRECO addressed 17 specific recommendations to Poland, which it was strongly encouraged to follow up. The Polish authorities have not yet provided a reply on the recommendations made by GRECO on that occasion. GRECO is expecting co-operation from Poland in implementing these recommendations.

### ***Translation of the acquis into Polish***

In accordance with Articles 2 and 58 of the Act of Accession, all acts adopted by the Union's institutions and the European Central Bank prior to accession become applicable to the new Member States and are to be published in the Official Journal of the European Union in the new official languages. While the EU institutions take responsibility for the

final revision and publication of the translations, it falls to the acceding states to produce the translations and to ensure a thorough legal and linguistic revision.

After a relatively slow start in the beginning of 2003, mainly due to the re-revision by the Translation Coordination Unit of existing translations, the statistics for the number of pages revised and ready for the finalisation procedure which have been transmitted to the EU institutions is now on track. The legal and linguistic quality of the Polish versions of the *acquis* seems also to have made up much ground and appears now to be satisfactory.

The present flow must be at least maintained, if not increased, to ensure the timely publication of the Special Edition of the Official Journal in Polish by accession.

## 2. The chapters of the *acquis*

As indicated, the following review of Poland's ability to assume the obligations of membership has been structured in accordance with the list of 29 *acquis* chapters. Accordingly, this section opens with an assessment of the *acquis* relating to the cornerstones of the internal market which are known as the "four freedoms", and continues with a systematic review on each of the chapters, covering all aspects of the *acquis*, including sectoral policies, economic and fiscal affairs, regional policy, environment, justice and home affairs, external policies, and financial questions.

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

The principle of the free movement of goods implies that products must be traded freely from one part of the Union to another. In a number of sectors, this general principle is supplemented with a harmonised regulatory framework, following the "old approach" (imposing precise product specifications) or the "new approach" (imposing general product requirements). The transposition of harmonised European product legislation represents the vast majority of the content of this chapter. In addition, efficient administrative capacity to apply horizontal and procedural measures in areas such as standardisation, certification and market surveillance is essential. This chapter also covers detailed EC rules on public procurement, requiring specialised implementing bodies.

The **horizontal and procedural measures** necessary for the administration of the Community product *acquis* in the new approach sector are in place. The implementation structures for standardisation, metrology, accreditation, conformity assessment and market surveillance are all in place. Training programmes being carried out by these bodies should ensure their operational efficiency by the date of accession. Particular attention should be given to prepare for the task of market surveillance, of which the role and importance will be enhanced by the entry into force of new approach legislation. The Polish Committee for Standardisation (PKN) is an affiliate member of CEN and CENELEC. Full membership should occur in the near future.

Poland has transposed the majority of the **sectoral legislation** under the **new approach**. Still missing or not yet fully aligned legislation relates to cableways, medical devices, non-automatic weighing instruments, marine equipment, and radio and telecommunications terminal equipment. Some adjustments might still be required in other areas. Poland has been granted a transitional period by which existing certificates for medical devices shall remain valid until their expiry or until the end of 2005 at the latest.

As regards the **old approach** directives, Poland has transposed a significant part of the *acquis* in these product sectors. Further efforts are required in the areas of textiles, legal metrology, motor vehicles, chemicals, fertilisers, pharmaceuticals, cosmetics and wood.

Progress is noted and good co-operation has been established as regards the transposition of the foodstuffs *acquis*. However, amendments to the framework law on food and nutrition are still pending and some implementing regulations have not yet been adopted or necessitate further adjustments. The majority of vertical foodstuffs directives still needs to be transposed and implemented.

Poland has taken the steps necessary to ensure the creation, reinforcement, and operational capacity of the institutions required to manage the *acquis* in nearly all of the sectors covered by the old approach sector directives. In the area of chemicals, having recognised that the identification of "new" chemical substances on its market is a matter of priority, Poland should provide for the appropriate notification of such substances in accordance with the *acquis*. In the area of pharmaceuticals, implementation of the legislation should not give way to *de facto* discrimination against imported pharmaceutical products. Furthermore, specific attention is needed to strengthen inter-institutional co-operation in the field of food safety, to train operators and inspectors in the principles of the *acquis* in this area (such as by the further development of guides on good hygiene practices), to prepare for the full application and enforcement of Hazard Analysis Critical Control Points (HACCP) in all food plants and to continue the restructuring and upgrading of laboratories which will be part of the official control network. Procedures for handling alerts under the Rapid Alert System for Food and Feed need to be finalised. Aspects of food safety are also covered under Chapter 7 – Agriculture.

In the course of the accession negotiations Poland has been granted a transitional period relating to the renewal of marketing authorisations for pharmaceutical products until the end of 2008.

In the field of **public procurement** the legislative efforts to achieve full alignment with the EC *acquis* in this area need to be continued. The shortcomings that persist relate to, notably, the definition of bodies governed by public law, the scope of exceptions and the information to be given to unsuccessful candidates or tenderers. The Public Procurement Office has been established and is operational but still needs to be strengthened, in particular in terms of well-trained personnel. Training is also necessary for other actors involved in public tendering in particular to allow a smooth implementation of the Structural Funds and Cohesion Fund assistance.

In the **non-harmonised area** Poland has conducted a screening exercise for national legislation possibly in contradiction with the principle of free movement of goods; this screening must continue and the identified barriers must be removed. Examples of unjustified trade barriers that remain to be removed relate to, notably, the Polish legislation on the import of second hand vehicles, on alcohol advertising, on the labelling of textile products and the Polish language law. Poland still needs to introduce mutual recognition clauses into its existing legislation. Transposition of the *acquis* concerning cultural heritage objects is not yet complete. Minor adjustments remain to be brought to the legislation transposing the *acquis* on arms control. Preparations have been made to apply the rules on product safety checks at external borders from accession.

### *Conclusion*

Poland is essentially meeting the requirements for membership as regards **horizontal and procedural measures**, necessary to allow for the correct implementation of legislation falling under the new approach as from accession, and the **new approach sectoral legislation**. The remaining legislative work in the new approach area is under way and should put Poland in a position to apply this *acquis* as from accession.

Poland is partially meeting the requirements in respect of the **old approach sectoral legislation, public procurement** and the **non-harmonised area**. As regards the old approach sectoral legislation, continued efforts are required in most of the sectors.

Particular attention should be paid to the completion of the alignment efforts and to strengthening of the administrative capacity in the area of food safety (notably the upgrading and restructuring of laboratories) and the non-discriminatory implementation of the pharmaceutical legislation. Additional efforts should be made to provisionally notify "new" chemical substances prior to accession so as to ensure the continued marketing of such substances. In the non-harmonised area, Poland needs to give enhanced attention to implementing and enforcing the principle of mutual recognition. Urgent action needs to be taken as regards the abolition of persisting trade barriers in order to ensure that Poland is in accordance with the fundamental EU rules on the free movement of goods by accession.. As regards public procurement, unless legislation is adopted shortly and implemented correctly, there is a serious risk that Poland would not have a functioning system in place in time.

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

The acquis under this chapter provides for non-discriminatory treatment of workers who are legally employed in a country other than their country of origin. This includes the possibility of cumulating or transferring social security rights, which requires administrative cooperation between Member States. In order to facilitate the practice of certain professions, the acquis under free movement of persons also includes specific rules concerning mutual recognition of qualifications and diplomas; for certain professions a harmonised training curriculum must be followed to be able to use the professional title. Furthermore, this area also covers the residence and voting rights of EU citizens in any Member State.

In the field of **mutual recognition of professional qualifications**, Poland's transposition of the acquis still presents serious shortcomings. Only the legislation on lawyers and commercial agents has been largely aligned. The relevant legislation on the general system of recognition has not been entirely transposed. Intensified efforts are still needed to adopt and implement outstanding legislation on the recognition of qualifications in the health sector, notably doctors, dentists, general care nurses, midwives and pharmacists, as well as on architects. Poland needs to complete alignment in these areas as a matter of priority. Poland has expressed the intention to upgrade qualifications and training of its nurses and midwives. This important issue awaits clarification. The necessary administrative structures for implementation are largely in place but require further strengthening.

In the area of **citizens' rights** legislative alignment has been largely completed, except for some implementing legislation. Furthermore, legislation on the right of EU citizens residing in Poland to participate in municipal and European Parliament elections has to be adopted. The main administrative structures for implementation are in place.

As for **free movement of workers** a transitional arrangement has been agreed. For the first two years following accession, current Member States will apply national measures or bilateral agreements to regulate the access of workers from Poland to their labour markets. These arrangements may continue up to a maximum of seven years. Poland has transposed the acquis to a large extent, but the adoption of implementing legislation needs to be completed. The acquis on supplementary pension right of workers moving within the Community remains to be transposed, while access to public sector employment in accordance with the acquis must be ensured.

As to **co-ordination of social security systems**, no transposition into national legislation is needed to achieve alignment with the *acquis*. A number of bilateral agreements with Member States, which rely on the same principles as the EU rules in this area, reflect the fact that Poland's administration has some experience with the administrative procedures. However, Poland's administrative structures need to be further developed.

### *Conclusion*

Poland is essentially meeting the commitments and requirements in the areas of **citizens' rights, free movement of workers and co-ordination of social security systems**. Some adjustments still need to be made, in particular to the legislation on foreigners to allow EU citizens to stay and work freely in Poland, and to participate in the European elections of June 2004. The ongoing measures to ensure adequate administrative capacity in these areas should continue.

The **mutual recognition of professional qualifications** remains an area of serious concern. The application of the general system of recognition remains to be completed. Substantial shortcomings remain on the co-ordination of training and the recognition of qualifications for doctors, general care nurses, dentists, midwives and pharmacists, and for architects. Poland must significantly and urgently enhance its efforts to adopt outstanding legislation in these areas, and needs to reinforce further its administrative capacity to implement this *acquis*. Unless immediate action is taken to implement the obligations of EU law, Poland will not meet the requirements for membership in this area.

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

Under this chapter, Member States must ensure that the right of establishment and the freedom to provide services anywhere in the EU is not hampered by national legislation. In some sectors, the *acquis* prescribes harmonised rules which must be respected if the internal market is to function; this concerns mainly the financial sector (banking, insurance, investment services and securities markets) but also some specific professions (craftsmen, traders, farmers, commercial agents). Harmonised rules concerning personal data protection and certain information society services must also be respected.

In the field of the **right of establishment and the freedom to provide non-financial services**, Poland has partially adjusted its legislation to the *acquis*. Restrictive provisions in the law on unfair competition concerning the right of establishment need to be lifted. Restrictions on investment by foreign companies still exist in the broadcasting sector. In the gambling sector, an amendment to the law adopted in April 2003 removes the elements of discrimination against foreign investors, but introduces a discriminatory language requirement for members of the management boards of companies carrying out activities in this area. The Polish authorities should urgently address this issue, while at the same time ensuring that amendments to the horizontal Polish Language Law comply with the *acquis*. Furthermore, discriminatory provisions in the law on alcohol advertising still need to be eliminated. Other potential legal and administrative restrictions remain to be identified by Poland in the light of the relevant case law of the European Court of Justice. This screening must now be completed. In this context, a clear distinction should be made in the Polish legislation between economic operators carrying out activity in Poland on a temporary basis and those establishing themselves permanently, in order to ensure free provision of cross-border services.

In the field of financial services, Poland has partially aligned its legislation with the *acquis* in the **banking sector**. Outstanding issues include liquidation procedures, capital adequacy, winding up and strengthening the legal protection of supervisors. The directive on publication of annual accounts by branches of financial institutions located in other Member States still needs to be enacted. As for deposit guarantee systems, transposition is not fully in line with the *acquis*, while the e-money Directive has only been partially implemented. Efforts to address the problem of a language requirement for members of a bank's management board, as well as the lack of cross-border co-operation between supervisory authorities need to be continued. Poland has committed itself to ensuring the full application of the *acquis* in respect of co-operative credit institutions by the end of 2007, in accordance with the transitional arrangements it has been granted.

The Commission for Banking Supervision has the required infrastructure and human resources to deal with the *acquis*-related tasks in this area. The political and operational independence of the banking supervisory authority must be reinforced. Important steps have been made towards effective, consolidated supervision in the whole financial services area.

As regards the **insurance sector**, Poland is in the process of completing legislative alignment. Clarification is needed on the issue of qualified participation in the insurance legislation. The problem of the language requirement also concerns the insurance sector (*see above*). The procedure for Poland becoming a signatory of the 'green card' Multilateral Guarantee Agreement, as foreseen in the 1<sup>st</sup> motor vehicle directive, still needs to be finalised and efforts should be made to cope with the responsibilities linked to this status. The Commission for Supervision of Insurance and Pension Funds is staffed with competent personnel, but continued training and modernisation of the information-technology system are needed. The insurance supervisory authority must be given more functional and operational independence.

In the field of **investment services and securities markets**, the legislation is still not sufficiently aligned, in particular as far as transposition of the investment service and insider dealing directives is concerned. Recent legislative efforts made with the adoption by the Council of Ministers of draft amendments to the Securities Law need to be continued as a matter of high priority. The draft text on securities constitutes progress but further and substantial improvements are still necessary in order to fully transpose the *acquis* in this area on time. Furthermore, the new directives on undertakings for collective investment in transferable securities are yet to be transposed. This will have to be a priority, bearing in mind the well-developed market for investment funds. The directive on financial collateral still needs to be transposed. Poland was granted a transitional period regarding the level of investor compensation until the end of 2007. Administrative capacity has reached an adequate level. The independence of the Polish Securities and Exchange Commission (PESC) remains to be ensured, while mutual co-operation with the supervisory authorities in the field of banking and insurance needs to be strengthened.

Concerning the **protection of personal data and the free movement of such data**, Poland is essentially meeting the various commitments and requirements arising from the accession negotiations, and should be in a position to implement the relevant *acquis* from the date of accession. Nevertheless, outstanding issues in this area, such as the lack of a system of prior checking, persist and the legislation must still be fine-tuned. The draft legislation adopted by the Government in this regard does not tackle all present shortcomings and if enacted as such, would still not fully align the *acquis* in this field.

The supervisory authority for the protection of personal data, which is fully independent and very efficient in the performance of its tasks, would benefit from further strengthening.

As regards **information-society services**, the legislation is to a great extent aligned with the *acquis*. Some elements of the directive on electronic commerce still need to be implemented. The building-up of the necessary administrative capacity for the implementation of this directive and the implementation of information technology in public administration will follow the strategy for developing the information society ePoland, a response to the eEurope initiative.

### *Conclusion*

Poland is essentially meeting the requirements for membership in terms of transposition of the *acquis* in the fields of **personal data protection** and **information-society services**. Some important specific issues still need to be addressed if Poland is to be in a position to implement this *acquis* fully by the time of accession.

Poland is partially meeting the commitments and requirements for accession in the areas of the **right of establishment and the freedom to provide non-financial services, banking, insurance services, and investment services and securities markets**. In order to complete preparations for membership, enhanced efforts are required to complete the alignment in those areas, as well as to eliminate restrictions to the establishment and free provision of services. Poland needs to lift disproportionate language requirements for board members of service providers, particularly in the financial sector, and to clarify legislation with respect to the procedure for the cross-border exchange of information between banking supervisors. The operational independence of the supervisory authorities must be sufficiently safeguarded. Close attention must be paid to full alignment with the *acquis* in the field of investment services and securities markets. Unless Poland intensifies its efforts to arrive at full alignment with the *acquis* in the area of investment services and securities markets upon accession there is a risk that it would not meet the requirements for membership in this area.

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

Under this chapter, Member States must remove all restrictions in national law on the movement of capital between themselves, but also with third countries (with some exceptions) and adopt EU rules to guarantee the proper functioning of cross-border payments and transfers of all forms of capital. The *acquis* under this chapter also includes harmonised rules on payments systems and the fight against money laundering, requiring adequate enforcement capacity.

In the area of **capital movements and payments**, Poland is to a large extent in line with the *acquis*. Further adjustment is still needed with regard to sectoral legislation restricting foreign direct investment. This is in particular the case in the broadcasting sector and in privatised companies covered by golden shares incompatible with the *acquis*. With regard to investment rules of Polish open pension funds, existing quantitative restrictions on the acquisition of foreign assets have not yet been removed. Furthermore, Poland must still eliminate certain restrictive elements in its foreign exchange legislation that do not comply with the *acquis*, notably restrictions on granting foreign exchange permits and the introduction of a maximum limit on the purchase or sale of foreign means of payment.



In accordance with the transitional arrangement it has been granted, Poland will remove restrictions on the acquisition of secondary residences by EU nationals not resident in Poland by May 2009 at the latest. Similarly, in accordance with another transitional arrangement, Poland will remove restrictions on the acquisition of agricultural land and forests by EU nationals by May 2016 at the latest. Poland needs also to ensure that restrictions regarding the acquisition of real estate that are not covered by the transitional arrangements, are effectively removed by the date of accession. In addition, Poland should demonstrate that the recently adopted authorisation procedure for acquiring land respects the terms of the Accession Treaty.

In the field of **payment systems**, Poland is completing its legislative alignment, while the implementing structures are in place and function adequately. The outstanding issues include legislation on cross-border credit transfers (the current legislation covers only banks). In the area of settlement finality minor adjustments remain necessary.

In the area of **money laundering**, Poland still has to amend its anti-money-laundering legislation to be fully in line with the most recent acquis by extending the range of subjects obliged to report suspicious transactions to cover lawyers, accountants, tax advisors and auditors. Poland has extended reporting obligations to cases where funds are intended for the financing of terrorism. While Poland ensures full compliance with the recommendations of the Financial Action Task Force, its implementing structures, notably the Financial Intelligence Unit, could be improved by introducing more efficient operating procedures (*see also chapter 24 – Justice and home affairs*).

### *Conclusion*

Poland is essentially meeting the requirements for membership and should be in a position to implement the acquis in the area of **capital movements and payments** and **payment systems** from accession. A limited number of specific issues will still need to be addressed in these areas before accession, notably the removal of restrictions on foreign investment in the broadcasting sector and in companies subject to golden shares held by the authorities, as well as on investment of Polish open pension funds in foreign assets. In addition, the rules on the acquisition of agricultural land need to be respected.

The commitments and requirements in the fight against **money laundering** are partially met. In order to complete preparations for membership, Poland must transpose the recent acquis and further reinforce its administrative capacity to effectively implement the acquis on money laundering.

### *Chapter 5: Company law*

Under this chapter, Member States must adopt and apply harmonised rules required for the proper operation of companies in the internal market. They concern five legislative fields: company law in the strict sense, accounting law, intellectual property rights, industrial property rights, and the recognition and enforcement of judgements in civil and commercial matters as well as of contractual obligations.

In the field of **company law** as such, the Polish legislation is to a large extent aligned with the acquis. The Commercial Companies Code and the Law on the National Court Register, along with their respective implementing regulations, are in force. They will require certain amendments to rectify some inconsistencies and omissions. As regards

administrative capacity, some strengthening remains necessary; in particular, training for judges and administrative staff should be intensified.

With regard to **accounting**, legislative alignment has been almost completed; only the Law on Statutory Auditors still contains some elements which are not fully compatible with the *acquis* (the Eighth Directive) and needs to be adjusted. The administrative structures are adequate.

In the field of **protection of intellectual and industrial property rights (IPR)**, the October 2002 amendments to the Polish Copyright Act largely align the Polish legislation with the *acquis* on copyright and related rights but this act will still need to be amended further to fully transpose the 2001 *acquis* on copyright and related rights in the information society. The Industrial Property Law should also be modified in order to achieve full alignment in this area, notably as regards Community designs and trademarks and geographical indications. Poland needs to address the problem of local manufacturing requirements violating the Community principle of non-discrimination. Accession to the European Patent Convention is pending.

Specific transitional rules will apply in relation to pharmaceutical product patents, involving the non-application of Community exhaustion to certain exports from Poland, as regards the granting of supplementary protection certificates for medicinal and plant protection products, as well as in relation to the extension of registered or pending Community trademarks to the territory of Poland. As regards enforcement of IPR, administrative structures are largely in place. Staffing has increased and training has been carried out in a number of these administrative and judicial bodies, but a system for the collective management of copyright and related rights still needs to be set up. There remains a need to increase overall enforcement capacity, in particular in the Ministry of Culture and in the Patent Office. Training, in particular of judges and prosecutors, needs to be intensified. Further efforts are needed especially to cope with the high level of piracy in software and music and video products. Better co-ordination among enforcement bodies (in particular customs, police and judiciary) needs to be pursued. Poland should carefully implement its new strategy on intellectual property protection, adopted in August 2003 and meant to step up the fight against piracy and counterfeiting.

The **Regulation replacing the Brussels Convention** on mutual recognition and enforcement of foreign judgements in civil and commercial matters will be directly applicable upon accession and accession to the **Rome Convention** will only be possible upon accession. Poland has designated the relevant courts which will deal with applications and appeals.

### *Conclusion*

Poland is essentially meeting the requirements for membership, and is expected to be in a position to implement by accession the *acquis*, in the areas of **company law** and **accounting**, and the **Regulation replacing the Brussels Convention** and the **Rome Convention**. Some adjustments still need to be made to the company law *acquis* and full alignment in the field of accounting will require some amendments to the Law on Statutory Auditors.

The majority of commitments and requirements arising from the accession negotiations in the field of the **protection of intellectual and industrial property rights** have been met. Further legislative adjustments are required in respect of copyright and related

rights, in particular to fully transpose the information society rules in this area, and in respect of industrial property rights, notably on Community trademarks and designs, as well as geographical indications. Enhanced efforts are in particular needed to strengthen the enforcement of intellectual and industrial property rights. Administrative capacity needs to be improved, better co-ordination among enforcement bodies is required and the efficient functioning of a well-trained judiciary should be given close attention.

### ***Chapter 6: Competition Policy***

The competition *acquis* covers both anti-trust and state aid control policies. It includes rules and procedures to fight anti-competitive behaviour by companies (restrictive agreements between undertakings and abuse of dominant position), and to prevent governments from granting state aid which distorts competition in the Internal Market. Generally, the competition rules are directly applicable in the whole Union, and Member States must fully co-operate with the Commission on the enforcement of these rules.

In the **anti-trust** sector, Poland has adopted legislation containing the main principles of the Community anti-trust rules as regards restrictive agreements, abuse of dominant position and merger control. However, preparations should continue for the application of the EU's new procedural regulation.

Poland has the necessary implementing structure in place, and the Office for Competition and Consumer Protection (OCCP) is functioning satisfactorily. In view of the decentralised application of the antitrust rules under the EU's new procedural regulation, further strengthening of the administrative capacity would still be opportune. Further efforts are still needed to raise awareness of the anti-trust rules of all market participants and to build up a credible and transparent competition culture. Special training for judges should be further developed.

The enforcement record is overall satisfactory. In order to ensure further strengthening, it would be particularly opportune to focus on serious distortions of competition, such as cartels, as well as to focus investigations on practices that are important for the market structure. Furthermore, the policy on sanctions (fines on competition infringements) should be further reinforced.

In the field of **state aid** control, Poland has adopted state aid rules covering the main principles of the *acquis*. With respect to the transposition of the substantive rules, Poland satisfies the basic requirement for the establishment of the necessary legislative framework. In particular, the recent amendments to the state aid legislation have brought the rules into closer conformity with the EU *acquis*.

The necessary implementing structures are in place, and the Office for Competition and Consumer Protection (OCCP) is functioning satisfactorily. Further efforts are still needed to raise awareness of the state aid rules among all market participants and aid grantors. Poland must also pay particular attention to training of the judiciary.

The enforcement record is not wholly satisfactory. In particular, shortcomings have been identified in the handling of rescue and restructuring aid as well as of research and development aid. In these areas, the assessment of the aid measures has not always been carried out in line with the *acquis* and has diverged from the Commission's practice. It is important for the OCCP to be particularly vigilant on all measures proposed by the Government in these areas and on measures destined for sensitive industries.

Furthermore, recent measures aimed at bailing out several troubled shipyards give rise to concern. Moreover, measures destined for companies in restructuring (the so-called "anti-crisis" package) must be compatible with the EU rules on rescue and restructuring aid. In general, reinforced efforts are required to ensure fully satisfactory enforcement.

Poland benefits from a transitional arrangement in relation to certain fiscal aid benefits. This necessitates modifications of individual fiscal benefits (including the conversion of those benefits to large companies) granted under the Act on Special Economic Zones of 1994. Poland has introduced draft amendments with a view to introducing the agreed modifications of the fiscal benefits by accession. These amendments aim to bring the national legislation into conformity with the provisions of the Accession Treaty.

Poland also has a transitional arrangement (Protocol on steel) under the Accession Treaty for the restructuring of its steel industry by the end of 2006. In this context, Poland is allowed to grant restructuring aid until 2003 to a pre-defined group of steel companies for which the restructuring process must be completed by 2006. Poland is also obliged to report on the implementation of the restructuring programme on a half-yearly basis. Furthermore, it is important to observe that no restructuring aid may be granted exceeding the specified amounts or to companies outside the group of steel mills specified in the special Protocol of the Accession Treaty.

### *Conclusion*

Poland is essentially meeting the commitments and requirements arising from the accession negotiations in the **anti-trust** area and is expected to be in a position to implement the *acquis* in this area as of accession. In completing preparations for membership, Poland must continue to develop a track record of enforcement of the anti-trust legislation.

Poland is partially meeting the commitments and requirements arising from the accession negotiations in the **state aid** area. In order to complete preparations for membership, Poland must urgently ensure proper enforcement of all State aid measures, particularly of aid destined for rescue and restructuring as well as research and development purposes. Furthermore, Poland must urgently ensure that all aid measures for companies active in the sensitive sectors (particularly shipbuilding and ship repair) are in full compliance with the special rules applicable in these industries. Moreover, attention should be given to finalising adoption and ensuring implementation of the amendments to the Act on Special Economic Zones in order to introduce the agreed modifications of the fiscal benefits by accession. Finally, Poland must ensure full implementation of the agreed framework for the restructuring of the steel industry, and in particular, guarantee that no restructuring or any other incompatible aid is granted to steel companies that are not covered by the Protocol on steel.

### *Chapter 7: Agriculture*

The agriculture chapter covers a large number of binding rules, many of which are directly applicable. The proper application of these rules and their effective enforcement by an efficient public administration are essential for the functioning of the common agricultural policy. This includes the setting up of management systems such as a Paying Agency and the Integrated Administration and Control System, which are covered under "horizontal issues" below, and also the capacity to implement rural development actions. The acceding countries must be ready to be integrated into the common market

organisations for a range of agricultural products, including arable crops, fruits and vegetables, and meat. Finally, this chapter covers detailed rules in the veterinary field, which are essential for safeguarding animal health and food safety in the internal market, as well as in the phytosanitary field, including issues such as seed quality, harmful organisms and plant protection products.

### **Horizontal issues**

In the area of **Paying Agencies**, the Agency for Restructuring and Modernisation of Agriculture (ARMA) will be in charge of rural development measures and direct payments, including IACS, and the Agricultural Market Agency (AMA) will be responsible for market mechanisms. These two bodies remain to be accredited by the Ministry of Finance. Preparations will need to be accelerated in particular as regards the setting up of the financial management and accounting computer applications as well as the recruitment and training of new staff.

There is a serious risk that a functional **Integrated Administration and Control System (IACS)** will not be in place. This is particularly due to the difficulties associated with recruiting and training the huge number of staff required for different functions implementing a proper IT system, as well as because the basic land use information of the cadaster contains errors and is out of date for a range of parcels.

The Agency for the Agricultural Markets (AMA) will be responsible for the administration of **trade mechanisms**. The relevant control tasks will be under the responsibility of the customs services and the Agriculture and Food Commercial Quality Inspectorate will supervise the quality parameters. Legislative measures for the period after accession remain to be adopted. The preparation of administrative structures and procedures must be accelerated, with particular attention to the export refunds monitoring system and to good communication between the three institutions (*see also Chapter 25 – Customs union*).

As regards **quality policy**, Poland has not yet adopted Community definitions and rules for products of protected origin and geographical indication. The Polish fine food programme is due to be brought in line with EU requirements upon accession.

The Polish Act on **organic farming** is not fully in line with the *acquis*. The control structures need to be reinforced and certifying bodies accredited.

The **Farm Accountancy Data Network (FADN)** liaison agency will be the Institute of Agricultural and Food Economics. The regions have been defined. The network to collect data from farms is gradually being expanded. The national committee remains to be set up.

**State aid** measures in the field of agriculture remain to be brought in line with the *acquis* at the time of accession.

As concerns direct payments to farmers, Poland has decided to apply the single area payment scheme (SAPS) in the first years after accession.

### **Common market organisations**

The AMA will be responsible for the implementation of the **arable crops** common market organisation (CMO). The ARMA will be responsible for payments related to dried fodder. The adaptation of the actual structures needs to be accelerated. The list of

intervention centres for all major cereals has been adopted. For tobacco and hops, subject to continued good progress Poland should have implemented the *acquis* satisfactorily by accession.

The legal basis for the sugar sector is well established, though some further rules still need to be adopted for full alignment. AMA is the responsible body for the **sugar** common market organisation (CMO) while the control tasks are delegated to the Agriculture and Quality Inspectorate. Procedures for the different trade mechanisms of the CMO have been elaborated. A quota system is in place, including inter-professional agreements, but needs to be fully harmonised with the *acquis*.

Implementing legislation as regards marketing standards for **fruit and vegetables** as well as the establishment of producers' organisations has been adopted. Administrative structures to control quality requirements are in place. However, attention must be given to the application of marketing standards on the national market and controls at the export stage still have to be implemented. The setting up of producers' organisations remains to be encouraged and approval of programmes needs to be separated from payments. Mechanisms for reporting entry prices remain to be set up.

In the area of **wine and alcohol**, the CMO for wine remains to be fully set up. Quality standards on spirit drinks are partially in line with the *acquis*. Assessment of the necessity to implement parts of the wine CMO (wine zones) based on a 2002 census needs to be made. Poland needs to complete further its preparations to implement the CMO for wine and all the spirit drinks *acquis*, in particular the *ex officio* protection of geographical wine and spirit drinks names.

AMA is responsible for the implementation of the milk quota system as well as for intervention, disposal measures, and import and export tasks in the milk sector. The administrative structures of the AMA have been substantially strengthened in order to ensure the **milk** quota management. In general, there has been good progress for the preparation of the application of the milk quota system. However, some major challenges are still ahead, such as the identification and control of all direct sellers and appropriate staffing in regional offices. As for the other mechanisms of the CMO of milk and milk products, Poland intends to apply the procedures that have already been established.

Implementing legislation remains to be adopted regarding carcass classification and price reporting for **beefmeat, sheepmeat and pigmeat** as well as for beefmeat labelling. For beef carcass classification the exact method of organising, introducing and controlling classification has yet to be finalised and the Polish Authorities are therefore behind schedule in implementing the EU Beef Carcass Classification Scheme.

For **eggs and poultry**, legislative measures remain to be adopted. As regards administrative structures for marketing standards, price reporting and the reporting of production statistics, enhanced efforts are required if Poland is to have a functioning system by accession.

## **Rural development**

The implementation law for the Rural Development Plan (RDP) remains to be adopted. The Ministry of Agriculture and Rural Development has been appointed as the managing institution and ARMA as the implementing body and Paying Agency for the RDP. The Agency already has experience with the implementation of SAPARD, which has been accelerated recently following delays earlier on in committing funds to beneficiaries.

Poland has informally transmitted its draft RDP to the Commission. Enhanced efforts are required if Poland is to benefit from EAGGF Guarantee funded rural development measures from 1 January 2004. In particular, the management and implementation of rural development measures needs to be clarified and administrative capacity has to be strengthened. With regards to forestry the Act on Appropriation of Agricultural Land for Afforestation is not totally in line with the *acquis*, and should be amended.

### **Veterinary and phytosanitary issues**

As regards veterinary issues, serious concerns remain about the adoption of four basic veterinary acts. Poland will only be meeting the majority of the requirements for membership once these basic veterinary acts have been adopted and implemented.

Transposition of legislation on transmissible spongiform encephalopathies (**TSEs**) and **animal by-products** has been partly achieved. TSE surveillance needs to be upgraded, in particular as regards testing of risk animals. A collection system for cadavers is not yet in place and animal waste treatment plants remain to be upgraded. A total feed ban has not yet been implemented.

As regards the establishment of the **veterinary control system in the internal market**, particular efforts are needed to accelerate legislative work and to strengthen the administrative structures for controls at the site of origin and non-discriminatory spot checks during transport and at destination. Poland has not yet joined the ANIMO system. Poland has transposed the main parts of the *acquis* for identification and registration of animals. Registration of bovines is close to completion. However, enhanced efforts are still needed to upgrade the bovine database. The law on financing veterinary inspections and controls has not yet been adopted. Legislation as regards veterinary checks of imports from third countries has recently been adopted. Transposition regarding rules for import remains to be completed. Additional efforts have to be made if all seven proposed border inspection posts are to be ready in order to meet EU requirements at accession: Świnoujście, Gdynia, Warsaw-Okęcie, Bezledy, Kukuryki, Korczowa and Szczecin.

Regarding **animal disease control** measures, national contingency plans on foot and mouth disease, classical swine fever, Newcastle disease and avian influenza have been provided. Poland has joined the Animal Disease Notification System (ADNS) on a voluntary basis.

Most of the legislation on **trade in live animals and animal products** still needs to be approved and implemented.

Legislation on **public health** protection has been partially adopted but needs adjustments. Urgent attention must be given to the new framework act in this sector. Transitional arrangements have been granted for certain meat establishments until the end of 2007 and for certain milk establishments and for raw milk quality until the end of 2006. Products from these establishments will be restricted to the national market. However, milk-processing establishments and competent authorities are not yet prepared for the channelling of raw milk on quality grounds. Poland has given a commitment that all establishments continuing to be in operation after accession will be in compliance with the *acquis*. There is a high probability that a significant number of agri-food establishments will not be in compliance with the relevant EU requirements at the date of accession.

The acquis on **common measures** (including zoonoses) has partly been transposed. The residue-monitoring programme does not meet EU requirements.

The acquis in the field of **animal welfare** remains to be transposed. Efforts need to be accelerated to transpose legislation and to fully implement the acquis. Poland has been granted a transitional arrangement until the end of 2009 as regards the conditions for laying hens in certain farms.

In the field of **zootechnics**, steps have been taken to align Polish legislation with the *acquis*.

Full harmonisation of the Act adopted in 2001 and implementing regulations adopted in 2002 for **animal nutrition** remains to be achieved and implemented.

In the field of **phytosanitary** legislation, a new draft Act on the Plant Protection is still under examination. Consequently, the acquis on harmful organisms is not yet transposed. An issue of concern is that Poland would not be able to provide at the date of accession the same level of phytosanitary guarantees for potato production as achieved in the current Member States. Commitments have been made to address this issue. The acquis for plant protection products remains to be transposed. A transitional period for marketing certain plant protection products until the end of December 2006 has been provided to Poland. As regards quality of seeds and propagating material, the new seed act has been adopted but implementing legislation is still pending.

Poland has to ensure that international veterinary and phytosanitary agreements are brought into compliance with the EU *acquis* by accession.

As regards food safety (*see also Chapter 1 – Free movement of goods*) the administrative structures are in place under the overall co-ordination of the Ministry of Health, supported by the Chief Sanitary Inspectorate. In addition, the Ministry of Agriculture is supervising three inspectorates: the Chief Veterinary Inspectorate, the Plant Protection and Seed Service and the Agriculture and Food Commercial Quality Inspectorate. Moreover the Office for Competition and Consumer Protection, with the Trade Inspectorate is carrying out control activities at different levels in the area of food safety. The large number of inspectorates remains an issue of concern, as it leads to co-ordination problems.

### *Conclusion*

Poland is essentially meeting the commitments and requirements arising from the accession negotiations, among the horizontal issues as regards **quality policy, organic farming, the Farm Accountancy Data Network (FADN) and state aid**; among the common market organisations (CMOs) as regards **arable crops, sugar, fruit and vegetables, wine, sheep and pigmeat**; and in the veterinary field as regards **animal disease control measures and zootechnics**. Subject to good progress being maintained in these areas, Poland is expected to be in a position to implement this acquis from accession.

Poland is partially meeting the commitments and requirements for membership in the areas of **trade mechanisms**; the CMOs for **milk, beefmeat and eggs and poultry**; **rural development**; in the veterinary field as regards **veterinary control system in the internal market** (with the exception of movement control of animals), **trade in live animals and animal products, common measures, animal welfare, animal nutrition**;



and **phytosanitary issues** (with the exception of potato ring rot and wart disease). Unless efforts are accelerated in these areas, there is a risk that functioning systems will not be in place at accession.

There are serious concerns about Poland's preparations to set up its **Paying Agencies** and to implement the **Integrated Administration and Control System (IACS)**. For veterinary issues, urgent attention must be paid to the adoption and implementation of four basic veterinary acts. Serious concerns remain regarding **TSE and animal by-products** (concerning the collection system of cadavers and the rendering plants), and **movement control of animals** and with regards to **plant harmful organisms** (control of potato ring rot and wart disease). Urgent progress is needed in **public health** (in the upgrading of agri-food establishments). Unless immediate remedial action is taken, Poland will not be in the position to implement the *acquis* in these areas by the date of accession.

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

The *acquis* on fisheries consists of regulations, which do not require transposition into national legislation. However, it requires the introduction of measures to prepare the administration and the operators for participation into the Common Fisheries Policy (in the areas of market policy, resource and fleet management, inspection and control, structural actions and state aid). In some cases, existing fisheries agreements or conventions with third countries or international organisations need to be adapted.

In the field of **resource and fleet management and inspection and control**, the Act on Maritime Fisheries, as well as all implementing regulations, have been adopted. Through this legislation, Poland has introduced the basis for fishing licences, fishing logs, unloading declarations, the register of fishing vessels and the satellite system of the fishing vessel monitoring system (VMS). The Act on Maritime Fisheries is currently undergoing revision. Regarding implementation, the hardware and software systems have been installed for VMS as well as for the Fishing Vessel Register, but the systems cannot be used because of a lack of specialised personnel. The rate of re-measurement of fishing vessels is too low. Poland should complete re-measurement upon accession. Training of staff at the Fisheries Department of the Ministry of Agriculture and Rural Development (MARD) and at the three Regional Fisheries Inspectorates, as well as the setting up of the system for catch registration, including the Sea Fisheries Information System, is ongoing. However, the capacity of the fisheries administration, notably with respect to control functions, needs to be strengthened significantly at central and in particular at local level by employing additional staff, by additional training and by providing the institutions with equipment to control fishing activities. Information from central level and co-ordination between all levels of administration must be improved.

In the area of **structural actions**, Poland has submitted the Sectoral Operational Programme to the Commission. Structural policy will be co-ordinated by the newly created unit for Fisheries and Fish Processing which has been set up in the Fisheries Department of MARD and implemented by the Agency for Restructuring and Modernisation of Agriculture and the three Regional Inspectorates for Fisheries. Effective co-operation of these institutions needs to be strengthened. Their capacities must be reinforced. The fishing fleet register has been set up, but is not yet functional. The measurement of fishing vessels is ongoing. To reach the goal in time, the administrative capacity for managing the structural policy and in particular the

administration of the Financial Instrument for Fisheries Guidance (FIFG) needs to be enhanced significantly.

Regarding **market policy**, the legal framework establishing the organisation of the market in fisheries has been adopted. The market policy and coverage of market regulation such as setting up producers' organisations, has not been fully implemented. The implementation of marketing standards, control and organisation of first sales through the creation of local first sales centres is slowly progressing. However, control measures have not yet been provided for, and the level of staffing must be drastically increased in order to taken on the additional control burden resulting from the market organisation.

As regards **state aid**, Poland must bring its national aid schemes into conformity with the *acquis* by accession.

Concerning **international fisheries agreements**, Poland has not yet withdrawn from the International Baltic Sea Fisheries Commission (IBSFC), the Northwest Atlantic Fisheries Organisation (NAFO), or the North-East Atlantic Fisheries Commission (NEAFC). As regards the bilateral Polish-Norwegian agreement, the situation of Polish vessels needs to be clarified.

### *Conclusion*

Poland is partially meeting the commitments arising from the accession negotiations in the areas of **structural actions**, **state aid** and **international fisheries agreements**. Poland will only be in a position to implement the *acquis* in this area as from accession if the necessary adjustments are prioritised to strengthen the administrative capacity needed to manage structural policy. As regards international fisheries agreements, Poland's progress in withdrawing from them must be accelerated.

Urgent attention must be paid to the areas of **resource and fleet management and inspection and control** and **market policy**, which give rise to serious concerns as regards compatibility with the *acquis* of the draft legislation in these two areas. There has been persistent delay in the adoption and full implementation of legislation in the area of control systems, in particular on the use of the Vessel Monitoring System and of the operation of the Fishing Vessel Register. Progress as regards the statistical database for the fisheries sector must be followed up. As regards administrative capacity, remedial action is required in order to strengthen the control functions at both central and regional levels but with particular attention to the regional level. As for market policy, there are serious concerns about Poland's wish to put in place producers' organisations, as it needs to have the necessary control measures available and the administrative capacity in place. Unless immediate action is taken, Poland will not meet the requirements for membership in these areas.

### *Chapter 9: Transport policy*

EC transport legislation aims at improving the functioning of the Internal Market by promoting efficient and environment- and user-friendly transport services. The transport *acquis* covers the sectors of road transport, railways, aviation, maritime transport and inland waterways. Member States are required to adopt and implement legislation concerning technical and safety standards as well as social standards. In order to further develop the European Single Transport Market, EC legislation also includes rules on

market liberalisation. An important aspect of EC maritime policy is the establishment of Union-wide maritime safety standards.

The extension of the **trans-European transport networks** has been defined. While the necessary implementing structures in this area are in place, the capacity of the Ministry of Infrastructure to prepare, manage and monitor transport projects requires further strengthening, in both qualitative and quantitative terms. This management capacity is particularly needed with respect to the commitments made on the upgrading of road infrastructure. Key decisions are also required as regards the allocation of resources for co-financing the works.

In the land transport sector, Poland is completing the implementation of its commitments with regard to legislative alignment with the **road transport acquis**. Framework legislation is in place and in line with the *acquis*. Alignment with the social *acquis* has been completed, whereas in the technical field some further work is needed, in particular regarding technical inspections at roadsides. Introduction of a uniform charging system for the use of road infrastructure is still pending. Implementing measures in the road transport area are proceeding as foreseen. The necessary administrative structures in this area are in place and are functioning well, with the Road Transport Inspection performing key supervisory and control functions. Poland has been granted a transitional arrangement until December 2010 in order to maintain maximum weight values for road vehicles lower than those laid down in the *acquis*. Poland has agreed to a transitional arrangement put forward by the EU concerning gradual reciprocal access to the cabotage market in the road haulage sector (for a maximum duration of five years).

Transposition of the **rail transport acquis** is taking place. The framework legislation has been adopted, but the legal process remains to be completed with regard to secondary legislation. Particular attention should be drawn to the implementation of the interoperability directives, including the appointment of notified bodies for assessing the conformity of interoperability constituents. The major institutional changes required by the *acquis* are completed. In the framework of the ongoing reorganisation process, the newly created Railway Transport Office within the Ministry of Transport needs to be strengthened. The system of safety advisors for dangerous goods transport should be strengthened in the rail sector. Poland has been granted a transitional arrangement on full access to the Trans-European Rail Freight Network until the end of December 2006.

The financial situation of Polish railways remains difficult. The present spiral of worsening infrastructure condition, ageing rolling stock and insufficient revenues and funding is further decreasing the competitiveness of the railway sector in Poland. It is vital that Poland adopts a robust mid- and long-term business plan with an emphasis on infrastructure development, for restoring financial equilibrium in the sector.

On **inland waterways** transport, legislative alignment has been completed except for rules on safety advisors for the transport of dangerous goods. Administrative structures in this area are in place and satisfactory.

In the area of **air transport**, the framework legislation has been adopted but needs to be further aligned with the *acquis*, in particular with regard to licensing, ground handling and slot allocation. Adoption of the secondary legislation has to be ensured. The necessary administrative structures in this area are in place.

In the field of **maritime transport**, framework legislation is in place and in line with the *acquis*. However, the adoption of implementing legislation remains to be completed, in particular in relation to the *acquis* adopted under the “Erika” packages, and with regard to the latest amendments to the *acquis* on passenger ships, fishing vessels and marine equipment. The relevant administrative structures in this area are in place, but need further strengthening. The strengthening of Flag State implementation policy and resources remains an area for concern. According to statistics for 2002 under the Paris Memorandum of Understanding, the percentage of Polish flag vessels detained following Port State control was 6.82 %, representing an increase compared with 2001 (1.59%) and 2000 (4.81%). This compares with an average for EU-flagged vessels of 3.5% in 2002. There are strong indications that the situation is deteriorating, in that the number of Polish flag vessels being detained is rising sharply. Poland needs to urgently address this issue with a view to reversing this trend of deteriorating detention rates. Persisting delays have occurred in the recognition of the Polish Register of Ships as an EU-approved classification society. There is a risk that the Polish Register of Ships will not be able to offer its services as a recognised organisation to any EU-flagged vessel after accession.

### *Conclusion*

Poland is essentially meeting the commitments and requirements arising from the accession negotiations in the areas of **trans-European transport networks, road transport, inland waterway, rail transport and air transport**, and is expected to be in a position to implement the relevant *acquis* from the time of accession, provided that the current pace of progress is maintained. In completing preparations for membership, Poland needs to reinforce administrative capacities for project management regarding trans-European transport networks. In the areas of road transport and inland waterway, only a limited amount of implementing legislation remains to be adopted. In the area of rail transport, Poland still needs to complete legislative alignment, in particular as regards the interoperability directives and the adoption of implementing legislation. Poland must further reinforce its administrative capacity to implement the *acquis* in the area of rail transport. Poland must also implement a sustainable restructuring plan for the Polish rail sector. In the area of air transport legislative alignment needs to be completed.

Poland is partially meeting the commitments and requirements in the area of **maritime transport**, where legislative alignment remains to be completed. Attention must be given to Flag State implementation policy, and remedial action is required without delay to reverse the trend of worsening detention rates of Polish flag vessels.

### *Chapter 10: Taxation*

The *acquis* on taxation largely covers indirect taxation, as concerns VAT (value-added tax) and excise duties. It lays down definitions and principles of VAT. Excise duties on mineral oils, tobacco products and alcoholic beverages are regulated at EU level as concerns the structure of the duty, the level of minimum rates and the holding and movement of excisable goods. As concerns direct taxation, the *acquis* covers some aspects of corporate taxes and aims mainly at removing obstacles to cross-border activities between enterprises. Finally, the Community legislation in the area of administrative co-operation and mutual assistance provides tools to prevent intra-Community tax evasion and tax avoidance on both direct and indirect taxation.

In the area of indirect taxation, Poland has partially transposed the *acquis* on **VAT**, although considerable efforts still lie ahead. In order to complete alignment, Poland must

pay enhanced attention to the scope and definition of VAT rates (including the considerable use of zero-rating), and to exempt transactions (except for where transitional measures have been granted - see below), which to a significant extent continue to differ from the acquis. Poland should also broaden the definition of the taxable scope, the taxable persons, the taxable amount, the taxable event, the right of deduction, refund of VAT and the tax liability. Furthermore, Poland needs to eliminate the noticeable use of national protective measures to ensure equal taxation irrespective of origin (Poland made a commitment to gradually eliminate such discrimination during the period 2001–2002). Moreover, Poland should introduce the required special VAT schemes as concerns travel agents, second-hand goods and investment gold, and align its current special scheme for farmers to the conditions of the transitional measure granted in the accession negotiations (see below). Furthermore, Poland needs to introduce the provisions for intra-Community transactions.

Poland has obtained transitional periods on the continued application of the reduced VAT rate on the supply of construction work for residential housing, excluding building materials, and on the supply before first occupation of residential buildings or parts of residential buildings, and on restaurant services (until 31 December 2007), the application of the VAT zero rate to certain books and specialist periodicals (until 31 December 2007). Furthermore, Poland was permitted to apply a super reduced VAT rate to the supply of foodstuffs (including beverages but excluding alcoholic beverages) for human and animal consumption; live animals, seeds, plants and ingredients normally intended for use in preparation of foodstuffs; products normally intended to be used to supplement or substitute foodstuffs; and goods and services of a kind normally intended for use in the agricultural production but excluding capital goods (until 30 April 2008). Derogations obtained concern a VAT exemption and registration threshold of € 10 000 for small and medium-size enterprises and the VAT exemption on the supply of international passenger transport.

The necessary administrative structures in this area are in place, although efforts should be continued to modernise and enhance their efficiency. Priority should be given to improve the tax collection efficiency and the fiscal control strategy, including adopting risk analysis and computer auditing. Further action should be taken to improve information to taxpayers and voluntary compliance.

As concerns **excise duties**, in order to achieve full alignment Poland urgently needs to adjust certain duty rates and exemptions, align the taxable scope for mineral oils, the tax structure for smoking tobacco and introduce a duty suspension arrangement, including for intra-Community movements. Furthermore, Poland should eliminate some remaining discrepancies and ensure equal taxation, irrespective of origin, for “non-EU harmonised” excises and align the tax base for imported smoking tobacco. The gradual increase of excise duties on cigarettes is proceeding according to schedule, in order to reach the minimum rate level on 31 December 2008, as agreed in the accession negotiations. In addition, Poland has obtained a transitional period until one year after accession, according to which it may continue to apply a reduced rate of excise duty on specific oil products.

Poland has the required administrative structures to apply and effectively implement the acquis in the area of excise duties. However, attention should continue to focus on the transfer of responsibility for excise duties to the customs authorities, including the requirements of excise control.

In the area of **direct taxation**, Poland needs to complete transposition of the directive concerning indirect taxes on the raising of capital and the Parent/Subsidiary Directive, as well as to transpose the Directives on Interests and Royalties and on Taxation of Savings Income. In order to comply with the principles of the Code of Conduct for Business Taxation, Poland should improve transparency of its legislation on special economic zones. The capacity of the tax administration is sufficient to ensure proper implementation of the acquis.

On **administrative co-operation and mutual assistance**, Poland is in the process of taking the necessary steps to transpose the acquis and implement it by accession, both from the legislative point of view and as concerns organisational structures including information technology systems. Preparations for the establishment of the Excise Liaison Office (ELO), the Central Liaison Office (CLO), the VAT Information Exchange System (VIES) and the System for Exchange of Excise Data (SEED) databases are ongoing and proceeding according to plan.

### *Conclusion*

Poland is essentially meeting the commitments and requirements arising from the accession negotiations in the areas of **direct taxation** and **administrative co-operation and mutual assistance** and by accession is expected to be in a position to implement this acquis. Poland needs to further strengthen its tax administration, in particular as concerns VAT collection, and should continue its efforts to set up the information technology systems allowing for the exchange of computerised data with the other Member States.

In the areas of **VAT** and **excise duties**, Poland is partially meeting its commitments. In order to complete preparations for membership in these areas, additional urgent efforts are needed to complete the alignment of the legislation. In particular, enhanced attention must be paid to the scope and definition of VAT and excise duty rates, including the considerable use of VAT zero-rating and VAT exemptions. Urgent attention must be given to the elimination of national protective measures both in the field of VAT and excises. Unless significant additional efforts are made and the current ongoing legislative process is speeded up both in the area of VAT and excise duties, there is a real risk that Poland will not be in a position to complete its legislative alignment with the acquis by the time of accession.

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

EC legislation on Economic and Monetary Union (EMU) contains specific rules ensuring the independence of central banks in Member States, prohibiting indirect financing of the state by the central bank, and disallowing privileged access of the public sector to financial institutions. These rules must be transposed into the national legislation, despite the fact that Poland will not yet adopt the euro as a currency from accession. EMU policy also includes the co-ordination of exchange rate and economic policies, adherence to the stability and growth pact and the statutes of the European System of Central Banks.

In the area of **prohibition of direct financing of the public sector**, Poland has met the commitments and requirements arising from the accession negotiations and is in a position to implement the relevant acquis as from the date of accession.

In the area of **prohibition of privileged access of the public sector to financial institutions**, Poland has met the commitments and requirements arising from the

accession negotiations and is in a position to implement the relevant *acquis* as from the date of accession.

In the area of **independence of the national central bank**, legislation is in place and largely in line with the *acquis*. However, the Central Bank Act still contains some incompatibilities with the *acquis*, which relate to institutional and financial independence. Specific amendments to this Act need to be adopted to ensure full compliance with the *acquis*, among other things by eliminating the possibility of a representative of the government to participate in the meetings of the Monetary Policy Council. The necessary administrative structures are in place and function adequately.

### *Conclusion*

Poland has met the commitments and requirements arising from the accession negotiations in the areas of **prohibition of direct financing of the public sector** and **prohibition of privileged access of the public sector to financial institutions** and will be in a position to implement the relevant *acquis* as of accession.

Poland is partially meeting the requirements for membership in the area of the **independence of the national central bank**. In order to complete preparations for membership, Poland must adopt the required legal amendments in this area. Poland must step up its efforts in this regard.

### *Chapter 12: Statistics*

The *acquis* in the field of statistics requires adoption of basic principles such as impartiality, reliability, transparency, confidentiality of individual data and dissemination of official statistics. It also covers methodology, classifications and procedures for data collection in various areas such as statistical infrastructure, macro-economic and price statistics, business statistics, transport statistics, external trade statistics, demographic and social statistics, agricultural statistics and regional statistics. The focal point of the statistical system of a country is the National Statistical Institute, which acts as the reference point for the methodology, production and dissemination of statistical information.

Poland is essentially meeting the commitments and requirements arising from the accession negotiations in the area of **statistics** and is expected to be in a position to implement the *acquis* as from accession. Legislative fine-tuning is necessary in areas such as regional statistics, social statistics, macro-economic statistics and foreign trade statistics. Poland needs to improve the quality and the timeliness of data in certain domains such as national accounts, government finance statistics, data on income and living conditions.

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

The *acquis* in the social field includes minimum standards in fields such as labour law, equal treatment of women and men in employment and social security, and health and safety at work. Specific binding rules have also been developed in public health (on tobacco control and surveillance and control of communicable diseases) and recently also with respect to non-discrimination on grounds of racial or ethnic origin, religion or belief, disability, age or sexual orientation. The European Social Fund (ESF) is the main financial tool through which the EU supports the implementation of its Employment

Strategy and contributes to social inclusion efforts (implementation rules are covered under Chapter 21, which deals with all structural instruments). The acceding countries are expected to be able to participate in social dialogue at European level, and in the EU policy processes in the areas of employment, social inclusion and social protection.

Poland's Labour Code is only partially aligned with the *acquis* on **labour law** and completion of transposition must be prioritised. Legislative alignment still needs to be completed in the fields of working time (including sectoral working time), part-time work, transfer of undertakings and posting of workers. The new *acquis* on workers' information and consultation, workers' involvement in the European Company and employer insolvency remains to be transposed after accession.

In the field of **equal treatment of women and men**, Poland has transposed most of the legislation. Further legal adjustments are necessary in the area of equal treatment of women and men in employment and in social security, such as the removal of provisions aiming at protection of women in employment, yet leading to their discrimination. The pensionable age for male and female civil servants will have to be equalised upon accession, when the pension scheme constitutes pay within the meaning of the Treaty and EC case law. Implementing structures are largely in place, but administrative capacity needs further strengthening, particularly at regional and local levels. At the central level, the Office of the Plenipotentiary for Equal Status of Women and Men which has been established in 2001 needs to be reinforced both in terms of competencies and capacities.

In the area of **health and safety at work**, legislative shortcomings persist with regard to the Framework Directive as well as to a number of specific directives: carcinogens, biological and chemical agents at work, asbestos and noise, medical treatment on board vessels and fishing vessels, for which transposition is only partial. Poland has obtained a transitional period relating to the use of work equipment by workers until the end of 2005. The National Labour Inspectorate is in place, but further strengthening, in terms of both staffing and technical facilities, is needed. There is also a need for enhanced co-operation between the Labour Inspectorate and the authorities responsible for health and safety at work issues in order to assure that risk assessments are done in a comprehensive way. Furthermore, tripartite consultations on health and safety at work issues should be reinforced.

As regards **social dialogue**, the institutional and administrative framework is in place. However, the tripartite consultative structures should operate in a more regular way and lead to more effective consultation of social partners on a wider range of issues and produce concrete outcomes. The autonomous social dialogue should also continue to be strengthened and promoted, in particular at sectoral, regional and enterprise level.

In the field of **public health**, the legislative transposition of the most recent tobacco *acquis* remains to be completed. With regard to the control and surveillance of communicable diseases, the administrative and regulatory framework has been established. Some implementation and enforcement efforts are still needed, in particular in relation to outbreak management, systematic vigilance, greater data analysis, laboratory capacity, patient confidentiality and rapid response. Efforts to improve the health status of the population and to devote adequate resources to health should be continued.

Concerning **employment policy**, efforts are still needed to effectively implement the priorities identified in the Joint Assessment of the Employment Priorities (JAP). It is



important to enhance employment rates, especially for women and older workers, to continue to improve incentives for job creation and taking up work and to pursue the reform of the education and training systems and the establishment of a lifelong learning system. It is crucial that the reform of the public employment service is rapidly implemented to support a shift to more active and preventive measures and appropriate policy delivery.

As regards the **European Social Fund (ESF)**, the administrative framework is in place. The efforts to reinforce administrative structures for the management of the ESF at national and regional level should be maintained and intensified, including adequate staffing and staff training for all future final beneficiaries with a special focus on monitoring, audit and financial control. The development of the IT system for the monitoring of the ESF, as well as its interaction with the overall Structural Funds system, should be finalised and tested in good time. Preparations for participation in the transnational operations of the EQUAL initiative need to be intensified.

The Commission and Poland are finalising the Joint Memorandum on Social Inclusion (JIM), which identifies key challenges and possible policy orientations for promoting **social inclusion**. On this basis, an integrated strategy and a National Action Plan on social inclusion will have to be developed. Analytical work and development of social statistics systems on poverty and social exclusion should be continued in line with the EU commonly agreed indicators on social inclusion.

In the field of **social protection**, Poland should continue its efforts to implement the health care and pension reforms, which will further help to improve the level and efficiency of social protection.

Some **anti-discrimination** provisions under the Labour Code are still in discussion in Parliament. Moreover, the non-employment aspects of the Race Directive need to be transposed and the Equality Body required by the *acquis* needs to be established.

### *Conclusion*

Poland is essentially meeting the commitments and requirements arising from negotiations in the areas of **equal treatment of women and men, social dialogue, employment policy, social inclusion** and **social protection** and is expected to be in a position to implement this *acquis* from accession. However, efforts to reinforce the implementing capacity in these areas are still needed. As regards employment policy, the effective implementation of the priorities identified in the Joint Assessment Paper is necessary to prepare for full participation in the European Employment Strategy.

Poland is partially meeting the commitments and requirements for membership in the areas of **labour law, health and safety at work, public health, European Social Fund** and **anti-discrimination**. In order to complete preparations for membership, Poland should significantly accelerate the process of completing the alignment with the *acquis* on labour law. In addition, particular attention must be given to further alignment in the field of health and safety at work and public health, especially as regards the new tobacco *acquis*. Attention must also be given to ensure Poland's incorporation into the EU system of surveillance and control of communicable diseases. With regard to ESF, including EQUAL, while considerable progress has been achieved during the last few months, further efforts are urgently needed in order to strengthen the administrative capacity for management, implementation, monitoring, audit and control at both national

and regional level. Enhanced efforts are also required to ensure the full transposition and implementation of the anti-discrimination *acquis*.

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

EU energy policy objectives include the improvement of competitiveness, security of energy supplies and the protection of the environment. The energy *acquis* consists of rules and policies, notably regarding competition and state aids (including in the coal sector), the internal energy market (for example, opening up of the electricity and gas markets, promotion of renewable energy sources, crisis management and oil stock security obligations), nuclear energy and energy efficiency. This chapter also covers important aspects of the safety of nuclear installations.

With respect to **security of supply**, and in particular oil stocks, legislation is in line with the *acquis*. The administrative capacity required - the Agency for Material Reserves and the Department of Energy Security, a division within the Ministry of Economy - is in place, but these bodies need to further confirm themselves in their roles, also as crisis management bodies. Building up of oil stocks is, although with some delays for some product categories, essentially taking place in accordance with commitments linked to the transitional arrangement which was granted to Poland, namely to reach the 90 days of oil stocks required by the *acquis* by the end of 2008. Efforts should however be sustained.

In the field of **competitiveness and the internal energy market** (electricity and gas sectors), transposition of the *acquis* is taking place according to schedule. Framework legislation, the Energy Law, is in place and in line with the *acquis*, as is the implementing legislation for the electricity sector. The gas sector is less advanced; implementing legislation, including through the elaboration of a grid code, needs to be completed. The restructuring of the former monopoly PGNiG started in 2003 and should be accelerated. Market opening in the gas and electricity sectors is taking place in line with the commitments made in the negotiations. The process to remove price distortions as well as to address long term contracts in the electricity sector needs to be given due attention. The regulatory body, the Energy Regulatory Agency, whose task it is to oversee the gas and electricity markets, has been established but needs to be further strengthened, in particular to carry out the necessary functions in the gas sector. Poland should transpose the recently adopted electricity and gas directives in line with the timetable provided for by the *acquis*.

The unprecedented scale of restructuring the solid fuels sector has resulted in a considerable reduction of coal extraction and employment in the coal industry. The restructuring plan 1998-2002 has been implemented, but the net financial position of the sector remains negative. A new plan for the years 2003-2006 is being implemented. Poland must continue preparing for the application of EU state aid regulations for the hard coal industry and will have to abolish any import restrictions for hard coal upon accession.

In the area of **energy efficiency and renewable energy**, legislative alignment is near completion, but Poland should ensure full transposition of the *acquis* on the promotion of renewable energy resources and transposition of the new *acquis* according to the timetables provided for in the directives. Administrative structures in this area, with the National Energy Conservation Agency as the main institution, are in place but need to be further strengthened. Energy efficiency measures are being implemented on the basis of

the government document "Energy Policy Outline to 2020", while renewable energy issues are dealt with in the "Renewable Energy Sector Development Strategy" paper adopted in 2001.

In the field of **nuclear energy and nuclear safety**, Poland meets the commitments and requirements arising from the accession negotiations and is in a position to implement the *acquis* as from the date of accession. Based on the results of the accession negotiations, Poland is expected to provide additional information on measures taken to implement the recommendations of the June 2001 Council Report on Nuclear Safety in the Context of Enlargement. Poland provided such information in January and in March 2002. Furthermore, in June and September 2003, Poland submitted additional information covering recent progress made in various fields of nuclear safety, including legislative aspects, the MARIA and EWA reactors and related storage and decommissioning issues, and high activity spent sources. Poland should continue to pay attention to further strengthening the capacity of its nuclear regulatory authorities and the radioactive waste management plant (national agency for radioactive waste management).

### *Conclusion*

Poland is essentially meeting the commitments and requirements arising from the accession negotiations in the **energy** chapter, and is expected to be in a position to implement the *acquis* in these areas by accession. Poland needs progressively to build up oil stocks in line with the schedule agreed during the negotiations and should further strengthen relevant administrative structures. Poland must adopt the remaining implementing legislation regarding the internal energy market (gas grid code), remove the remaining price distortions, open up the electricity and gas markets according to agreed schedules, and address long-term contracts within the possibilities of the *acquis*. In the coal sector, Poland must continue preparing for the application of EU state aid rules and will have to abolish any import restrictions upon accession.

### *Chapter 15: Industrial policy*

EC industrial policy seeks to enhance industrial competitiveness and rates of employment, whilst operating in markets open to international competition. Its aim is to speed up adjustment to structural change, encouraging an environment favourable to initiative and to the development of undertakings throughout the Community. EC industrial policy mainly consists of policy principles and horizontal and sectoral industrial policy communications.

Poland's **industrial strategy** essentially complies with the concepts and principles of EC industrial policy, i.e. it is market-based, stable and predictable. The strategy should be further implemented. The necessary administrative structures in this area are in place. Poland does not have an export promotion agency. Strategic analysis and planning capacity needs to be enhanced and involvement of the business community pursued in a co-ordinating structure for simplifying and improving business environment.

In the area of **restructuring and privatisation**, the implementation of the restructuring policy in a manner that conforms to the competition and state aid *acquis* remains an area for special attention so as to create efficient and competitive firms. As regards steel restructuring and privatisation, Poland must further implement the commitments made in the accession negotiations. To achieve privatisation targets a new impetus is needed for

privatisation of the remaining sectors and companies. The necessary administrative structures in this area are largely in place but should be reinforced.

### *Conclusion*

Poland is essentially meeting the commitments and requirements arising from the accession negotiations as regards **industrial strategy** and is expected to be able to implement the *acquis* as of accession. Poland should continue to strengthen administrative capacities.

Poland is meeting the majority of the commitments and requirements arising from the accession negotiations in the area of **privatisation and restructuring**. In order to complete preparations for membership, substantial tasks remain to be undertaken in the restructuring of the steel industries, as well as in the privatisation of state-owned enterprises.

### *Chapter 16: Small and medium-sized enterprises*

SME policy aims to improve the formulation and co-ordination of enterprise policy across the internal market with a view to supporting the development of SMEs. In doing so, it seeks to improve the overall business environment in which SMEs operate. SME policy consists largely of consultation fora and Community programmes, as well as of communications, recommendations and exchanges of best practices.

Poland is essentially meeting the commitments and requirements arising from the accession negotiations in the chapter **small and medium-sized enterprises**. Alignment with the new Commission recommendation on the SME definition should be carried out. A structure for dialogue between the authorities and the business community should be established. Administrative capacities need to be strengthened further. The implementation of the European Charter for Small Enterprises should be maintained.

### *Chapter 17: Science and research*

Due to its specificity, the *acquis* in the field of science and research does not require any transposition in the national legal order. However, the necessary implementing capacity needs to be created to allow for effective participation in activities under the Framework Programmes in the field of research.

Poland has met the commitments and requirements arising from the accession negotiations in the area of **science and research** and will be in a position to implement the *acquis* as from accession.

### *Chapter 18: Education and training*

Education, training and youth is primarily the competence of the Member States. The Community's *acquis* consists of a directive on education of the children of migrant workers, and of action programmes and recommendations. The necessary implementing capacity needs to be in place to allow for effective participation in the Community programmes related to this chapter (Leonardo da Vinci, Socrates and Youth).

Poland has met the commitments and requirements for membership in the area of **Community programmes**, and will be in a position to implement this *acquis* from

accession. The implementing capacity for Community programmes will need to be enhanced to benefit from additional allocations for decentralised actions following accession.

In the area of **education of children of migrant workers**, Poland has adopted legislation which transposes the *acquis*. Due implementation of the *acquis* needs to be ensured.

### *Conclusion*

Poland is essentially meeting the commitments and requirements arising from the accession negotiations in the area of **education and training** and is expected to be in a position to implement this *acquis* from accession. Efforts to implement the *acquis* on education of children of migrant workers should continue.

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

The *acquis* in the field of telecommunications consists mainly of the 1998 regulatory framework and a 2000 regulation, and is aimed at the elimination of obstacles to the effective operation of the single market in telecommunications services and networks, and the achievement of universally available modern services. A new regulatory framework on electronic communications was adopted in 2002 and must be implemented. As regards postal services, the objective is to implement the single market by opening up the sector to competition in a gradual and controlled way, within a regulatory framework which assures a universal service (1997 and 2002 *acquis*).

In the field of **telecommunications**, Poland's framework legislation has been amended to bring it in line with the *acquis* adopted in the period 1998 to 2000. Some further adjustments are needed in the areas of universal service and the interconnection regime (including the powers of the national regulatory authority). The adoption of the necessary implementing legislation remains to be completed, while in particular the universal services *acquis* still needs to be fully implemented. In order to develop further competition in the market, reasonable terms for interconnection (including leased lines) need to be settled and local loop unbundling needs to be implemented. Furthermore, carrier selection and carrier pre-selection as well as cost orientation on tariffs need to be ensured. Fixed network modernisation and price re-balancing should be continued. The 2002 *acquis* remains to be transposed. The administrative structures necessary for implementing the *acquis* are in place, but require further strengthening, mainly in qualitative terms.

In the area of **postal services**, Poland's legislative alignment remains to be completed, *inter alia* regarding the authorisations and licensing regime, and universal service (quality of service provision and tariff principles). Complementary implementing legislation remains to be adopted (on customers' complaint procedures, accounting systems, licensing and tariff regimes, and quality of service). Despite the transitional period for the implementation of universal service in postal services, granted until 31 December 2005, work in this area should be continued. The 2002 *acquis* remains to be transposed. Administrative capacity in this sector needs to be further strengthened through more appropriately qualified staffing and continued training. The operational independence of the regulator needs to be ensured.

### *Conclusion*

Poland is meeting the majority of the commitments and requirements arising from the accession negotiations in the **telecommunications** area and is partially meeting the commitments and requirements in the **postal services** sector. As for the *acquis* on telecommunications, intensified efforts are needed to adopt the necessary implementing measures, as well as to transpose the regulatory legislative package of 2002. Implementation needs to be accelerated, *inter alia* by setting reasonable terms for interconnection and by putting in place local loop unbundling. The regulator in the telecommunications sector needs to be strengthened in qualitative terms. Enhanced efforts must be made with regard to the transposition of the *acquis* in the postal sector. Work on the correct application of the universal service *acquis* must be continued. The effectiveness and independence of the regulator in the postal sector needs to be ensured.

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

The culture and audio-visual policy chapter requires legislative alignment with the Television without Frontiers directive and contains the community programmes Culture 2000, Media Plus and Media Training. Alignment with the Television without Frontiers directive creates the conditions for the free movement of television broadcasts within the Community. It implies basic common requirements concerning advertising; the protection of minors and public order; and the promotion of European works.

In order to complete transposition of the **audio-visual** policy *acquis*, Poland must fully align its framework legislation (the Broadcasting Act) on jurisdiction criteria, the definition of European works, certain aspects relating to the promotion of European and independent works, access to major events and the principle of capital liberalisation. Administrative capacity for implementation of the audio-visual *acquis* is satisfactory overall although the National Broadcasting Council will need to be strengthened — following the amendments to the Broadcasting Act — in order to efficiently monitor observance of the new rules.

Poland meets the requirements for participation in Community activities in the field of **culture**.

### ***Conclusion***

Poland has met the commitments and requirements arising from the accession negotiations on **culture** and will be in a position to implement the *acquis* by accession.

Poland is partially meeting the requirements for membership in the area of **audiovisual policy**. Unless rapid action is taken to catch up delays in amending the Broadcasting Act, there is a risk that Poland will not fulfil these requirements and not be able to implement the *acquis* by accession. Poland must pay attention to ensuring a stable, predictable, transparent and effective implementation of the broadcasting regulatory framework.

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

The *acquis* under this chapter consists mostly of regulations, which do not require transposition into national legislation. They define the rules for drawing up, approving and implementing Structural Funds programmes and Cohesion Fund actions. These programmes are negotiated and agreed with the Commission, but implementation is the responsibility of the Member States. It is essential that Member States respect Community legislation in general, for example in the areas of public procurement, competition and the environment, when selecting and implementing projects, and have the necessary institutional structures in place to ensure implementation in a sound and cost-effective manner from the point of view of both management and financial control.

Poland has agreed with the Commission on a NUTS classification of its **territorial organisation**.

The essential feature of the **legislative framework**, i.e. the ability to ensure multi-annual budget programming, is in place. In September 2002 Parliament adopted an amendment to the Law of Public Finance of 1998 in order to take account of the specific needs for the co-financing of the Structural Funds and the Cohesion Fund and to ensure sufficient flexibility in this respect. However, the availability of co-financing remains an issue of concern, notably at the local level in some of the poorer areas in Poland. The ongoing discussions on public finance reform should take into account their potential implications for Structural Funds implementation.

The legislative framework for financial control and compliance with other Community policies is monitored in other chapters. However, in order for Poland to make effective use of its eligibility for structural funds as from 1 January 2004, the relevant *acquis* in areas such as public procurement, state aid and environmental protection will need to be fully respected from that date. Urgent efforts are needed in particular in the area of public procurement.

The necessary **institutional structures** for the preparation and implementation of the Structural and Cohesion Funds have been put in place. However, the capacity-building process needs to be continued to complete the establishment of stable structures with effectively trained staff at national and, in particular, regional level. While progress has been made on procedures and manuals, adequate implementation procedures still need to be established firmly on the ground.

The bodies responsible for implementation of the specific financial control provisions, including the 5% and 15% on-the-spot checks, have been designated. However, clarifications are needed concerning the separation of management and control and how to translate these arrangements into a daily practice leading to an effective administration.

Internal audit units have been established in all ministries and in the intermediate bodies. These units function independently of operational and financial activities. A manual for internal audit procedures was adopted in November 2002. On the whole, the commitments concerning the organisation of internal audit have been respected. Whereas the commitments concerning the organisation of internal audit have been respected, the degree of operational effectiveness remains to be tested. Adequate levels of trained staff are necessary to ensure effective internal audit work.

In early 2003 Poland formally submitted to the Commission a complete set of **programming** documents accompanied by an ex ante evaluation and macro-economic impact assessment. Poland organised an extensive partnership process in the drafting period of the programming documents. Many meetings and seminars were organised and documents were made available over the Internet. An important first effort was made by the Government through numerous events to reach out and involve socio-economic and local partners throughout Poland. Regional and local authorities also organised meetings, sessions and other events to discuss all sorts of issues related to the future implementation of the Funds.

The computerised monitoring system 'SIMIK', which is being established in Poland under the lead of the Ministry of Finance, is expected to become operational in all ministries and at regional level by the end of February 2004. Given the importance of the system, progress in this area should be closely monitored. Progress is still needed on the identification of monitoring indicators.

Significant additional efforts are being made regarding state aid schemes which are to be co-financed by Structural Funds, but there is still a risk that these will not be notified and approved in time. Furthermore, insufficient progress has been made in establishing the administrative system for the implementation of the measures linked with these state aid schemes.

Considerable and sustained efforts are needed to establish a pipeline of projects that are ready to be implemented in technical and financial terms so as to enable Poland to benefit fully from Community funds as soon as the programme starts.

Arrangements for **financial management and control** have been made. The system now needs to be tested in practice. Adequate procedures have been designed but certain technical details concerning the Cohesion Fund need to be further refined. Poland plans to link the Financial Accounting System, run by the Paying Authority (Ministry of Finance), with the computerised monitoring system and the electronic banking system in order to execute payments to beneficiaries more efficiently.

Additionality will be verified before approval of the Community Support Framework.

### *Conclusion*

Poland is essentially meeting the requirements for membership in relation to **territorial organisation** and **programming**. Poland now needs to focus on establishing an adequate pipeline of well-prepared projects.

Poland is partially meeting the commitments and requirements arising from the accession negotiations in relation to the **legislative framework**, **institutional structures** and **financial management and control**. As regards the legislative framework, Poland must bring its legislation on public procurement in line with the acquis and to make sure that final beneficiaries will be in a position to effectively apply the resulting rules and procedures in order to benefit from Community funding from 1 January 2004. The availability of sufficient co-financing is of particular concern. In addition, priority must be given to further strengthening institutional structures at national and regional level, to



establishing clear procedures and to recruiting and training staff. Poland needs to focus on setting up a functioning computerised monitoring system. In the area of financial management and control, clarification is needed concerning the separation of management and control functions and efforts are required to effectively translate those arrangements into the daily practice of the administration.

## ***Chapter 22: Environment***

Community environment policy aims to promote sustainable development and protect the environment for present and future generations, and is based on the integration of environmental protection into other Community policies, preventive action, the polluter pays principle, fighting environmental damage at source, and shared responsibility. The *acquis* comprises over 200 legal acts covering horizontal legislation, water and air pollution, management of waste and chemicals, biotechnology, nature protection, industrial pollution and risk management, noise, and radiation protection. Ensuring compliance with the *acquis* requires significant investments, but also brings significant benefits for public health and reduces costly damage to forests, buildings, landscapes and fisheries. A strong and well-equipped administration at national, regional and local level is imperative for the application and enforcement of the environment *acquis*.

**Horizontal legislation** is in place and is in line with the *acquis*, except for the recent *acquis* on strategic environmental impact assessment, which needs to be transposed and implemented by July 2004 in line with the Directive. The relevant administrative capacities are in place and function.

In the **air quality** sector, legislation is in place and is in line with the *acquis*. Administrative capacities are in place and function. Air quality plans and programmes need to be completed and monitoring enhanced by accession. Transitional arrangements, with intermediate targets, have been agreed until 31 December 2005 for volatile organic compound emissions from the storage and distribution of petrol within certain installations in Poland and until 31 December 2006 for the sulphur content of liquid fuels.

In the field of **waste management**, legislation is in place and is in line with the *acquis*, except for the recent *acquis* on end-of-life vehicles which needs to be completed by accession. Administrative capacities are in place, but need to be strengthened at regional and local levels. While a national waste management plan has been adopted, preparation of these plans at voivodship, powiat and gmina levels, the setting-up of a supervision system for waste shipments, and a deregistration system for end-of-life vehicles need to be completed by accession. The establishment of collection systems and recovery and disposal facilities needs to continue. Transitional arrangements until 31 December 2007 for packaging waste, until 1 July 2012 for landfill of waste and until 31 December 2012 for waste shipments, with intermediate targets, have been agreed.

In the area of **water quality**, legislation is in place and is in line with the *acquis*, except for the recent framework *acquis* on water. Administrative capacities are in place and function. Drinking water monitoring needs to be enhanced, the final identification of zones vulnerable to nitrates formalised, the inventory of discharges of dangerous substances completed, and discharge authorisations and programmes for nitrates and dangerous substances updated, finalised and adopted by accession. Transitional arrangements until 31 December 2015 for urban waste water and until 31 December

2007 for discharges of certain dangerous substances, with intermediate targets, have been agreed.

In the field of **nature protection**, a new nature conservation act to fully implement the birds and habitats directive is still to be adopted, including the authorisation for site designation. Enhanced efforts are required to prepare a list of proposed sites of Community interest and to designate special protection areas by accession, and to ensure that relevant protection measures are applied. Administrative capacities are in place, but need to be significantly enhanced at voivodship level, including as regards the consultation process.

The legislation on **industrial pollution** is in place and is in line with the *acquis*, except for emissions from solvents, the recent *acquis* on large combustion plants and national emission ceilings, which need to be transposed by accession. While administrative capacities are in place, enhanced efforts are required to ensure that permits are issued and complied with for all new installations subject to the rules on integrated pollution prevention and control (IPPC) by accession, and for existing installations continue to be issued and complied with until October 2007. Regarding **industrial risk management**, legislation is in place and in line with the *acquis*. Implementation of the provisions on major accident hazards needs to be ensured by accession. Transitional arrangements until 31 December 2010 for IPPC and until 31 December 2017 for large combustion plants, with intermediate targets, have been agreed for certain installations in Poland.

The legislation concerning **chemicals and genetically modified organisms (GMOs)** is in place and is in line with the *acquis*, except for biocides. Administrative capacities are in place and function. Implementing measures in the area are proceeding as planned. Authorisation procedures for biocides need to be established by accession. Co-ordination between the organisations involved needs to continue to be enhanced.

Transposition of the *acquis* on **noise** is proceeding according to schedule and the legislation is in line with the *acquis*, except for the recent *acquis* on ambient noise, which needs to be transposed by July 2004 in line with the Directive. Testing and notified bodies need to be approved.

On **nuclear safety and radiation protection**, legislative alignment has largely been completed and is in line with the *acquis*. Administrative capacities in this area are largely in place and function. A transitional arrangement until 31 December 2006 has been agreed for medical exposure.

### *Conclusion*

Poland is essentially meeting the commitments and requirements arising from the accession negotiations and, subject to good progress being maintained (including enhancing of administrative capacity in particular at regional and local levels), is expected to be in a position to implement the *acquis* in the areas of **horizontal legislation, air quality, waste management, water quality, industrial risk management, chemicals and genetically modified organisms, noise and nuclear safety and radiation protection** by accession. Poland needs to finalise the legal alignment in the following areas: horizontal legislation, air quality, waste management, water quality, industrial pollution, chemicals and genetically modified organisms, and noise. It needs to complete air quality plans and programmes and continue to enhance air quality and water quality monitoring. Moreover, Poland must complete inventories and

authorisations for discharges of dangerous substances, finalise necessary programmes in the field of water, and complete the identification of zones vulnerable to nitrate pollution. Waste management plans at voivodship, powiat and gmina levels need to be completed and a supervision system for waste shipments set up. The establishment of waste collection systems and recovery and disposal facilities needs to continue. As regards industrial risk management, the implementation of provisions on major accident hazards needs to be completed. Authorisation procedures for biocides need to be established. Poland also needs to pay attention to reporting at all levels of the administration.

Poland is partially meeting the commitments and requirements in the area of **industrial pollution** and **nature protection**. In order to complete preparations for membership, enhanced efforts are required to ensure that permits are issued and complied with for all new IPPC installations by accession and for existing installations until October 2007. Particular attention needs to be paid to strengthening the capacity for issuing integrated permits at local and regional level. In the area of nature protection, Poland must adopt a new nature conservation act. Enhanced efforts are required to prepare the lists of proposed nature protection sites and special bird protection areas. This requires significant strengthening of administrative capacities at voivodship level, including as regards the consultation process.

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

The *acquis* covers protection of the economic interests of consumers (concerning misleading and comparative advertisement, price indication, consumer credit, unfair contract terms, distance and doorstep selling, package travel, timeshare, injunctions for the protection of consumers' interests, and certain aspects of the sale of consumer goods and associated guarantees) as well as the general safety of goods (liability for defective products, dangerous imitations and general product safety). Recently adopted legislation includes rules on general product safety and distance marketing of consumer financial services. The acceding countries need to effectively enforce the *acquis* through appropriate judicial and administrative systems, including market surveillance and a role for consumer organisations.

With regard to **safety-related measures** Poland needs some minor adjustments in order to complete alignment on liability for defective products. The revised general product safety directive remains to be transposed. Although the administrative structures are in place, they need to be further strengthened in terms of financial and human resources.

**Market surveillance** relating to general product safety is partly developed. Poland is completing the relevant policy, management structures and information system. However, the capacity of the main bodies in charge of market surveillance activities needs to be further developed and their co-ordination improved. These structures need also to be strengthened in terms of both financial and human resources.

As regards **non-safety related measures**, Poland has recently adopted legislation in the areas of injunctions for the protection of consumer interests and certain aspects of the sale of consumer goods and associated guarantees as well as in the areas of consumer credits and price indications. However, transposition on distance contracts and doorstep selling still needs to be completed. Enforcement activities relating to the protection of the economic interests of consumers are partly developed. More efforts are needed in effectively implementing the *acquis*, in particular with regard to the judicial capacity

concerned with consumer cases. The administrative structures in terms of both financial and human resources need to be further developed and strengthened.

With regard to **consumer organisations**, the establishment of the Council for Competition and Consumer Protection as a consultative body is expected to improve the capability of consumer organisations to input into the development of policies that affect consumers. Nevertheless, the role of non-governmental organisations needs to be further promoted. A more active involvement of these organisations in developing consumer product safety standards should also be encouraged. Consumer information and education need to be further promoted in order to increase the level of consumers' and businesses' awareness of their rights and responsibilities.

### *Conclusion*

Poland is essentially meeting the commitments and requirements arising from the accession negotiations in the areas of **safety-related measures** and **consumer organisations** and is expected to be in a position to implement this *acquis* as from accession. Poland needs to complete alignment of the *acquis* of the revised general product safety directive.

Poland is meeting the majority of the requirements for membership in the area of **market surveillance** and **non-safety related measures**. In order to complete preparation for membership, Poland needs to complete alignment in the non-safety related area and to ensure the proper enforcement of legislation on safety and non-safety related measures including by strengthening the administrative capacity and structures.

### *Chapter 24: Justice and home affairs*

The most developed part of this chapter is the Schengen *acquis*, which results in the lifting of internal border controls. However, much of this *acquis* will not apply to the acceding countries upon accession, but only after a later separate Council Decision. The Schengen Implementation Action Plan aims at preparing this on the basis of a credible schedule for the introduction of the Schengen provisions. Binding rules which must be put in place as from accession include part of the rules on visas, rules on external borders and the *acquis* on migration, asylum, police co-operation, combating organised crime, fight against terrorism, fraud and corruption and drugs, customs co-operation as well as human rights legal instruments. On issues such as border control, illegal migration, drugs trafficking and money laundering, organised crime, police and judicial co-operation, data protection and the mutual recognition of court judgements, acceding countries need to be equipped to meet adequate standards of administrative capacity. The establishment of an independent, reliable and efficient judiciary and police organisation are also of paramount importance.

Preparation with regard to Schengen provisions (**Schengen Action Plan**) relevant for accession is still broadly satisfactory, but certain delays have occurred in completing legal alignment as regards border control and surveillance. In addition, significant efforts will be needed after accession to prepare for the lifting of internal borders and full implementation of the Schengen *acquis* on the basis of a further decision to be taken by the Council. In particular, attention must be paid to such fundamental aspects of implementation as funding of the Action Plan and staffing of the Border Guard. Ongoing efforts to strengthen control and surveillance of the Eastern borders must be pursued. Separation of traffic at air- and seaports should also be the subject of attention. The

question of the location of SIRENE should be resolved without delay in order to allow necessary steps for implementation to be taken. Poland needs to continue preparing for integration into the Schengen Information System (SIS) II.

In the field of **data protection**, Poland has largely completed its legislative alignment, and a body responsible for data protection, the Bureau of the Inspector General for Personal Data Protection has been created and given a wide range of powers. However, some further adjustments are still needed to achieve full compliance with the acquis (*see also under chapter 3*). As regards the use of personal data by the police, the responsible body, the National Criminal Information Centre, has recently started its operations. Inter-agency co-operation should be further enhanced.

On **visa policy**, alignment with the regulation concerning visa-obligated and non-obligated countries is continuing. Poland has aligned its policy with the so-called "negative" list by the introduction, as from 1 October, of visa obligations for its three eastern neighbours: the Russian Federation, Belarus and Ukraine. Poland still has to fully align its policy as regards the so-called "positive" visa list. As regards implementation and administrative capacity Poland continues to face important challenges. Further efforts are needed in relation to infrastructure, recruitment of staff and training, as well as for installation of information technology for the consulates in the Russian Federation, Belarus and Ukraine. Furthermore, an adequate national visa register still needs to be established. Poland also has to provide all diplomatic and consular missions with equipment to detect forged and falsified documents.

As regards the management of the future **external borders**, Poland has in general aligned its legislation on border control and border surveillance. However, certain amendments related to extended competencies of the border guard as well as alignment with international law on abolition and reintroduction of border control are still pending. Co-operation between the relevant services, namely the border guard, the police and the customs, continues to improve. Poland has been active in concluding co-operation agreements with neighbouring countries on border management and border crime and has taken measures to ensure enhanced co-operation with its eastern neighbours. However, the risk analysis capacity of the border police needs to be further strengthened. Implementation of the Integrated Border Management Strategy and the relevant parts of the Schengen Action Plan is ongoing. The main challenge remains the lack of staff in the border guard, which is committed to becoming a fully professional service by 2006 (through recruitment of 5300 new staff and the phasing out of conscripts). Recruitment has started to accelerate with the addition of 1325 new staff in 2003, 80% of which are to serve at the future external borders. The training system introduced in 2002 seems to be adequate, and provided that necessary resources are available and the waves of recruitment are well organised, the two training centres of the border guard should be in a position to train the newcomers effectively.

The infrastructure at all international eastern border crossing points has been or is in the process of being adapted and upgraded. The implementation capacity of the border services, notably the border guard, has been constantly improving in the recent past. The time plan for constructing border patrol units for the surveillance of the green border has been generally followed without significant delays. However, close attention is needed for the development of an automatic radio location and monitoring system for Poland's maritime areas and for the construction of a stationary and mobile surveillance system.

In the area of **migration**, legislative alignment has been completed, including on carrier liability through the new Aliens Law, which entered into force in September 2003. Poland has been active in its efforts to conclude readmission agreements. The level of co-operation with neighbouring countries on readmission seems appropriate, although agreements have not yet been concluded with Russia and Belarus. Administrative structures are in place but some overlapping competencies and procedures remain. A coherent training system for all migration services (Office for Repatriation and Aliens, Border Guard, Vovoidship Offices), has not yet been developed, and a comprehensive migration policy still needs to be defined. The connection of border crossing points with the database for third country nationals still needs to be completed.

In the field of **asylum**, Poland has completed its legislative alignment with the *acquis*. As regards implementation capacity, the backlog of cases was considerably reduced in 2002. Poland should continue its analytical and organisational measures for active participation in EURODAC and should identify its national access point for Dublin II. Finally Poland also needs to increase its reception capacity as well as its efforts to integrate recognised refugees.

In the area of **police co-operation and combating organised crime**, Poland has ratified the UN Convention against Trans-national Organised Crime and has signed but not yet ratified the two protocols concerning trafficking in human beings and smuggling of migrants; the third protocol, on firearms, has not been signed. Poland still needs to ratify the Council of Europe Cyber Crime Convention. Efforts are still required to ensure that Poland has an accountable, reliable and fully co-ordinated police organisation by accession. The staffing situation remains difficult, and continuous attention is needed as regards the co-operation and co-ordination between the police and the prosecuting and judicial bodies. Training and information sharing in the field of combating economic and organised crime (in particular smuggling of cigarettes and drugs) needs to be considerably improved and sufficient financial means allocated to implement all the envisaged measures. International co-operation is well established and is supported by sufficient co-operation agreements, in particular the conclusion of an agreement with Europol. Attention should be paid to the timely preparation of national procedures in order to ensure the swift ratification of the Europol Convention upon accession to the EU. Inter-agency co-operation needs to be further improved, in particular as regards mutual access to databases through the National Centre for Criminal Information (KCIK) and the co-operation with the customs administration. Furthermore, administrative structures are set up but need to be further strengthened, in particular the Police National Information System.

In the **fight against terrorism**, Poland has ratified the most important Conventions in this area, in particular the 1999 UN Convention for the Suppression of the Financing of Terrorism. Poland should accelerate its preparatory efforts in order to accede to the Convention on Mutual Assistance in Criminal Matters between the EU Member States (2000) upon accession.

As regards the **fight against fraud and corruption**, Poland's legislation is not yet fully aligned with the *acquis*, in particular with the provisions of the 1995 Convention on the protection of the European Communities' Financial Interest and its Protocols. Full alignment with these instruments should be achieved, in particular as regards the liability of legal persons. Amendments to the Penal Fiscal Code and Criminal Code are still pending. Alignment with the Council Framework Decisions on the protection of the euro against counterfeiting is also still necessary, and full implementation of this *acquis*

should be ensured. Poland has yet to designate a National Central Office, dealing notably with the banknote and coin analysis. With its anti-corruption strategy, the Polish authorities have made a concerted effort to limit the occurrence of common corruption within the state administration as a whole. The criminalisation of the principle of “conflict of interest” should be considered in order to be more efficient in combating corruption. Strong administrative support will be needed to put the strategy successfully into practice. Determined implementation of the anti-corruption strategy, in particular as regards high-level corruption, is needed. As regards corruption, see also *Section C.I. – Administrative and judicial capacity*.

On the **fight against drugs**, Poland has largely completed its legislative measures and the national programme for counteracting drug addiction - in line with the EU Drugs Strategy - has been adopted. Implementation, however, needs further improvement, including the necessary administrative capacity at both central and regional level and the allocation of sufficient financial resources. The institutional infrastructure of the National Focal Point for the future co-operation with the European Monitoring Centre for Drugs and Drugs Addiction (EMCDDA) needs to be further strengthened. Overall, the inter-agency co-operation and co-ordination needs to be increased.

Poland has largely completed its legislative alignment with the *acquis* on **money laundering** by means of amendments, which will enter into force on 1 January 2004. However, some further adjustments are still needed to achieve full compliance with the most recent *acquis* (see also *chapter 4 – Free movement of capital*). A Financial Intelligence Unit is in place, but the adaptation of its information technology system needs to be completed in view of timely and effective implementation, and training on money laundering issues for judges and public prosecutors should be enhanced.

In the area of **customs co-operation**, Poland is in the process of aligning its legislation. Inter-agency co-operation is provided for as well as co-operation with businesses on the basis of memoranda of understanding. At the central level, the customs administration has concluded agreements with the police, the border guard and the internal security agency to combat customs and border crime. However, inter-agency co-operation needs to be further improved.

In the area of **judicial co-operation in civil and criminal matters** legislative alignment, where still necessary, is ongoing and Poland should be ready upon accession to apply the *acquis* and to accede to and implement all relevant conventions. Particular attention is needed for alignment with and effective implementation of the Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedure between Member States. Administrative structures for direct contacts between competent judicial authorities are in place but need to be further strengthened.

As regards the *reform of the judiciary* in general, a detailed analysis is provided in the *Section C.I. – Administrative and judicial capacity*.

All the **human rights legal instruments** under the justice and home affairs *acquis* have been ratified by Poland.

### *Conclusion*

Poland is essentially meeting the commitments and requirements arising from the accession negotiations and is expected to be able to implement by accession the *acquis* in the areas of **data protection, migration, asylum, police co-operation and combating**

**organised crime, the fight against terrorism, customs co-operation, judicial co-operation in civil and criminal matters and human rights legal instruments.**

Poland is partially meeting the majority of commitments and requirements for membership in relation to the **Schengen Action Plan, visa policy, external borders, fight against fraud and corruption and drugs** as well as **money laundering**. As regards fraud and corruption, additional efforts are called for to complete legislative alignment, including liability of legal persons, and to put the adopted anti-corruption strategy successfully into practice. Poland needs to adopt and implement the necessary legislation. Overall, inter-agency co-operation needs to be improved and co-ordination structures to be strengthened.

### *Chapter 25: Customs union*

The Customs Union *acquis* consists almost exclusively of legislation which is directly binding on the Member States and does not require transposition into national law. It includes the Community's Customs Code and its implementing provisions; the Combined Nomenclature, Common Customs Tariff and provisions on tariff classification, customs duty reliefs, duty suspensions and certain tariff quotas; and other provisions such as those on customs control of counterfeit and pirated goods, drugs precursors and cultural goods and on mutual administrative assistance in customs matters as well as Community agreements in the areas concerned, including transit. Member States must ensure that the necessary enforcement capacities, including links to the relevant EC computerised customs systems, are in place.

Poland's **customs legislation** is largely in line with the *acquis* as it stood in 2002, following the entry into force in August 2003 of the last legislative alignments, in particular regarding customs warehouses. Implementation of the remaining unaligned provisions, including the new 2003 *acquis*, and others, such as the time limit for recovery of duties, will take place upon accession when Community legislation becomes directly applicable. National provisions superseded by the *acquis* are to be repealed at the time of accession and agreements on mutual administrative assistance in customs matters are to be amended as necessary.

Concerning **administrative and operational capacity**, a functioning customs administration is in place and is expected to have an adequate level of administrative and operational capacity subject to completion of its preparations by the time of accession. Poland should continue to carry out its plans for reorganisation of customs services and reallocation of staff as a result of accession, when the volume of customs work decreases owing to the conversion of external to internal trade. Preparation for the application of measures and provisions that will be introduced only at the time of accession (e.g. customs aspects of managing CAP export refunds) should be completed, in particular via training. In addition, continued efforts should be made as regards the implementation of the Business Strategy, the combating of customs irregularities, for example with regard to counterfeit and pirated goods, and the strengthening of co-operation between customs and other enforcement bodies.

Over the reporting period the Polish authorities have achieved significant progress in the development and implementation of computerised systems as well as other interconnectivity-related issues. The pace must now be maintained and the outstanding work completed according to schedule, in particular as regards deploying throughout the



country the computerized entry processing system and the EC-compatible transit system including a fully operational trader module.

### *Conclusion*

Poland is essentially meeting the commitments and requirements arising from the accession negotiations and is expected to be in a position by accession to implement the **customs union** *acquis* with the necessary administrative and operational capacity. In completing its preparation for membership, Poland needs to ensure that the reorganisation of the customs service is carried out with the minimum of disruption, in particular to the completion of training in the application of provisions and measures that will be introduced at the time of accession, including new trade policy and CAP measures. In addition, continued attention should be given to computerisation and inter-connectivity and to maintaining existing human and financial resources in order to maintain progress in this area.

### *Chapter 26: External relations*

The main element in this chapter, the common commercial policy, is made up of directly binding EU legislation, which does not require transposition into national law. The acceding countries were requested to align before accession with the *acquis* on dual-use goods and, where applicable, export credits. Acceding countries committed themselves to ensure compatibility with the *acquis* of their bilateral agreements with third countries. In the area of humanitarian aid and development policy, countries need to ensure the capacity to participate in the EC's development and humanitarian policies.

The administrative structures for dealing with the issues related to the **common commercial policy** are essentially in place and sufficient. However, improvements of the technical and linguistic skills of the staff are still needed.

Poland has, for the most part, co-ordinated its positions and policies with the Commission with regard to the Doha Development Agenda. Poland should continue close co-ordination and co-operation with the Commission, mainly in order to carry on preparing the convergence of its GATS commitments and Most Favoured Nations exemptions into the EU ones (consolidation EU 25), to be finalised upon accession. Concerning textiles, Poland has not used its third stage of integration to align its list of integrated products under the Agreement on Textiles and Clothing with the European Community; as a result, discrepancies remain.

On trade in dual-use goods, Poland has reached a high degree of alignment with the *acquis*. However, further alignment, in particular regarding the list of dual-use items, needs to be achieved, as export control regimes continue to adopt decisions, which the EU integrates into its legislation. Full alignment as regards the Community general export authorisation can only take place upon accession. Administrative structures in this area are in place and satisfactory. Poland is a member of all international export control regimes.

Legislative alignment in the area of export credits has been completed. Administrative structures are in place and satisfactory.

In the field of **bilateral agreements with third countries**, Poland has made a list of those agreements which will need to be terminated or renegotiated to comply with

Poland's obligations resulting from accession. Poland should continue to take steps to terminate or renegotiate such agreements. Following the successful signature of the Memorandum of Understanding with the USA regarding the bilateral investment treaty, Poland still needs to sign the Additional Protocols. Poland must ensure a swift ratification in order to for the adaptations to enter into force by the date of accession. Among other agreements, the Foreign Investment Protection Agreement concluded with Canada, as well as the Friendship, Commerce and Navigation Agreement concluded with Japan, need to be brought into conformity with the *acquis*.

In the area of **humanitarian aid and development policy**, Poland needs to ensure that its policies are in line with EU principles, in particular with the guidelines laid down by the OECD Development Assistance Committee, as well as the commitments and objectives in the context of UN and other international organisations. Development co-operation in Poland is decentralised across a number of different institutions. Poland needs to ensure the administrative capacity to participate in the EU's development and humanitarian policies.

### *Conclusion*

Poland is essentially meeting the commitments and requirements arising from the accession negotiations and is expected to be able to implement the *acquis* on the **common commercial policy** and **humanitarian aid and development policy**. Poland should enhance its efforts to render its development policy framework in line with EU principles.

Poland is meeting the majority of the commitments and requirements for membership in relation to **bilateral agreements with third countries**. In order to complete preparations in the area of bilateral agreements with third countries, Poland must take decisive steps towards renegotiating or terminating its bilateral agreements to make sure that they are compatible with the *acquis* upon accession.

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

The *acquis* related to the common foreign and security policy (CFSP) is essentially based either on legally binding international agreements or on political agreements to conduct political dialogue in the framework of CFSP, to align with EU statements, and to apply sanctions and restrictive measures where required.

Poland has created the function of Political Director in order to participate in the **political dialogue**. With regard to the exchange of classified information, Poland is completing preparations for co-operation with the Extranet. However, Poland still needs to finalise the technical adjustments to the other two networks (Courtesy and ESDP net).

With regard to alignment with **EU sanctions and restrictive measures, statements, declarations and démarches**, Poland has adjusted its legislation in relation to the introduction and withdrawal of economic sanctions. The administrative structures in this area in Poland are in place and satisfactory.

### *Conclusion*

Poland is essentially meeting the commitments and requirements arising from the accession negotiations in the chapter on the **common foreign and security policy**, and is

expected to be able to participate in the political dialogue and to align with EU statements, sanctions and restrictive measures by accession. The administrative preparations need to be finalised.

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

The acquis under this chapter consists mostly of general, internationally agreed and EU-compliant principles of public internal financial control that need to be transposed into the control and audit systems of the entire public sector. In particular, the acquis requires the existence of adequate ex ante financial control and functionally independent internal audit systems; an independent external audit of the public internal financial control systems in the public sector; an appropriate financial control mechanism for EU pre-accession funding and future structural action expenditure; and arrangements on the protection of EC financial interests. In addition, an anti-fraud co-ordination service, capable of co-operating with the Commission's Anti-fraud Office OLAF at an operational level, is to be designated.

In the area of **Public Internal Financial Control**, Poland has put framework and implementing legislation in place which is largely in line with the acquis. However, the Internal Audit Charter and the Code of Ethics for internal auditors need to be enhanced and finalised. The process of institution building is advanced, but the establishment of internal audit units in all budget-spending centres remains to be completed. The newly set-up internal audit units need to be adequately staffed with well-trained and experienced personnel. Training and examination of internal auditors should be revised.

The key official in the system of internal audit in the public administration in Poland is the General Internal Auditor, a high level civil servant, reporting directly to the Minister, who was appointed in November 2002. The General Internal Auditor is the Head of the Central Harmonisation Unit (CHU) for financial management and control as well as of internal audit systems. The CHU is located in the Ministry of Finance. Poland has to ensure functional and operational independence of the General Internal Auditor. A recent upgrading and re-interpretation of the role of the General Internal Auditor necessitates reformulation of the public internal financial control Policy Paper and the Public Finance Act. Both documents are currently under review.

In the field of **external audit**, legislative alignment has been completed. The Supreme Chamber of Control is an independent and professional organisation and its audit services satisfactorily cover all public and EU funds. Poland should enhance procedures, however, for following up actions on audit findings.

As regards **control over EU pre-accession funding and structural action expenditure**, framework and implementing legislation in Poland is in place and in line with the acquis. Appropriate administrative structures are being set up. However, Poland should accelerate efforts to enhance its administrative capacity to manage the pre-accession funds and future structural funds in order to fully meet the requirements for financial control and internal audit. In particular, recruitment of additional staff for the pre-accession funds, as well as the Structural and Cohesion Funds, should be reinforced and accompanied by training measures. Poland needs to reinforce and urgently accelerate efforts leading to the extended decentralised implementation system (EDIS) for ISPA and Phare, including allocation for further human resources.

In the area of the **protection of EC financial interests**, Poland has reinforced the framework and implementing legislation. A governmental plenipotentiary for combating fraud against Poland and the EU budget was established. Nevertheless, the administrative and operational capacity of the anti-fraud co-ordinating service (AFCOS), including co-operation with other relevant institutions and bodies, needs to be substantially reinforced and demonstrated by concrete and convincing actions.

### *Conclusion*

Poland is essentially meeting the commitments and requirements arising from the accession negotiations in the area of **external audit** and is expected to be in a position to implement this *acquis* from accession.

Poland is meeting the majority of the commitments and requirements arising from accession negotiations in the areas of **public internal financial control, control over structural action expenditure** and **protection of EC financial interests**. As regards public internal financial control, attention must be given to adapting the primary legislation. Administrative capacity in the area of public internal financial control and control over structural action expenditure should be strengthened. Enhanced efforts must also be made urgently to complete the extended decentralised implementation system. In the area of the protection of EC financial interests, legal alignment should be completed. The administrative and operational capacity of the anti-fraud co-ordination service should be substantially strengthened and backed up by concrete and convincing actions.

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

Chapter 29 covers the rules concerning the financial resources necessary for the funding of the EC budget ('own resources'). These own resources are made up mainly from contributions from Member States based on 1) traditional own resources from customs and agricultural duties and sugar levies, 2) a resource based on VAT and 3) a resource based on the level of gross national income (GNI). Member States must ensure the creation of appropriate administrative capacity to adequately co-ordinate and ensure the correct calculation, collection, payment and control of own resources and reporting to the EU for implementation of the own resources rules.

As regards the **traditional own resources (TOR)**, the Customs Policy Department within the Ministry of Finance has been designated as the TOR co-ordination unit. National reporting on cases of fraud or irregularities will be carried out by the Department of Customs Control; fine-tuning of the procedures for reporting to the Commission in line with the requirements of the *acquis* is still required. The procedures and responsibilities for the establishment, collection and accounting of sugar levies have been defined but Poland still needs to decide how the sugar levies controls will be carried out. The procedures and systems for establishing the A and B accounts, under the responsibility of the Department of Customs Services Organisation, are not yet fully in place and will require the IT customs clearance system CELINA and accounting system ZEFIR, directly linked to it, to be fully operational. It should be noted that any delays in fully and accurately applying EC customs rules will impact on the accuracy of TOR calculations.

Further efforts by the Ministry of Finance, in co-operation with the Central Statistical Office, are required to improve the calculation of the **VAT-based resource**, in particular as regards the calculation of the weighted average rate in accordance with ESA95. In this

respect, IT systems necessary to obtain centralised VAT information on a cash basis need to be further developed.

For calculation of the **GNI-based resource**, continued efforts are needed by the Ministry of Finance, the Central Statistical Office and the National Bank of Poland to further improve the quality and reliability of the national accounts and GNI calculations in line with ESA95, including their exhaustiveness.

All institutions necessary for application of the own resources system in Poland exist. A unit within the Ministry of Finance co-ordinates own resources issues and is operating effectively. To further support the co-ordination of the activities of the various ministries involved in own resources, an inter-ministerial task force was established.

### *Conclusion*

Poland is essentially meeting the commitments and requirements arising from the accession negotiations in the area of **financial and budgetary provisions** and is expected to be in a position by accession to implement the relevant acquis. Poland should now focus attention on further improving the reliability of GNI statistics, streamlining the calculation of the VAT-based resource, defining the modalities in the field of controlling sugar levies, completing the procedures for keeping the A and B accounts and finalising the procedures for sending reports on cases of fraud or irregularities to the Commission via the OWNRES application.

## D. CONCLUSION

Poland has maintained a stable macroeconomic situation and is experiencing a gradual recovery, mainly driven by external demand. The reform path has nearly come to a halt since last year's Report.

As regards the areas, where last year's report suggested improvements, some progress has been made, but challenges remain. The Polish authorities have shown so far some reluctance to tackle the needed fiscal adjustment. A deep restructuring and reduction of public expenditure are, however, crucial in order to further improve the policy mix, reverse the rapid rise in public debt, and prepare Poland's public finances for accession. The Polish authorities should ensure that any decision on the use of the revaluation reserve does not undermine the financial independence of the central bank. Progress in restructuring heavy industries, energy distribution and agriculture has been modest since last year and considerable efforts still need to be made to advance the reform agenda in this area. The new insolvency law adopted in February upgrades the bankruptcy and liquidation framework and brings it into line with the requirements of a modern market economy. Little progress has been achieved as regards the functioning of the land registry, and the authorities need to pursue their efforts at modernising the system.

As regards overall administrative and judicial capacity, sufficient conditions are in place for the implementation of the *acquis* by the Polish public administration and judiciary, but there is room for further improvements. In the field of public administration, the number of civil servants appointed from open competitions should increase, while co-ordination across the civil service should be improved and structures dealing with European integration need strengthening. Efforts are still needed to improve the efficiency and transparency of the judiciary, with particular attention to further developing and organising the system of legal aid. The fight against corruption should continue to receive high priority, in particular through strengthening co-ordination structures and administrative support to ensure an effective implementation of the anti-corruption strategy.

As regards the implementation of the *acquis* in specific policy areas, the findings of this report are set out below.

Firstly, it should be noted that Poland has reached a **high level of alignment with the *acquis*** in most policy areas.

It is expected to be in a position to implement the *acquis* as required in the following areas by accession: horizontal and procedural measures as well as new approach sectoral legislation in the *free movement of goods* chapter; citizens' rights, free movement of workers and co-ordination of social security systems, in terms of *free movement of persons*; personal data protection and information society services in the area of *freedom to provide services*; capital movements and payments, and payment systems related to the *free movement of capital*; *company law* and accounting; and the anti-trust area in the *competition policy* chapter. In the area of *agriculture*, Poland is expected to be in a position by accession to implement the *acquis* in a number of horizontal areas, in most common market organisations, and in veterinary issues as regards animal disease control and zootechnics.

Poland is also expected to be in a position to implement the *acquis* by accession in: most areas of the *transport* sector; the areas of direct taxation as well as administrative co-operation and mutual assistance in the field of *taxation*; most areas related to *economic*

*and monetary union; statistics; equal treatment of women and men, social dialogue, employment policy, social inclusion and social protection in the area of social policy and employment; the energy sector; industrial strategy in the industrial policy chapter; small and medium-sized enterprises; science and research; education and training; culture policy; programming as far as regional policy and co-ordination of structural instruments is concerned; horizontal legislation, air quality, waste management, water quality, industrial risk management, chemicals, genetically modified organisms, noise, and nuclear safety and radiation protection in the environment chapter; safety-related measures and consumer organisations in terms of consumer and health protection; many aspects in justice and home affairs; customs union; the common commercial policy, and humanitarian aid and development policy in the external relations acquis; common foreign and security policy; external audit in terms of financial control; and financial and budgetary provisions.*

Secondly, in certain areas Poland partially meets the commitments and requirements and needs to make **enhanced efforts** in order to complete its preparations for accession.

This includes the old approach sectoral legislation on the *free movement of goods*, as well as the non-harmonised area and public procurement; the area of *free movement of services*, as regards the right of establishment and the freedom to provide non-financial services, as well as banking, insurance, investment services and securities markets; in the field of *free movement of capital*, the reinforcement of its efforts in the fight against money laundering; within the field of *company law*, the protection of intellectual and industrial property rights; and in the state aid area of *competition policy*. In the *agriculture* area it concerns trade mechanisms, the common market organisations for milk, beefmeat, and eggs and poultry, rural development, trade in live animals and animal products, common measures, animal welfare and animal nutrition; and as regards the areas of structural actions, state aid and international fisheries agreements in relation to *fisheries policy*.

This also includes the fields of: maritime *transport*; VAT and excise duties in the area of *taxation*; the independence of the national central bank in terms of *economic and monetary union*; labour law, health and safety at work, public health, the European Social Fund (ESF) and anti-discrimination in the area of *social policy and employment*; privatisation and restructuring in the *industrial policy* chapter; *telecommunications and information technologies*, including in particular the postal services sector; *audio-visual policy*; the legislative framework, institutional structures, and financial management and control in terms of *regional policy and co-ordination of structural instruments*; the industrial pollution and nature protection areas of *environment policy*; market surveillance and non-safety measures in the area of *consumer and health protection*; the Schengen Action Plan, visa policy, external borders, the fight against fraud and corruption, drugs, and money laundering in the area of *justice and home affairs; external relations*, as regards bilateral agreements with third countries; and public internal financial control, control over structural action expenditure and the protection of EC financial interests in the area of *financial control*.

Thirdly, Poland must take immediate and decisive action to address nine issues of **serious concern** in three chapters of the *acquis* if it is to be ready by the date of accession.

This concerns the field of *free movement of persons*, relating to Poland's preparations for mutual recognition of qualifications, in particular as regards training for certain

professions in the healthcare sector. It also concerns the field of *agriculture*, as regards Poland's preparations to set up its Paying Agencies, to implement the Integrated Administration and Control System and to upgrade agri-food establishments in line with public health requirements. Furthermore, it concerns, in the area of veterinary and phytosanitary control, measures relating to transmissible spongiform encephalopathies (TSEs) and animal by-products, movement controls of animals, and the control of potato ring rot and wart disease. Finally, it concerns the areas of resource management and inspection and control, and market policy in the *fisheries* chapter.



## STATISTICAL ANNEX

	1998	1999	2000	2001	2002
<b>Basic data</b>	<b>in 1000</b>				
Population (average)	38,666	38,654	38,646	38,641	38,232
	<b>in km<sup>2</sup></b>				
Total area	312,685	312,685	312,685	312,685	312,685

<b>National accounts a)</b>	<b>1000 Mio Zloty</b>				
Gross domestic product at current prices	553.6	615.1	713.4	750.8	772.2
	<b>1000 Mio ECU/euro</b>				
Gross domestic product at current prices	141.3	145.5	178.0	204.5	200.2
	<b>in ECU/Euro</b>				
Gross domestic product per capita b) at current prices	3,700	3,800	4,600	5,300	5,200
	<b>% change over the previous year</b>				
Gross domestic product at constant prices (nat. currency)	4.8	4.1	4.0	1.0	1.6
Employment growth	1.2	-3.9	-1.6	-2.2	-3.0
Labour productivity growth	3.6	8.3	6.5	3.2	4.8
Unit labour cost growth	-1.5	-0.9	-4.6	5.1	:
	<b>in Purchasing Power Standards</b>				
Gross domestic product per capita b) at current prices	7,700	8,300	9,200	9,400	9,500
	<b>in % of EU-15 average</b>				
GDP per capita b) at current prices in PPS	38	39	40	40	39
Labour productivity (GDP per person employed in PPS)	40	43	46	47	48
Structure of production	<b>% of Gross Value Added c)</b>				
- Agriculture	4.8	4.0	3.6	3.8	3.1
- Industry (excluding construction)	27.6	27.1	25.7	24.1	23.8
- Construction	8.7	8.8	8.2	7.2	6.5
- Services	59.0	60.1	62.6	65.0	66.5
Structure of expenditure	<b>as % of Gross Domestic Product</b>				
- Final consumption expenditure	79.0	80.0	81.6	82.7	84.2
- household and NPISH	63.6	64.4	63.7	64.8	66.2
- general government	15.4	15.5	17.9	17.9	18.0
- Gross fixed capital formation	25.2	25.5	23.9	20.9	19.1
- Stock variation d)	1.1	0.9	1.1	0.1	0.0
- Exports of goods and services	28.2	26.1	28.3	28.1	30.0
- Imports of goods and services	33.4	32.5	34.9	31.8	33.3

<b>Inflation rate</b>	<b>% change over the previous year</b>				
Consumer price index	11.8E	7.2E	10.1	5.3	1.9

	1998	1999	2000	2001	2002
<b>Balance of payments</b>	<b>in Mio ECU/euro</b>				
-Current account	-6,156	-11,716	-10,812	-5,916	-7,188 g)
-Trade balance	-11,450	-14,142	-13,339	-8,521	:
<i>Exports of goods</i>	28,960	28,205	38,981	46,458	:
<i>Imports of goods</i>	40,410	42,346	52,320	54,979	:
-Net services	3,761	1,296	1,533	902	:
-Net income	-1,051	-948	-1,599	-1,529	:
-Net current transfers	2,584	2,077	2,592	3,232	:
- of which: government transfers	391	204	334	317	:
- FDI (net) inflows	5,677	6,821	10,133	6,377	4,335 g)

<b>Public finance</b>	<b>in % of Gross Domestic Product</b>				
General government deficit/surplus	-2.3	-1.5	-1.8	-3.0	-4.1p
General government debt	41.6	42.7	37.2	37.3	41.8p

<b>Financial indicators</b>	<b>in % of Gross Domestic Product</b>				
Gross foreign debt of the whole economy	23.3	25.3	24.0	22.1	:
	<b>as % of exports</b>				
Gross foreign debt of the whole economy	82.8	96.7	85.0	78.8	:
Monetary aggregates	<b>1000 Mio ECU/euro</b>				
- M1	19.9	23.9	24.4	29.7	33.9
- M2	54.0	63.4	76.5	95.8	79.5
- M3	:	:	:	95.8	80.0
Total credit	52.9	62.9	73.5	90.0	82.7
Average short-term interest rates	<b>% per annum</b>				
- Day-to-day money rate	21.1	14.1	18.1	17.1	9.5
- Lending rate e)	23.6	17.4	20.3	18.9	12.9
- Deposit rate e)	16.8	10.4	13.5	11.2	5.6
ECU/EUR exchange rates	<b>(1ECU/euro=..New Zloty)</b>				
- Average of period	3.918	4.227	4.008	3.672	3.857
- End of period	4.089	4.159	3.850	3.495	4.021
	<b>1990=100</b>				
- Effective exchange rate index	31.9	29.0	29.5	32.1	30.8
Reserve assets	<b>Mio ECU/euro</b>				
-Reserve assets (including gold)	24,239	27,219	29,551	30,288	28,409
-Reserve assets (excluding gold)	23,413	26,288	28,587	29,252	27,362

<b>External trade</b>	<b>Mio ECU/euro</b>				
Trade balance	-16,416	-17,420	-18,752	-15,832	-14,900
Exports	25,179	25,727	34,407	40,335	43,381
Imports	41,595	43,147	53,159	56,167	58,281
	<b>previous year=100</b>				
Terms of trade	104.3	100.8	96.0	102.3	102.8
	<b>as % of total</b>				
Exports with EU-15	68.3	70.5	69.9	69.2	68.7
Imports with EU-15	65.6	64.9	61.2	61.4	61.7

	1998	1999	2000	2001	2002
<b>Demography</b>	<b>per 1000 of population</b>				
Natural growth rate	0.5	0.0	0.3	0.1	-0.2
Net migration rate (including corrections)	-0.3	-0.4	-0.5	-0.4	-11.7 f)
	<b>per 1000 live-births</b>				
Infant mortality rate	9.5	8.9	8.1	7.7	7.5
Life expectancy :	<b>at birth</b>				
Males:	68.9	68.8	69.7	70.2	70.4
Females:	77.3	77.5	78.0	78.4	78.8

<b>Labour market (Labour Force Survey)</b>	<b>% of population</b>				
Economic activity rate (15-64)	65.9	65.8	66.1	66.0	64.9
Employment rate (15-64), total	59.0	57.6	55.1	53.4	51.5
Employment rate (15-64), males	66.5	64.4	61.5	59.2	56.9
Employment rate (15-64), females	51.7	51.0	48.9	47.7	46.2
	<b>as % of the total population of the same age group</b>				
Employment rate of older workers (55-64)	32.1	31.2	28.0	27.4	26.1
Average employment by NACE branches	<b>in % of total</b>				
- Agriculture and forestry	19.1	18.1	18.7	19.2	19.6
- Industry (excluding construction)	25.0	24.4	23.6	24.0	22.6
- Construction	7.0	6.9	7.4	6.7	5.9
- Services	48.9	50.6	50.3	50.1	51.8
	<b>% of labour force</b>				
Unemployment rate, total	10.2	13.4	16.4	18.5	19.9
Unemployment rate, males	8.5	11.8	14.6	17.1	19.1
Unemployment rate, females	12.2	15.3	18.6	20.2	20.9
Unemployment rate of persons < 25 years	21.3	29.6	35.7	39.2	41.6
Long-term unemployment rate	4.8	5.8	7.4	9.3	10.9

<b>Social cohesion</b>	<b>ratio of top quintile to lowest quintile</b>				
Inequality of income distribution	:	4.2	4.6	:	:
	<b>% of population aged 18-24</b>				
Early school-leavers	:	:	:	7.9	7.6
	<b>% of population aged 0-65</b>				
Population in jobless households (persons aged 0-65)	:	:	:	:	:

<b>Standard of living</b>	<b>per 1000 inhabitants</b>				
Number of cars	230	240	259	272	289
Main telephone lines	227.8	263.2	283.3	294.1	310.6
Number of subscriptions to cellular mobile services	50.3	102.1	174.6	248.6	363.7

<b>Infrastructure</b>	<b>in km per 1000 km<sup>2</sup></b>				
Railway network	74	73	72	68	67
	<b>Km</b>				
Length of motorways	268	317	358	337	405.0

	1998	1999	2000	2001	2002
<b>Industry and agriculture</b>	<b>previous year=100</b>				
Industrial production volume indices	103.5p	103.6p	106.7p	100.6p	101.4p
Gross agricultural production volume indices	105.9	94.8	94.4	105.8	98.1

<b>Innovation and research</b>	<b>as % of GDP</b>				
Spending on Human Resources (public expenditure on education)	5.42	5.18	5.07	:	:
	<b>as % of GDP</b>				
Gross domestic expenditure on Research & Development	0.72	0.75	0.7	:	:
	<b>per 1000 inhabitants</b>				
Level of Internet access - households	:	:	5.1	7.7	:

<b>Environment</b>	<b>tonnes CO2 equivalent per capita</b>				
Total greenhouse gases emissions	71.3	70.9	68.1	:	:
	<b>kg of oil equivalent per 1000 euro of GDP</b>				
Energy intensity of the economy	840.5	779.3	717.6	:	:
	<b>as % of total electricity consumption</b>				
Share of renewable energy	2.1	1.9	1.9	:	:
	<b>as % of total freight transport</b>				
Modal split of freight transport	52.9	55.7	56.9	60.3	:

p= provisional figures

E= estimated data

a) Break in the national accounts series between 1999 and 2000; change in the methodology, Poland will provide consistent time series later in 2003.

b) Figures have been calculated using the population figures from National Accounts, which may differ from those used in demographic statistics.

c) Including FISIM.

d) These figures include changes in inventories, acquisitions less disposals of valuables and the statistical discrepancy between the GDP and its expenditure components.

e) Series break after 2001.

f) This rate is the result of the total net international migration of permanent residents (18 000 persons) and the difference (391000 persons) between the estimated data of population for 2001 (resulting from the balance method and based on the 1988 census) and for 2002 (based on the Population Census 2002).

g) Source: Website of the National Bank

### Methodological notes

#### Inflation rate

For details please refer to the following link to the Eurostat website:  
[http://europa.eu.int/newcronos/suite/info/notmeth/en/theme1/strind/ecobac\\_ir.htm](http://europa.eu.int/newcronos/suite/info/notmeth/en/theme1/strind/ecobac_ir.htm)

#### Finance

Public finance: The general government deficit / surplus refers to the national accounts concept of consolidated general government net borrowing / net lending (EDP B.9) of ESA95. General government debt is defined as consolidated gross debt at end-year nominal value.

#### External trade

Imports and exports (current prices). The data is based upon the special trade system. Trade Classification: Trade in goods are recorded using the commodity classification according to the Combined Nomenclature. Imports are recorded on CIF basis, exports on FOB basis.

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

#### Labour market

Indicators are harmonised annual figures with the exception of average employment by NACE branches and unemployment rate of persons < 25 years, which are for the 2<sup>nd</sup> quarter of the respective year. The

results are based on the European Union Labour Force Survey (LFS). The EU LFS is conducted on a quarterly basis in accordance with Council Regulation (EEC) No. 577/98 of 9 March 1998.

For details please refer to the following link on the Eurostat website:  
<http://europa.eu.int/newcronos/suite/info/notmeth/en/theme1/strind/emploi.htm>

#### Social cohesion

For details please refer to the following link on the Eurostat website:  
<http://europa.eu.int/newcronos/suite/info/notmeth/en/theme1/strind/socohe.htm>

#### Industry and agriculture

Industrial production volume indices. Data on industrial production relate to sold production (sales) for domestic and external destination as well.

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

#### Innovation and research

For details please refer to the following link to the Eurostat website:  
<http://europa.eu.int/newcronos/suite/info/notmeth/en/theme1/strind/innore.htm>

#### Environment

For details please refer to the following link to the Eurostat website:  
<http://europa.eu.int/newcronos/suite/info/notmeth/en/theme1/strind/enviro.htm>

#### Sources

Total area, External trade, Demography, Standard of living, Infrastructure, Industry and agriculture:  
National sources. Other indicators: Eurostat.