

THE ENLARGEMENT OF THE EUROPEAN UNION IN 2004:  
MEASURING INTEGRATION

THESIS

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by

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For my grandparents

Sewell, Lenore, William and Muriel

in gratitude for their love, guidance and encouragement

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## CHAPTER I: INTRODUCTION

From the onset of the Roman Empire in the First century BC through the tumultuous events of modern times the political unification of Europe was a fleeting aspiration. Although Europeans culturally united during the Age of Christendom, most attempts at political unification have been made through means of conquest. Some endeavors, such as the 1648 Peace of Westphalia, were successful in bringing some degree of accord and peace to an otherwise politically disunited existence between nations of the European continent. Modern peaceful coexistence would not truly become a reality for Europeans until the passing of two world wars at the cost of countless lives and immeasurable economic loss, and perhaps a return to Europe's cultural roots.

In the end, the hope of unification came about through the combined efforts of Europeans and non-Europeans. In the aftermath of World War II, a consensus prevailed that the only way to insure a sustained, peaceful coexistence among the nations of Europe was to create a condition that would render armed conflict economically unfeasible. To accomplish this, the nations of Western Europe understood that they would have to become economically interdependent.

At the end of World War II, it was evident that attempts at unification by force would only result in the destruction of infrastructure and continued animosity among neighboring cultures. It was also apparent that with respect to the European political system, structural change was essential. A new system had to be devised, which would

provide a foundation upon which the unification of Europe could be constructed without compromising the issue of sovereignty.

In June of 1947, United States Secretary of State George Marshall announced plans to provide economic aid to Europe for assistance in reconstruction. The premise behind the project was to prevent the complete economic collapse of Europe and possible residual effects that might spill over to the US economy.<sup>1</sup> Another reason was to preserve a significant commercial market for the U.S. economy. The Marshall Plan was also a vehicle to impede Communist access to Western Europe and preserve an established economic system.<sup>2,3</sup> It was a comprehensive containment policy, designed to insure a democratic political system supported by a free market economic framework.<sup>4</sup> It set in motion the reconstruction of the European economic system. In order to monitor the progress of the plan's implementation and the distribution of U.S. aid programs and provide a point of communication with the U.S. government, the Organization for European Economic Cooperation (OEEC) was organized on April 16<sup>th</sup>, 1948.

The mandate for the OEEC was comprehensive and created the initial framework to establish a common market for the participating 18 member countries of the Marshall Plan. The conditions of the OEEC mandate were as follows:

- Promote cooperation between participating countries and their national production programs for the reconstruction of Europe.

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<sup>1</sup> Marshall, George C. "Marshall Plan Speech at Harvard University, June 5<sup>th</sup> 1947", <http://www.oecd.org/EN/document/0,,EN-document-0-nodirectorate-no-21-9362-0,00.html>

<sup>2</sup> Romero, Frederico; *The United States and the European Trade Union Movement, 1944-1955*; (University of North Carolina Press 1992) 97. and Wallerstine, Immanuel: *The Capitalist World Economy*. (Cambridge University Press, 1979) 31

<sup>3</sup> Romero, 98

<sup>4</sup> Romero, 100

- Develop intra-European trade by reducing tariffs and other barriers to the expansion of trade.
- Study the feasibility of creating a customs union or free trade area.
- Achieve conditions for better utilization of labor.

The mandate identified the underpinnings needed for the economic unification of Europe. The OEEC would play the prominent role in initiating the fundamental steps to creating a supranational entity that would later become the European Union. In June of 1950, Dirk Stikker, Foreign Minister of the Netherlands, and Chairman of the OEEC Council, announced a plan for economic integration and the creation of a single market.<sup>5</sup>

On May 9<sup>th</sup>, 1950 French Foreign Minister, Robert Schuman, declared that in order to insure peace and create a united Europe the economic rivalry between Germany and France had to be eliminated. To accomplish this goal, Schuman proclaimed that French and German coal and steel production should fall under a “common high authority” within the framework of an organization that provided for open participation by other European nations.<sup>6</sup>

Scholars believed that Schuman’s plan provided for a first step towards complete market integration.<sup>7</sup> However, it was also recognized that not all elements of European society accepted the entire scope of the plan. The renunciation of certain aspects of sovereignty to a supranational authority did not set well with some of the prospective members, mainly Britain. The Britons did not want to sacrifice sovereignty and the

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<sup>5</sup> History of the OECD, Organization for European Economic Cooperation: <http://www.oecd.org/oecd/pages/home/displaygeneral/0,3380,EN-document-nothème-1-no-no-9355-0,00.html> , 2

<sup>6</sup> Schuman, Robert, French Minister of Foreign Affairs, “Declaration of May 9<sup>th</sup>, 1950” <http://www.robert-schuman.org/robert-schuman/declaration2.htm#anglais> 1

<sup>7</sup> McKesson, John A., “The Schuman Plan”, Political Science Quarterly: Volume 67 Issue 1 March 1952. 25

Conservative party believed that Britain's "planned economy" would have considerable problems integrating with the liberal based economic systems of the other members.<sup>8</sup>

Paul-Henri Spaak, Belgian Minister of Foreign Affairs, and President of the Consultative Assembly of the Council of Europe summed up the dilemma between sovereignty and economic integration as follows:

The organized international life for which we are working cannot be realized unless we destroy the dogma of the absolute sovereignty of states. A real international organization and absolute national sovereignty are contradictory and irreconcilable ideas. Either we accept a world of anarchy based upon force, or we build a world where peace and order are possible. If we choose the second goal we must abandon the old idea that any one country, great or small, can do as it pleases.<sup>9</sup>

Another concern of many prospective European members related partly to sovereignty and partly to democratic representation. The new union would be in the hands of "technocrats," who would have only a remote link to the people for whom they were working.<sup>10</sup> The proposed treaty stipulated a Common Assembly, but the assemblymen could only offer indirect representation for the people of their respective countries. While method of election for positions on the Assembly was left to the discretion of the respective country, and while candidates could either be chosen by direct election or appointed by the national parliaments, the assembly was nonetheless not directly accountable to the people. This condition of semi-political representation grew as the community began to widen.<sup>11</sup>

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<sup>8</sup> McKesson, John A., "The Shuman Plan", *Political Science Quarterly*: Volume 67 Issue 1 March 1952. 28 (The Labor party was in power at this time. This was mainly a concern of the conservative element of the British party structure).

<sup>9</sup> Ibid. 28

<sup>10</sup> Ibid.

<sup>11</sup> Ibid.29

The environment created by the this political organization provided the momentum to form some kind of union. On April 18<sup>th</sup>, 1951, the Treaty of Paris was signed and it effectively created the European Coal and Steel Community (ECSC), bringing France, Germany, Belgium, Luxembourg, Italy and the Netherlands into a European supranational entity unifying Europe under a comprehensive economic program. The treaty entered into force on July 23<sup>rd</sup>, of 1952 with Jean Monnet of France, as President of the High Authority and Paul-Henri Spaak as the President of the Common Assembly.<sup>12</sup>

Since the Treaty of Paris, the European unification experience has undergone a series of reforms through the implementation of other treaties designed to redefine and to broaden the focus and authority of the union. Over time, the scope of the organization has been revised by a series of treaties such as:

1. The European Economic Community signed in Rome in 1957.
2. The Single Act of 1986, which established the European Monetary System.
3. The Maastricht Treaty of 1992, creating the European Union, which sought greater economic and political integration, the removal of trade barriers, harmonization of taxation, the standardization of competition practices, and a common currency, the so called Euro.

The process of European unification is one that has occurred over a period of some fifty years. The course of evolution has not only involved the purpose of securing economic stability<sup>13</sup>, but also an increase in membership. Enlargement has taken place in a series of accession treaties that began in 1972 with the accession of the United

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<sup>12</sup> European Union On Line, "History of the European Union",  
[http://europa.eu.int/abc/history/1952/index\\_en.htm](http://europa.eu.int/abc/history/1952/index_en.htm)

<sup>13</sup> Treaty On European Union, Journal Of The European Union 1992. 16

Kingdom, Ireland and Denmark, and again in 1979 and 1985 with Greece, Spain and Portugal acceding to membership. The next enlargement phase did not occur until 1994 when Austria, Finland, and Sweden joined the union to create the formation of 15 members.

During the growth of the EU, the need for an effective administrative system became evident. As the borders of the EU enlarged, it became clear that the natural progression of this endeavor would require political interaction and direction in order to insure that the focus of the union was indeed the intended will of the European people. To this end, the European Council, the European Parliament, and the European Commission was set up to share the powers of legislation and administration. These institutions have placed the European Union at the forefront of the global economy as the only supranational government entity where its members have pooled their sovereignty in order to strengthen their position in respect to gaining a level of global influence that otherwise would not be attainable as individual countries.<sup>14</sup>

On May 1<sup>st</sup> of 2004 the European Union (EU) underwent another enlargement with the addition of ten new members to its roll. This phase of expansion included the countries of the Czech Republic, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, and Slovenia. The addition of these ten new members to the union is the largest increase to date.

The enlargement of the EU is no small concern for the previous member countries or for the new members. Some of the points of concern are that the initial costs that enlargement will impose on the previous member countries and the value of any return benefits. From the agricultural perspective, there are some countries that are concerned

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<sup>14</sup> European Union Institutions web page, [http://europa.eu.int/institutions/index\\_en.htm](http://europa.eu.int/institutions/index_en.htm)

about the effects of increased levels of competition combined with the potential loss of subsidies due to the assistance requirements brought about by bringing in new member countries that are less developed economically. Another issue of importance is health and quality standards in food production. It has been noted that the Community Agricultural Policy (CAP) was implemented under market conditions that existed fifty years prior, and that changes are now needed, particularly since many of the new members are agricultural states.<sup>15</sup>

Politics is also a concern. As political stability is considered to be a key element for membership, the question was raised as to whether all of the candidate countries were truly prepared to meet this requirement. The rule of law and its solid attachment to the function of government and the economy are considered by the EU to be fundamental to the success of an open, democratic society and the ability to interact with the global economy. Aside from these basic concepts, the Copenhagen Summit of the European Council in 1993 established specific accession criteria for Central and Eastern European countries that were to function as the benchmark for membership.

The aforementioned concerns are issues that arose at the basic level of the European Union endeavor to assimilate these ten countries into the European matrix. There is also a wide array of problems that come about due to nature of the union itself: taxation, standardization, transportation regulations and many others. To discuss all of these issues would be well beyond the scope of this thesis. This study will focus on the economic, social and political structures of nine new member countries, along with specific current events that relate directly the enlargement process, to determine which

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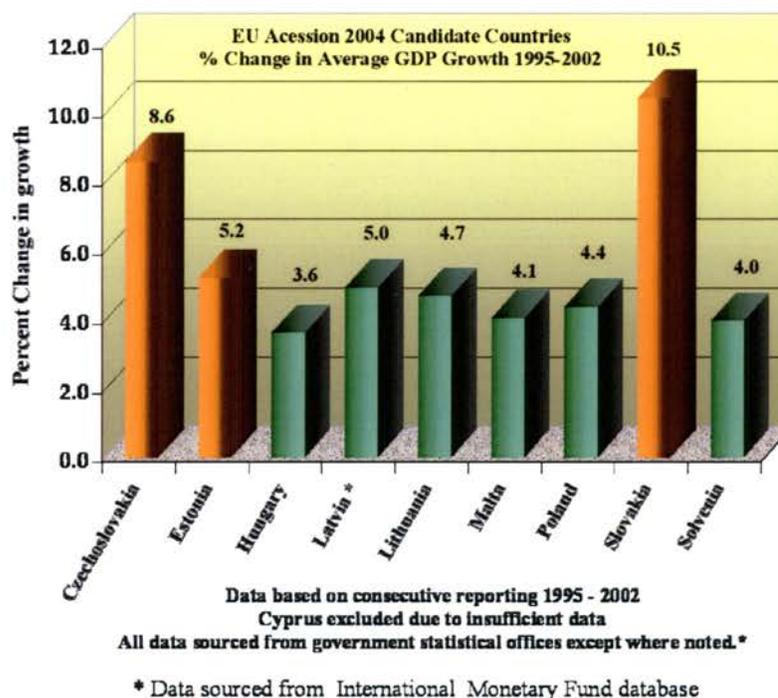
<sup>15</sup> Laurence Caramel and Gaëlle Dupont, "Que Faut-il faire des agricultures français?", *Le Monde*, February 27<sup>th</sup>, 2004

are exhibiting the greatest potential for ease of integration into the EU. No study like this exists, although these are valuable examinations of the EU and the problems of enlargement, and these studies are cited in the notes and bibliography.

As the original mandate of the EU focused on providing economic stability to its members, the economic strength of the identified top performers will function as a measure to distinguish the nine new members. It is clear that the many of the countries in question are burdened with the economic consequences of a command market structure and as a result, will require considerable financial support along with concessions for some time.

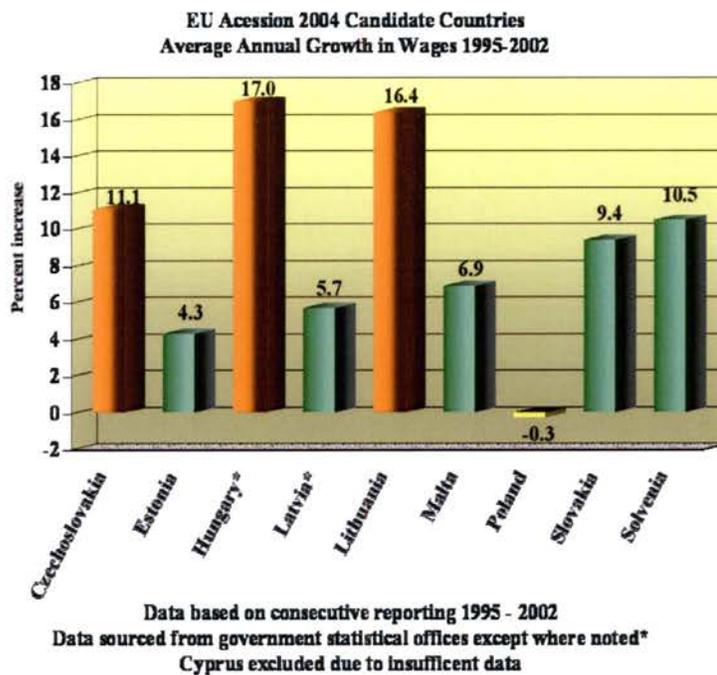
As the basis for the formation of the EU was the creation of an environment conducive to economic growth and stability, it is essential to develop a clear understanding of the economic conditions for each of the new members. An overall indication of general economic stability is the percent change of growth in the gross domestic product (GDP) over a period of time. Higher averages in growth percentages are indicative of ever-increasing levels of sound economic management.

This figure is the result of combined economic factors and produces a snapshot perspective of the overall economic performance. Although GDP provides a good indication of the overall performance of an economy, this figure is the accumulation of many other factors that work together to produce this result and should not be overlooked. Some of these factors if examined can reveal insight into the underlying factors that form the basis for an economic system. This section of the thesis will attempt to study those elements in detail. The following graph depicts performance levels of GDP.



Another criteria for measurement was the annual percent change in wage growth. This indicator is significant in that it provides insight as to the potential for supporting growth under the volatile conditions inherent to an open economy. If there are insufficient levels of upward movement in the rate of wage increase, this element of the economic system will cease to function as a support mechanism. Consistent levels of disposable income are essential to an economy that operates under the laws of supply and demand. Progressive increases in wage rates also act as a gauge towards overall confidence in the economy from the perspective of industry and business, just as the rise or fall of revenue is a function of consumer confidence in the economy. The capacity to adapt to the volatile fluctuations of an open market environment is considered a crucial element with respect to becoming a member of the EU. From the external viewpoint,

regular increases in wages serves to attract foreign investment due to the revenue potential from business operations. This chart presents information on this control:



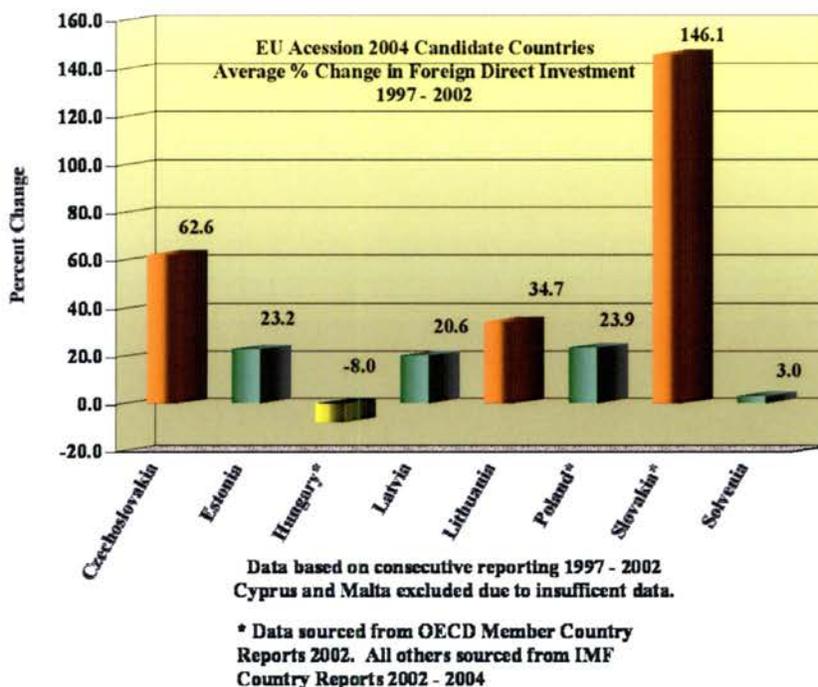
\*Data sourced from the International Monetary Fund database

A third point of interest will be the level of foreign direct investment (FDI). This element of the economic matrix acts as a measure of international confidence in economic performance and political stability.<sup>16</sup> FDI also functions to create new or expand current industries as well as finance deficits in trade balances due to conditions where demand for import products is high.<sup>17</sup> Analysis of FDI trends will be approached from the perspective of a support mechanism in regards to GDP growth.

<sup>16</sup> Grabbe, Heather and Kirsty Huges, "Enlarging the EU Eastwards", Royal Institute of International Affairs London England. 1998, 21

<sup>17</sup> Directorate General for Economic and Financial Affairs, "Economic Forecasts for the Candidate Countries Spring 2003." European Commission Enlargement Papers. No. 15, April 2003. 8

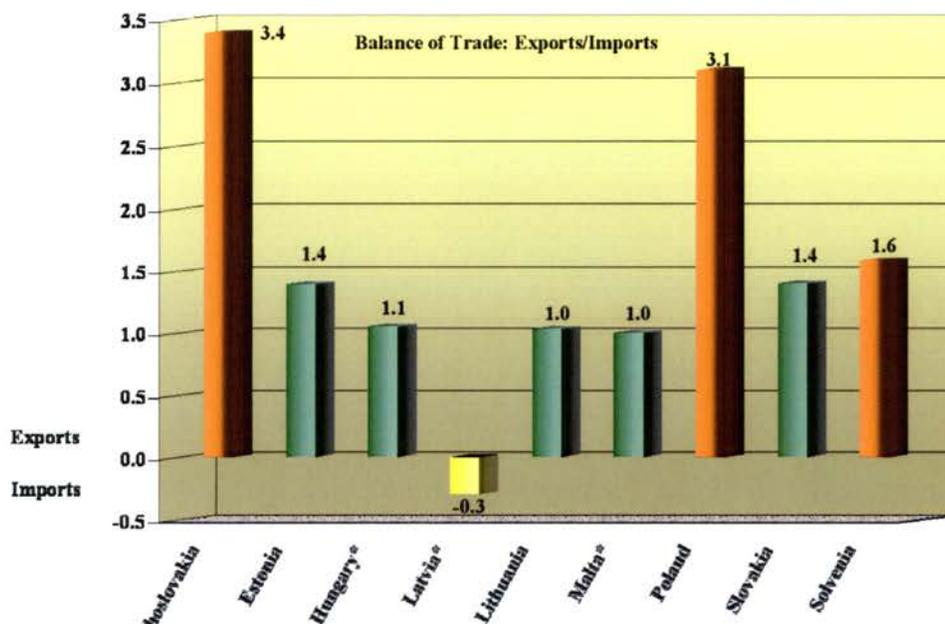
All of the acceding countries are required to participate in the EU's "Phare" program, French for "guiding light," which provides financial assistance for developing institutional and administrative infrastructures and the regulatory frameworks required to support the economic and social cohesion aspects of pre-accession transition<sup>18</sup>. This is inclusive of the Special Accession Programme for Agriculture and Rural Development or (SAPARD) program for agricultural and rural development, and the Instrument for Structural Policies for Pre-Accession (ISPA) for infrastructure development in the areas of transportation and the environment. Support from these programs is designated specifically for the development of governmental infrastructures required to insure compatibility with EU infrastructure and systems; consequently, funding derived from these programs is excluded from the figures for this control presented below.



<sup>18</sup> European Union Enlargement Phare Program, "Phare's Principal Focus", <http://europa.eu.int/comm/enlargement/pas/phare/focus.htm#2.1.1%20Twinning> and <http://europa.eu.int/comm/enlargement/pas/phare/index.htm#what>

Finally, trade balances are considered. This statistic provides perspective as to the overall capacity to interact with global markets. Positive figures in this area are reflective of sound design in external economic policy and its administration. The ability to engage in international trade and maintain a positive balance in respect to exports over imports is highly indicative of a robust economy, which is able to withstand pressure from both external and internal markets.

Of the economic criteria designated for consideration, annual percent change in GDP and Balance of Trade are considered primary elements in the elimination process. As the percent changes in wage growth and FDI function as supporting elements of their respective related indices of GDP and External Trade Balance, these two criteria will be considered with respect to their effectiveness as supporting elements of the other two dominant indices.



Data based on consecutive reporting 1997 - 2002

Data sourced from candidate government statistical offices except where noted\*

Cyprus excluded due to insufficient data

Formula

\*Data sourced from International Monetary Fund Database      Annual change Exports / Annual change Imports

Each of these criteria will be reviewed from the perspective of an aggregate average of the change percentage, measured over a period of time. Raw data was sourced from the government statistical offices of the respective countries except where noted. These figures will provide the basis for assessing the top three performing countries as well as determining each of the identified countries capacity towards effecting a seamless transition into the economic framework of the EU. Evaluation is not intended to serve as a negative reflection on countries not designated as top performers, but rather as an analysis tool from the perspective of the capacity to assimilate into the union with a minimal amount of assistance, and as a mechanism for assessment as to the ease of integration into the EU's infrastructure based upon the established standards. Countries that are not identified among the top three performing candidates certainly have the capacity to integrate, however, due to the performance levels from the economic perspective will most likely require higher levels of assistance, additional transitional agreements and extensions for program implementation.

Evaluation is based on consistency in reporting of economic statistics. Minimum reporting periods were set at 5 years in order to establish an acceptable range for measuring changes in growth percentages within the identified categories for data mining. In this respect, information was inadequate for Cyprus from the perspective of consistent reporting as information for GDP and trade indices were only found from 2001 through 2003. Cyprus did not meet this control and therefore has been excluded from this study. The reasons for this will be addressed separately in the appendix. Malta did qualify for all reporting except for criteria under Foreign Direct Investment (FDI), as the Maltese Statistical Office did not track this information.

In addition to economic success, social and political stability will be used to differentiate the new members. The EU wants to enhance the integration of the European nations and provide the necessary element of economic cohesion in order to initiate and maintain political and social stability to Europe. For all of the acceding countries, integration will assist in buttressing the framework of democracy, insuring that each new member has equal potential to succeed in developing an open and free society.<sup>19</sup>

As with many social structures that currently exist, the cultural diversities can comprise several belief systems. In efforts to establish a political base, this condition can prove to be an obstacle when attempting to develop a consensus within the greater selection of belief systems. Recently, this condition has come to be a primary point of impasse with countries that are experiencing a failed political system. Examples would be Iraq, Afghanistan, Bosnia-Herzegovina.

The EU considers a well designed and functioning political system based upon the rule of law to be a crucial standard for accepting new members into the union. To this end, the EU Council drafted the Copenhagen Agreement to insure that applicant countries have incorporated and support identified minimum standards of democracy in their political framework. This is to insure that each country is prepared to assimilate into the union without issues of disparity that might otherwise jeopardize the potential for successful integration.

The Copenhagen criteria were designed to provide a foundation as well as a point of demarcation from where the associate CEEC countries could advance through the enlargement process. The criterion reflects the basic principles that are considered

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<sup>19</sup> Reimund Seidleman, *European Union and Eastern Europe*, European Union and New Regionalism, ed. Mario Teló (Burlington, VT, Ashgate Publishing, 2001). 192-193

inherent to the foundation of the community and form the basis for the structure of the union itself. They read as follows:

1. Stability of institutions guaranteeing democracy, the rule of law, human rights and the respect for and protection of minorities. *Political requirement*
2. The existence of a functioning market economy with the capacity to cope with competitive pressures and market forces within the Union. *Economic requirement*
3. Ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union. *Community requirement*

Each of these conditions holds significance in respect to a specific sphere of influence, and, therefore, analysis in respect to these criteria will be focused in approach as to the state of implementation and the effectiveness of the efforts toward fulfilling the requirements. As the scope of the pre-accession process covered a wide array of criteria, evaluation will be from the perspective of areas identified where improvement or additional efforts are required in order to become compliant with community legislation or the *aquis communautaire*, henceforth referred to as the *aquis*. Particular attention will be given to the judiciary and administrative capacities of the government, as the Commission applies significant importance on these aspects of accession from the perspective of congruency between member states and the administrative capacity to implement the *aquis*. Areas of primary concern are the levels of implementation of judiciary controls in respect to corruption, fraud and economic crime.<sup>20</sup> As the candidate countries will have already become active members of the EU at the time of this writing, analysis will focus on areas where substantial portions of the criteria noted for membership were not in full compliance at the time of accession on May 1<sup>st</sup>, 2004.

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<sup>20</sup> EU Commission, *Strategy Paper 2002; Towards The Enlarged Union*, European Commission, Brussels, Belgium, September 2002

Compliance with these requirements for many of the associated countries entailed a significant restructuring of government infrastructure. Changing or implementing entirely new agencies within a governmental structure cannot occur without expense. For many of these countries, the financial burden to set this process in motion would be insurmountable. The EU Council and Commission anticipated this situation; therefore, several financial assistance programs were created to aid the acceding countries in developing and implementing the required institutional changes. There are three main programs that were implemented to assist in preparing countries for the integration process:

1. The Phare program, French for “guiding light.”
2. The Instrument for Structural Policies for Pre-Accession or ISPA.
3. The Special Accession Programme for Agriculture and Rural Development referred to as SAPARD.

The programs focus on specific elements of the accession process for each of the candidates and are considered integral aspects of the integration process. In order to have a comprehensive view of the accession process, it is important to understand the basis and operative focus for establishing these systems as elements of the integration process.

The main objective of the Phare program is to insure that governmental institutions are adequately positioned to implement and support Community legislation in an administrative capacity. The program targets restructuring issues that have been specified as priority in the Accession Partnership (AP) for each country. The AP instrument identifies areas that require special focus in respect to meeting the requirements for membership, be it; improving infrastructures in public administrations

or institutions, assisting the candidate in alignment for convergence with EU legislation, or promoting economic and social cohesion. Between 1990 and 1998, this program contributed over five billion euro in assistance funding for improvement programs ranging from public administration, private sector restructuring and humanitarian food aid to approximation of legislation, education and consumer protection.<sup>21</sup> Between 2000 and 2006, it is anticipated that this program will allocate over eleven billion euro in assistance towards improving governmental infrastructures within the candidate countries.<sup>22</sup>

To further the endeavors towards public administration reform within the Phare program, a joint program named SIGMA, was implemented in 1992 with the Organization of Economic Cooperation and Development (OECD). The goal of this program was to leverage the OECD's proficiency in implementing programs for the modernization of general management systems of public institutions, and its collaborative abilities in technology information systems. The objective was to assist the applicant countries in progressing towards greater alignment of government institutions with the adherence to EU standards of rule of law, democratic values and ethics. Funding for this program was predominantly sourced through the Phare program. The mandate in so far as the 8 CEE countries are concerned is slated to expire in 2004.<sup>23</sup>

ISPA focuses on institutional reformation of environmental and transportation infrastructures. This program provides financing and counsel in regards to ensuring that

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<sup>21</sup> EU Enlargement web page, Phare statistics,  
<http://europa.eu.int/comm/enlargement/pas/phare/statistics/index.htm>

<sup>22</sup> Ibid. <http://europa.eu.int/comm/enlargement/pas/phare/focus.htm#2.1.1%20Twinning>

<sup>23</sup> Support for Improvement in Governance and Management in Central and Eastern European Countries (SIGMA Programme),  
<http://europa.eu.int/comm/enlargement/pas/phare/programmes/multi-bene/sigma.htm>

the applicant country is properly aligned with community legislation in the identified areas. The focus of this program follows the same concept as that of the Cohesion Fund, where the goal is furthering the advancement of social unification.

Administrative authority of ISPA is under a directorate of the EU Commission. A decentralization of control for fund management is to be implemented based upon a EU Commission assessment of the individual candidate country's capacities in management, financial control processes and public finance structures.<sup>24</sup>

As part of the restructuring of EU Community policies, the necessity for including provisions for the enlargement process was recognized at the Madrid Council of the European Union in 1995. The council tasked the EU Commission with producing an assessment of the CEEC candidate countries application status along with an analysis of what enlargement would entail for the EU. The Commission submitted its blueprint for enlargement in July of 1997, which is referred to as Agenda 2000.

The new enlargement process created the framework needed for restructuring the EU institutions, which included the Common Agricultural Policy (CAP). It was recognized that the pre-accession programs function as an integral aspect of the enlargement process, and would have to be incorporated into the restructuring process. In respect to the CAP, the program that came about from this procedure was named the Special Accession Programme for Agriculture and Rural Development (SAPARD).

SAPARD was implemented in January of 2000. The mandate is funded and authorized until the end of 2006 and authority is derived from the Agricultural Directorate of the EU Commission. The objective of this plan is to assist applicant

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<sup>24</sup> ISPA Mandate, Programming and Implementation,  
<http://europa.eu.int/comm/enlargement/pas/ispa.htm>

countries with efforts towards adjustments in government administrative sectors in agriculture and the development of rural communities, as well as meeting the requirements for implementing legislation within the CAP in order to meet the requirements of the agricultural section of the *aquis*.

In order to provide a comprehensive perspective to the analysis of the current political state of the new countries, review will comprise the above-mentioned EU community standards in unison with criteria that are considered basic elements of a modern democratic society. The criteria to be reviewed will be approached from the perspective of the current government in place and its relation to characteristics that are reflective of a modern democracy; constitutionally ratified government, stability between the executive and legislative components; is the government a party to any human rights conventions and how are they implemented and enforced? Open and unrestricted access to information systems; are there any independent newspapers, radio and television stations? How many telephone and Internet connections are there in respect to the population? The data obtained from this survey will serve as basis for evaluation of the current social condition of the country and as an indicator to the ease of political integration.

**CHAPTER II: TRAVELING ON UNCHARTED PATHWAYS:  
AN ECONOMIC OVERVIEW OF THE ACCEDING COUNTRIES**

For the new member states, engaging in commerce on the open market is a relatively new experience. Save for Slovenia, Malta and to some degree the Czech Republic, exposure to the free trade environment for these countries has been a developing process for the last decade. This chapter will review some of the main economic indicators in order to develop a perspective on the overall economic stability of each of the new members.

*Czech Republic*

The Czech Republic's economic performance is noted high in all economic categories identified in Chapter I. Average percent rate of change in GDP was at 8.6%, second behind Slovakia. The aggregate in growth in wages over the five-year period reached a substantial level of 11.1 %. The rate of change for FDI was considerably higher than the other candidate countries at 62.4%, again second to that of Slovakia. In the area of external trade, the Czech Republic rated the highest with a positive balance in trade at a 3.4 % rate of increase in exports.

These numbers were taken in favorable view by the EU Commission, which also noted that the demand side of the economy, particularly that of consumption spending from households, experienced a 4% growth rate in disposable income for 2002 as well. Overall growth was attributed to a combination of public and private consumption along

with a high rate of exports. A small trade deficit was financed by high rates of FDI activity during the reporting period of 2002. This coincides well with the reported growth rates depicted in the graph information on exports and FDI inflows.<sup>1</sup>

### *Estonia*

Estonia was one of the top performers in respect to GDP with an overall growth average of 5.3%. However, this was not the case for the other criteria. Wage increases only amounted to an average of 4.31%, ranking in the low median range and trailed far behind Slovenia, the third best performer in this control. In respect to FDI, Estonia did not fair poorly, however, standing was somewhat lower than the third ranking country of Lithuania. In considering trade balances, a trade surplus prevailed in the averages with figures resulting in a 1.4% on the export side of the balance.

Although Estonia exhibited strong performance in GDP growth rates, this was undermined by weak results in wage growth. This piece of the economic growth scheme is extremely important to supporting the demand side of the economic matrix. Without maintaining a steady advancement in wages, it is difficult to maintain the base levels of disposable income required to promote sufficient levels of consumption needed to promote market growth. The EU Directorate General for Economic and Financial Affairs expects that private consumption will recede for the fiscal year 2004 and attributes this to restrictive monetary conditions. This will impart a direct affect for disposable income leading GDP growth to taper but will be carried by external trade.<sup>2</sup>

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<sup>1</sup> Directorate General for Economic and Financial Affairs, "*Economic Forecasts for the candidate countries Spring 2003.*" European Commission Enlargement Papers. No. 15, April 2003, 16

<sup>2</sup> Ibid. 17

### *Hungary*

The economic trend for Hungary is currently experiencing a flat trajectory. The average percent change measured during the period is at 3.6%. This is less than the average growth reported by the Organization for Economic Cooperation and Development (OECD), which brings current economic growth rate in at 4.25 for the 1997-2004 reporting time frame. The OECD maintains that the country is experiencing a strong rate of economic growth and attributes this to the expansion of a large, export sector in combination with increased domestic demand that is supported by an increase in minimum wage levels.

Government statistics indicate that average percent change in wage growth is reflective of this perspective, which in turn, is supported by the EU in their recent assessment.<sup>3</sup> However, given that this growth is predominantly underpinned by export driven production and domestic demand, the foundation lacks the stability that comes from an economy that is supported by production intended for domestic use. Exports are normally excess production that is the byproduct of a highly efficient production process and therefore, are considered to be exterior to the foundations that result from domestic labor in response to domestic demand. OECD analysis is quick to point out that sustained growth patterns need the support of intensive application of labor resources in order to diversify market production and make the economic platform more averse to the risk of market failures in specific industry areas.<sup>4</sup> From the perspective that a demand market receives strong support from

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<sup>3</sup> Directorate General for Economic and Financial Affairs, “*Economic Forecasts for the candidate countries Spring 2003.*” European Commission Enlargement Papers. No. 15, April 2003, 21

<sup>4</sup> Organization for Economic Cooperation and Development, “Economic Survey - Hungary 2004: Key Issues and Challenges”, [http://www.oecd.org/document/8/0,2340,en\\_2649\\_201185\\_25352328\\_70492\\_119663\\_1\\_1,00.html](http://www.oecd.org/document/8/0,2340,en_2649_201185_25352328_70492_119663_1_1,00.html) and statistical graph on *Balance of Trade: Exports / Imports*

consumer consumption, a 17% average in wage increases over a five-year period is impressive performance and places Hungary in a position to be on track for a well established and sustained liberalized market.

In review of the element of FDI as an aspect of the economic structure, Hungary did not perform as well as other acceding countries. An overall net loss occurred with FDI averages for the period in review setting at -8%. This could be attributed to Hungary's policy towards gradual privatization of state owned industry in place of a rapid transitional process. This may have resulted in an interpretation that Hungary was not ready to enter the global market from an institutional position. One perspective that favors this model is that this approach is conducive to ensuring that the correct path for development is pursued from the position of enterprise development and formation of relevant supporting government infrastructures.<sup>5</sup>

In considering the negative trend in the trade balance, Hungary's burgeoning domestic economy has resulted in an increasing demand for imports. However, this has not created a low ratio in the net exports side of the trade balance matrix. This trend is anticipated to improve with the onset of fiscal year 2004 but will most likely require several reporting periods and the implementation of stricter fiscal policies designed at controlling the rate of inflation before a more positive trend in the trade balance becomes evident<sup>6</sup>. The EU perspective of the Hungarian economy is one of skepticism, which is reflected in the 2003 monitoring report.<sup>7</sup>

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<sup>5</sup> The International Monetary Fund, "Transition Economies: An IMF Perspective on Progress and Prospects", November 2000 <http://www.imf.org/external/np/exr/ib/2000/110300.htm#II>

<sup>6</sup>Directorate General for Economic and Financial Affairs, "*Economic Forecasts for the candidate countries Spring 2003.*" European Commission Enlargement Papers. No. 15, April 2003, 20

<sup>7</sup> EU Commission, Comprehensive Monitoring Report on Hungary's Preparations for Membership, (Brussels, Belgium. September, 2003 ). 5

*Latvia*

The economy in Latvia has experienced sporadic growth. Numbers range from -.9% growth in 1995 to an 8.4% increase in 1997 and then a change in direction back down to a 2.8% growth in 1999. The overall average settled at 5% for the control period, which for a country with a population that just exceeds 2 million<sup>8</sup> is impressive in today's global economy. It would not be accurate to proclaim that the trend for growth in the economy is flat nor would it be fair to say that the trend was significantly negative or positive. Given the circumstances, a small nation recently exposed to the liberties inherent to an open market system, to say that the country's economy is in a developmental phase would be a more accurate portrayal of the current situation. In the European Commission's forecast for the acceding countries, the report estimated that a 6% GDP growth rate would be experienced for the 2004 reporting period

Growth rates in wages are reflective of the sporadic nature of the GDP growth in that the average only reached approximately 4%. As previously mentioned, this element of the economic matrix is crucial to sustaining development of any demand economy. A six to seven percent annual increase would be desirable in order to maintain parity with nominal increases in inflation and the general rise in the cost of living standard. A stable rate of growth is unforeseeable unless contributory levels of domestic consumption are able to reach a minimum of 8% of GDP.<sup>9</sup>

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<sup>8</sup>CIA World Factbook on line: Latvia <http://www.cia.gov/cia/publications/factbook/geos/lg.html>

<sup>9</sup> Directorate General for Economic and Financial Affairs, "*Economic Forecasts for the candidate countries Spring 2003.*" European Commission Enlargement Papers. No. 15, April 2003. 23

In respect to external trade, Latvia has a history of maintaining a negative balance.<sup>10</sup> This is fueled by domestic demand for products that are readily accessible on the external markets. According to the EU Commission report on candidate countries economic forecasts, this trend is expected to continue.<sup>11</sup>

Latvia has experienced a pattern of steady but moderate growth in foreign direct investment during the control period. The average rate of growth in this area was 20.6%, which placed performance in the lower end of the median range. This would indicate that economic conditions are not considered stable enough to offset any risk pressure that capital investments would have to incur.

To this concern, the OECD extended an invitation for Latvia to join the OECD's Declaration on International Investment and Multinational Enterprises in February of 2000. This document is a list of recommended shared standards in relationships between multinational corporations and governments. This is designed to ensure that ethical practices are upheld when governments are establishing business relations with corporations that are investing capital directly into a host country's economy.<sup>12</sup> This will provide additional confidence where future investing is in consideration.

### *Lithuania*

Lithuania has been a consistent performer in all areas of the study. Gross Domestic Product and wage growth have received steady support from a steady progression in

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<sup>10</sup> International Monetary Fund, "*Republic of Latvia: Statistical Appendix*", IMF Country Report 03/112, April 2003. 40

<sup>11</sup> Directorate General for Economic and Financial Affairs, "*Economic Forecasts for the candidate countries Spring 2003*." European Commission Enlargement Papers. No. 15, April 2003. 25

<sup>12</sup> The OECD Guidelines for Multinational Enterprises, Revision 2000, <http://fiordilij1.sourceoecd.org/v1=4975139/cl=56/nw=1/rpsv/~6678/v2000n23/s1/p11>

domestic demand. Gross Domestic Product placed fifth in the standings at 4.7% on average, just behind Latvia. This has been attributed to high rates of private and public consumption, a loosening of credit by the nation's banking system, and private companies engaging in increased levels of investment in business ventures during the 2002 fiscal year.<sup>13</sup>

The consistency in domestic demand is attributed by the stable growth in wage earnings. The average for the reporting period attained 16.4%. This rate of increase is considered as a strong contributor to sustained economic growth in a demand market and is a factor that is consistent with the reported patterns in GDP. This economic condition, coupled with presumption that economic policies will focus on maintaining low inflation rates, indicates that the current policies in place are functioning and well managed.

The results for the balance in trade, however is an indication that foreign markets have not taken significant interest in the Lithuanian economy. Exports were at very low levels during the first part of the control period, 1997 and 1998 produced -3.9% and -19% respectively. However, the trend made a remarkable correction beginning in 1999 with a positive trade balance in exports of 26.8% and 20.3%, 10.7% and 24% in the proceeding years. This performance resulted in an overall average of 1% favoring exports.

It seems though that the potential for returns has caught the attention of international investment and has resulted in increased levels of FDI. The rate of change produced in the control period was 34.7%. This trend is linked to the aggressive privatization program that has been initiated by the Lithuanian government.<sup>14</sup> High rates of inflows are originating directly out of EU member countries, from which Sweden seems to be the leading

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<sup>13</sup> Directorate General for Economic and Financial Affairs, "*Economic Forecasts for the candidate countries Spring 2003.*" European Commission Enlargement Papers. No. 15, April 2003. 26

<sup>14</sup> OECD Directorate For Financial, Fiscal and Enterprise Affairs, Working Papers on International Investment, "*Lithuania: Foreign Direct Investment Impact and Policy Analysis*", number 2000/3 July 2000

contributor with an average contribution rate of 15.3% of a total of 1.2 billion invested from 1998 through 2002.<sup>15</sup>

### *Malta*

Malta's economy is largely dependant on tourism, ocean going freight transfer and warehousing, and electronics manufacturing for the European markets. Due to the recent upsurge in terrorist activity, the tourism element of the Maltese economy has been adversely affected. GDP is not expected to rise above 3 to 4% until after 2004.<sup>16</sup> Except for the 6.1% growth attained in 2000, this estimate is in line with the levels reported during the control period. Until either uncertainty in the geopolitical conditions or the demand for the electronics products produces improves, overall advancement of the economy will most likely remain at or below the 3 to 4 percent level.

In respect to growth in wages, Malta's overall reporting resulted in an average rate of 6.9%. This condition however, is being attributed to high levels of employment in the public sector. Employment in this area attributes to 36% of the employed labor force and is considered to be excessive. Due to an anticipated reduction in employment levels in this sector, this trend is expected to reverse.

Trade balances for Malta rested in the median range among the candidate countries. The overall average for the control period reached a positive balance of 0.95%, which surprisingly aligned with some of the larger members of the control group such as Hungary at 0.92% and Poland reaching 0.89%. An anticipated increase in the manufacturing of electronic components is expected to affect a reversal trend in exports and imports, with the

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<sup>15</sup> International Monetary Fund, "*Republic of Lithuania: Statistical Appendix*", IMF Country Report 03/294, September 2003. 18

<sup>16</sup> Directorate General for Economic and Financial Affairs, "*Economic Forecasts for the candidate countries Spring 2003*." European Commission Enlargement Papers. No. 15, April 2003. 29

anticipation that exports will exceed imports, imparting a positive result on the overall GDP trend.<sup>17</sup>

Foreign Direct Investment information was not a tracked component of the Maltese statistical database, nor was it tracked in any available reports from the OECD or International Monetary Fund (IMF), therefore, this element was excluded from the study for Malta. The country does, however, benefit from a vibrant tourism industry. The average percent change in tourist arrivals over the period from 1992 to 1998 was 4.3%, however, after the terrorist acts of 2001, the average in percent change fell to only .3% due to a severe reduction in international travel in 2001 and 2002.<sup>18</sup> In the long-term view, this industry represents a reliable source of revenue to attribute to the overall growth of the economy.

In reviewing the trade balance section of the Maltese economic structure, the margins were usually favoring the side of imports. However, surprisingly the overall average change remained on the positive side of the balance at 1% in favor of exports. This placed Malta in the median range of performance along with Estonia, Hungary, Lithuania and Slovakia. As this is an island nation with much of its domestic demand being satisfied by imports, the notion that imports would consistently favor the deficit side of the balance would not be inconceivable. As can be seen, Malta has demonstrated that this is not a steadfast rule.

### *Poland*

Poland's highly industrialized economy acted as a buffer against the poor external conditions that have plagued the markets of Western Europe for the past three years. This is

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<sup>17</sup> Directorate General for Economic and Financial Affairs, "*Economic Forecasts for the candidate countries Spring 2003.*" European Commission Enlargement Papers. No. 15, April 2003. 30

<sup>18</sup> International Monetary Fund, "*Malta: Statistical Appendix*", IMF Country Report 99/72, August 1999. 63, and the National Statistical Office of Malta, Main Indicators, <http://www.nso.gov.mt/main%20indicators/mainindicators.htm>

not to say that Poland has experienced any significant economic growth, but this condition has provided the capacity to remain insulated from the effects of this economic downturn as industrial production is attributed with promoting the economic recovery that began in 2002.<sup>19</sup>

The overall average for GDP growth during the control period remained at a modest 4.4%. A majority of the countries were able to maintain a balance within the median range from four to five percent. For Poland this meant that they would maintain at least a minimum level of growth, which would give the economy a point of departure for recovery.

It is estimated that the depreciation of the Polish monetary unit, the Zolty, against the EU Euro will provide the needed impetus to restart external demand due to the attractiveness of a lower valued Polish currency on the world currency market. Poland is in real need of external trade in order to defray the losses to the industrial infrastructure and correct the rising trend in unemployment, which has hit a peak of 20% as of 2002. This trend is attributed to industrial restructuring<sup>20</sup>

In respect to the criteria of growth in wage earnings, Poland has suffered setbacks. For the period measured, the average came to -.3%, with the percent change experiencing a downward trend for the past 4 years. In order to support any endeavor towards correcting the current economic trend, a restructuring in wage policy will have to be implemented. As previously mentioned, private consumption in relation to a demand market functions as a solid support mechanism in driving economic growth.

In viewing the balance of exports over imports, Poland fared quite well. The overall average for this criterion was 3.1% favoring exports, which serves as a demonstration to the

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<sup>19</sup>Directorate General for Economic and Financial Affairs, "*Economic Forecasts for the candidate countries Spring 2003.*" European Commission Enlargement Papers. No. 15, April 2003. 32

<sup>20</sup> Ibid.34

capabilities of the manufacturing infrastructure. Exports are anticipated to increase over the 2003-2004 period. The major factor being attributed to this position is an overall improved access to developed economies in combination with the devaluation of the Polish currency.<sup>21</sup>

The FDI control was another area where Poland experienced significant performance. The average for the period reflected a 23.9% growth rate. This would be a high enough level to finance any deficits in trade, should there be a reversal in the current trend. Stable inflows of foreign direct investment act as a safety net for developing economies should there be any occurrence of negative balances in the current account.<sup>22</sup>

### *Slovakia*

The Slovak Republic is an example of the positive conditions that can result through conversion from a command market structure to the full economic benefits that are characteristic of a demand market system. The current economic conditions are attributed to an aggressive privatization program coupled with the subsequent increase in foreign direct investment.

Privatization was a key factor in the economic recovery after the political structure changed to a democratic model. As the new government structure recognized the economic benefit of privatizing government run economies of scale and enterprises, the level of private

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<sup>21</sup> Directorate General for Economic and Financial Affairs, *“Economic Forecasts for the candidate countries Spring 2003.”* European Commission Enlargement Papers. No. 15, April 2003. 33

<sup>22</sup> Kaminski, Bartlomiej and Beata K. Smarzynska, Policy Research Working Paper: *Foreign Direct Investment Integration and Integration into Global Production and Distribution Networks The Case of Poland* World Bank Development Research Group, July 2001

investment surged to 20% during the periods of 1995 through 1998 and again to 16% of GDP between 1999 and 2001.<sup>23</sup>

Conversion of the market structure instilled competition, which is one of the main factors of the open market environment. Interjection of this crucial element into the system fueled the expansion of private demand. As this condition became prevalent within the economic matrix, it in turn prompted an increase in foreign investment and ultimately an apparent potential for growth became a reality. External investment receipts were used to fund public and private debt, as well as financing special development projects. This situation resulted in foreign direct investment to be the primary force in elevating the demand factor during the economic upturn for Slovakia, as it enabled an ever-increasing public fiscal policy without adversely affecting private demand.<sup>24</sup> During the period of observation, FDI reached an overall average percent change of 146.1%.<sup>25</sup> In this area of the study, Slovakia was by far the best performer.

Overall, the primary beneficiary of the aforementioned condition was GDP. The sustained average change in growth for this perspective of the study was 10.5%, placing Slovakia as the top performer in this category. The European Commission has considered GDP to be the main driver behind current economic growth in Slovakia<sup>26</sup>. One of the key factors in attracting foreign investors was that during the early phases of privatization and the ensuing market expansion, was that wage increases were carefully regulated in order to avoid undermining market growth through inadvertent exposure to inflation. If left to

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<sup>23</sup> World Bank Country Study, *Slovak Republic-Joining The EU: A Development Policy Review*. Washington D.C., June 2003. 34-36

<sup>24</sup> Ibid 36

<sup>25</sup> Refer to statistical graph on *Average % Change in Foreign Direct Investment*

<sup>26</sup> Directorate General for Economic and Financial Affairs, “*Economic Forecasts for the candidate countries Spring 2003*.” European Commission Enlargement Papers. No. 15, April 2003. 35

misconceived planning and unmonitored programs in wage increases, a rapid elevation in demand could result in over-expansion in the supply side of the market and a subdued level of development. For investors, minimum wage escalation aided in creating an investment environment that was more averse to risk, therefore, promising a safer and higher rate of return.<sup>27</sup>

Economies are sensitive to the structure of the financial parameters, which have a unique characteristics formed by the conditions under which they function. Therefore, abrupt changes to specific elements of that environment usually result in a reaction in some aspect of these conditions, which at times produce undesirable outcomes. Sound management practices in wage control aided in avoiding inflation creep, which when considering the percent change mean average of .03% for the period from 2001 to 2004, served to promote the upward trend in demand growth.<sup>28</sup> As a result, the average wage increase over the measured period reached the upper median range of 10.5%.<sup>29</sup>

In reviewing performance in trade balances, the trend has not been as significant as those in the other categories. Growth in exports fell during 2002 and was expected to produce a moderate correction in 2003 with further development in 2004. Imports are expected to follow a similar trend for 2003 and 2004.<sup>30</sup> The overall trend for this aspect of the study, Slovakia managed to hold a positive position in export trade, maintaining a 1.4% balance over imports. This situation is attributed to the economic recession experienced by the Western European countries during the 2002 and 2003 time frame.

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<sup>27</sup> World Bank Country Study, *Slovak Republic-Joining The EU: A Development Policy Review*, Washington D.C., June 2003.. 34

<sup>28</sup> Directorate General for Economic and Financial Affairs, “*Economic Forecasts for the candidate countries Spring 2003.*” European Commission Enlargement Papers. No. 15, April 2003. 36

<sup>29</sup> See statistical graph *Average Annual Growth in Salaries*

<sup>30</sup> Directorate General for Economic and Financial Affairs, “*Economic Forecasts for the Candidate Countries Spring 2003.*” European Commission Enlargement Papers. No. 15, April 2003. 35

In the general perspective, Slovakia was able to demonstrate a sound capacity in the management of its economic programs and exhibited that it is capable of creating and maintaining a world-class economy. Slovakia's performance in this area of the study has earned it a position among the upper echelon of the economic performers of the acceding countries.

### *Slovenia*

Since the late 1970's when the Yugoslav government initiated its program of decentralizing the government, this condition combined with a long-standing refusal to align with commercial structure of the Soviet Bloc countries, the Council for Mutual Economic Cooperation (COMECON), Slovenia has established a prolonged history within the economic structure of the Western aligned countries.<sup>31</sup> After the disintegration of the Yugoslav government in late 1989, Slovenia found itself in a precarious situation. Already aligned with the West economically, but still attached to a crumbling political structure, the country was at a crossroads in respect to the direction of its future. Slovenia chose to look towards the West.

The benefits of this decision are evident, as much of the trade activity over the past 30 years has been associated with the OECD aligned countries, more predominantly with those of Western Europe. The infrastructural requirements of this association provided Slovenia with the opportunity to develop a well planned economic system that is focused on the supply and demand model that forms the basis for most of the free market aligned countries.

Keeping this condition in perspective, Slovenia has managed to maintain a GDP average growth rate of 4%. According to EU Commission reports, this trend has been driven

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<sup>31</sup> Whitley, Richard. *Divergent Capitalisms*. New York: Oxford University Press, 1999. 214

by a combination of growth trends in domestic demand and exports.<sup>32</sup> Although this has not placed the Slovenes among the top performers in this category, it did help their economy to maintain a position within the median range between 3.6 and 5.0 percent.

Domestic demand growth was well supported by a high rate of change in wage growth with an overall average increase for this control at 10.5%. This served as a mechanism to drive private consumption, which in turn elevated the demand for imports and ultimately eroded the net export margin to just 3%.

As the majority of the economic indicators reviewed for Slovenia portrayed what seemed to be a vibrant economy, this was not enough to entice an overall upsurge in foreign direct investment. This is not to say that FDI inflows have not occurred over the period in question, however, there has been significant fluctuation in the levels of those inflows. According to information obtained from International Monetary Fund studies, significant drops in the amount of inflows occurred in 1999 and 2001, showing negative inflow rates of -29.3% and -23.7% respectively. For the period measured, an average rate increase 3% was recorded.

Although many of the candidate countries exhibited excellent capacities for being noted as a top performer among the applicants to the EU, economic strength should not be regarded as the single qualifying measure for determining stability. A social order is a complex blending of elements that include political, cultural and ethic factors. Even though a functioning economy plays a significant role the societal matrix, a well-grounded civilization cannot be guaranteed based solely upon economic soundness. In order to effect a fair evaluation, the supporting elements of each candidate's society must be evaluated to

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<sup>32</sup> Directorate General for Economic and Financial Affairs, "*Economic Forecasts for the Candidate Countries Spring 2003.*" European Commission Enlargement Papers. No. 15, April 2003. 37

determine whether the current conditions that exist are conducive to transitioning into the European economic matrix.

Even though the European Union is currently a union of economic systems, there are certain elements of a political nature that are incorporated within the overall structure of the organization. To this end, the European Commission has established minimal standards embodied within the Copenhagen Agreement. This agreement was established in order to ensure that the cohesive elements of a democratic society are maintained. This document serves to propagate a uniformed environment so that all members of the union stand on equal social footing with respect to economic unification. The EU Commission considers this to be a crucial element in the stability of the union and has made compliance with these standards a requirement with respect to fulfilling the conditions for membership.

Evaluation of the Copenhagen Agreement standards will be from the perspective of preparedness. The overall structure and stability of the current political system in place as well as elements that are regarded as essential to the stability of an open society will be analyzed so as to determine the condition of the existing social climate.

**CHAPTER III: DIVERGENT LANDSCAPES:  
A REVIEW OF THE POLITICAL STATE OF  
THE ACCEDING COUNTRIES**

Although the EU was not founded on the premise of political union, a certain degree of sovereignty was relinquished by each of the member states in order to promote cohesion and cooperation between the government systems. The ability to fully integrate is dependent on the capacity to development of cohesive relationships. This section of the thesis will explore the current political situation of each new member from the perspectives of structural development and alignment with the EU established criteria.

*Czech Republic*

In respect to attaining an acceptable level of alignment to EU community policy, substantial progress towards fulfilling the requirements for membership had been achieved in the Czech Republic. Some transitional agreements were granted in significant areas of the *aquis*. However these were not considered to be an impediment in respect to the overall level of compliance to membership requirements or to the standards set forth in the Copenhagen criteria. Other areas are significant, pursuant to meeting the requirements for membership and touch on conditions that are regarded as crucial for alignment, but are not regarded as an obstacle with regards to EU legislation as well as maintaining congruency between the other member states.

In the area of Administrative and Judicial Capacity, the Czech parliament passed legislation creating the Civil Service Act. This piece of legislation created a legal framework to the civil service branch of the government. This served to insure professional standards in the operation of government administration. To advance the concept of professionalism within the administrative body, standards were incorporated to define the salary structure, recruitment and training. This should aid in curbing any issues of corruption and favoritism within the ranks of the professional administration. There is an embedded disadvantage within this program, which is the window for implementation. The Czech Parliament adopted a proposal to postpone enactment into force for this component until January 2005. In addition, the implementation will be incremental over a period of two years from 2005.<sup>1</sup>

This condition diverges from the essence of the accession agreement with respect to ensuring that administrative organizations are prepared to function at a comparable level with similar organizations within the member states. Timely incorporation of this structure would aid in increasing the level of transparency for government action and would produce an increase in harmonization with the existing member states. In the regards to judicial capacity, the EU Commission report calls for reducing the length of time to process through judicial proceedings along with continued pressure to prosecute political corruption cases.<sup>2</sup>

Another problem concerns implementation of the *aquis* where underperformance has been identified and requires additional attention in order to meet the standards set for

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<sup>1</sup> EU Commission, *Comprehensive Monitoring Report on the Czech Republic's Preparations for Membership*, (Brussels, Belgium. September, 2003). 11

<sup>2</sup> Ibid. 13

accession is the area of “free movement of persons.” An issue with mutual recognition of professional qualifications also exists, and standards need to be supported by legislation.<sup>3</sup>

In the agriculture sector, there is concern for the upgrading of agri-food storage facilities in respect to meeting minimum standards for public health in the processing of agricultural products. In addition, the EU wants assurance that in agriculture all members maintain standard levels for health requirements, security and open markets.<sup>4</sup>

The issue of set standards for mutual professional recognition is reflective of the essence of the union itself. If an individual is to enjoy true economic freedom, he or she absolutely must be able to apply his or her trade under the same conditions afforded any citizen of the member states. Any rule that subjects the individual to restricted access to employment or benefits that other comparably qualified persons have, defeats the basic intent of the union itself.

On other political and social conditions that are central for EU integration, the Czech government has maintained stability under the administrations of Vaclav Klaus, who was elected president from 1993 to 1998 and Vlado Ceske who held the position from 1998 through 2002.

The constitution also states in the preamble that the nation is a free and democratic nation founded on the principles of human rights and that it respects the convention of rule of law. The Czech Republic has demonstrated political stability, adherence to the concept of upholding human rights, and a commitment to promoting a social structure that is founded and supported by the tenets of law. It fulfills virtually all

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<sup>3</sup> EU Commission, *Comprehensive Monitoring Report on the Czech Republic's Preparations for Membership*, (Brussels, Belgium, September, 2003).18

<sup>4</sup> Ibid. 24

of the EU requirements that are needed for integration in the EU's social and political tradition.

### *Estonia*

To consider the level of alignment that has been obtained in the relatively short period of seven years since application, Estonia has made great strides towards implementing community legislation. However, there are areas that require further effort.

In the area of Free Movement of Persons, the issue of harmonizing legislation with regards to mutual recognition of professional qualifications is in question. The main field of concern is the health professions in general. The complete alignment in this area of community policy is an essential element to attaining a high level of harmonization.

Another area of concern is the chapter on Social Policy and employment. The implementation process for the minimum requirements in this area of membership is considered to be in a state of default. Legislation concerning revisions to labor laws, the Draft Employment Contract Act and the Social Dialogue Act have yet to reach full implementation and are required in order to align the Estonia's laws with those of the EU Community in respect to "fixed-term work" and part-time workers. An additional point of concern is that legislation supporting equal treatment of women and men in the labor force has not been transposed through the legislation process. From the perspective of the EU Community, this is a serious issue that requires immediate attention.<sup>5</sup>

In review of the Administration and Judiciary requirement, there still remain areas where minimal performance in implementing legislation or policy reform remains

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<sup>5</sup> EU Commission, *Comprehensive Monitoring Report on Estonia's Preparations for Membership*, (Brussels, Belgium, September, 2003). 19, 33

problematic. As concerns administration and the civil service corps, inconsistencies still impede the efforts to improve the transparency for procedures in recruitment, promotion and pay schedules. Fair compensation of employees and transparent operation of all non-security related government actions are integral components to ensuring impartiality in administering duties and also function as a mechanism to deter the encroachment of corruption within the government structure. The implementation of these controls and policies serve to insure objectivity when dealing with administrative issues and are requisite to the proper functioning of a democratic government.

The judicial system has been reinforced under the new Courts Act, which guarantees increased independence within the system. The courts now function as a separate entity from the Justice Ministry, which in unison with the Court Administration Council, now function as the administrative arm of the justice system. The overall judicial process has been bolstered through the restructuring of the penal code as well as a new code of Criminal Procedure that is due to implement in 2004.<sup>6</sup> Areas where additional attention is necessary are; the development of a general training schedule for prosecutors, training in specific areas of EU law such as; corruption, money laundering, human rights law as well as training programs in judicial skills.<sup>7</sup>

Another problem for Estonia is political stability. Since declaring independence from Russia, Estonia has experienced the failure of its government on eleven occasions, occurring under the leadership of no less than seven prime ministers.<sup>8</sup> This is a critical

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<sup>6</sup> EU Commission, *Comprehensive Monitoring Report on Estonia's Preparations for Membership*, (Brussels, Belgium. September, 2003 ). 12

<sup>7</sup> Ibid. 13

<sup>8</sup> The Economist, *Teething Troubles*, Print Edition, February 12<sup>th</sup> 2004, [http://www.economist.com/World/europe/PrinterFriendly.cfm?Story\\_ID=2429078](http://www.economist.com/World/europe/PrinterFriendly.cfm?Story_ID=2429078) and Estonian Government web page, List of cabinets, <http://www.ruk.ee/valitsus/?id=1200>

issue when the requirement for political stability is in question. Stability of the governing infrastructure is a foundational requirement in view of the precepts of the Copenhagen Agreement. If the certitude of the government is in question, so might be the prospect for a seamless transition into the political structure of the EU.

Possible contributing factors might be; remnant political and business ties from the Soviet era, inefficient systems within the current political process or the array of the current party system, which consists of 17 registered organizations.<sup>9</sup> Although this can be viewed as a healthy characteristic of a democratic system, unless the bonds that tie the government together are firmly secured, discord within a seated government body can often lead to the failure of developing political systems, something that the EU would surely want to avoid.

### *Hungary*

Hungary has made methodical progress towards the preparation process. This approach has lead to a considerable realignment of the administrative infrastructure with regards to the aquis. However, there are several areas of importance that require additional attention. Of particular concern is the alignment of the agricultural sector with respect to legislation and infrastructural requirements. Complete implementation of this facet of the common market design is particularly fundamental to participation in the European Union, since the Common Agricultural Policy (CAP) serves as one of the foundational pillars for the integration of the common market economies. At present, Hungary is seriously behind in establishing operations for the financial administration arm of the Agricultural and Rural Development Agency program, referred to as the

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<sup>9</sup> Estonian Government web page, Political Parties, <http://www.riik.ee/en/>

“Paying Agency.” This branch administers funds that are attributed for the subsidizing of agricultural products and rural development. Implementation of the Integrated Administration and Control System is also faltering in the development of its organizational and information technology systems.<sup>10</sup>

The administrative and judicial reforms previously mentioned are also essential to ensure that the government systems meet the established norms of membership. Reform of the administration’s infrastructural system is focused on three specific areas: regional development, local self-government and state administration. Although the infrastructural reforms are nearly completed, the whole process will not be legitimate until elections are held which are not scheduled to take place until 2006.

Although this situation does not necessarily present an impediment to membership, it does, however, present a process obstruction with implementing any future EU legislation that could develop within areas where restructuring is still in progress. Uncompleted reform measures will ultimately act to slow down the implementation processes for pending legislation intended for areas where deficiencies in the administrative structure exist.

In considering the civil service corps, improvements to this aspect of the government are underway. Recent changes include a 50% pay increase designed to maintain equilibrium with the private sector and therefore improve the level of staff retention. An area that requires adjustment is the process for recruitment. Currently, there is no mechanism in place to ensure that candidates best suited for positions are chosen. The optimal method for ensuring that this occurs is to instill a review process

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<sup>10</sup> EU Commission, *Comprehensive Monitoring Report on Hungary’s Preparations for Membership*, (Brussels, Belgium, September, 2003.) 27

based upon open competition. Positions postings should be made available in an open competitive setting where equal access is afforded to candidates with the required credentials and experience.<sup>11</sup>

Training programs for general capacities that address EU related functions within the civil service corps have been initiated and are functioning. Specialized training programs need to be developed in order to support the changing environment that will come with accession. The nature of forthcoming changes will require specialized knowledge in areas such as public administration, fiscal management and budgeting, and statistical data management and forecasting.

The judicial system has undergone some needed revision. The current four-tiered system comprised of local, county, supreme and constitutional courts have been bolstered with the addition of three courts of appeals, located in Budapest, Pec and Szeged. There will also be two new regional courts in Debrecen and Győr intended to be operational in 2005. The new courts of appeal took 13,500 pending supreme court cases, thereby reducing the case backlog by 60% in 2002.<sup>12</sup>

Another aspect to bear in mind is the conditions under which the corps of judges must operate. There are several key factors to consider in evaluating the environment in which this element of the system functions; mandated levels of continued education and training, independence from political influence, adequate support structures that ensure an environment conducive to legal interpretation. To its credit, Hungary is now

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<sup>11</sup> EU Commission, *Comprehensive Monitoring Report on Hungary's Preparations for Membership*, (Brussels, Belgium. September, 2003 ). 12

<sup>12</sup> EU Commission, *Comprehensive Monitoring Report on Hungary's Preparations for Membership*, (Brussels, Belgium. September, 2003 ). 13

recognized among a select group of candidate countries that maintain a high level of independence within its judiciary corps.<sup>13</sup>

As of the end of 2002, 2,643 judges received training in basic EU legislative law with approximately half that number receiving training in their respective areas of expertise.<sup>14</sup> This barely touches the surface when considering the wide array of legal issues that are directly linked to the political and commercial environments. The conditions that surround the functioning of national government and commerce are inherently volatile environments that exist in a constant state of flux. It is essential that the legal interpretations related to these areas remain current in order to maintain the integrity of the operations that occur within these confines. To this point, Hungary is lacking a formal system for providing the training needed for judges to keep abreast of innovations in legal theory. A training institute for judges has been planned for some time, but, issues with financing have proved to be a point of impasse for the fruition of this project.<sup>15</sup>

Another area of focus is the workload that judges experience in the course of trial litigation. Dealing with administrative issues has been determined to be a primary factor in consuming a trial judge's daily workload. To alleviate this problem, the Act on Legal Assistants was adopted in 2001, establishing authorization for the profession of legal assistant. This will allow justices to devote additional attention to case interpretation which will reduce the amount of time required to adjudicate court proceedings.

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<sup>13</sup> Open Society Institute, *Monitoring the EU Accession Process: Judicial Capacity*, (Budapest, Hungary, September, 2002). 23

<sup>14</sup> Ibid. 14

<sup>15</sup> EU Commission, *Comprehensive Monitoring Report on Hungary's Preparations for Membership*, (Brussels, Belgium, September, 2003). 14

A crucial factor in developing and maintaining the precepts of an open society that is supported by the rule of law is the capacity for laws to be applied in an impartial and equal manner, without influential pressures from any of the political or bureaucratic entities that exist within the system itself. To this end, Hungary has set in place a system of safeguards designed to ensure that judges remain impartial with respect to any political party of bureaucratic agency. Judges are neither allowed to be affiliated with any political parties or engage in political activities, nor are they allowed to be involved in business ventures or be a party to a court proceeding were business issues are in question.

The weakness within this system is the fact that there is a lack of transparency where judicial appointments are concerned. The National Judiciary Council proposes justices to the president, who in turn makes an initial appointment of three years. After that the candidate then undergoes a performance evaluation and, upon receiving a favorable response, is eligible for an indefinite appointment. The problem with this system is that the mechanism for the selection process is not apparent to the general public and therefore lacks credibility. All functions within the legal system must be transparent to the public eye in order to maintain the validity of that system.<sup>16</sup>

In the area of combating corruption, Hungary has additional work to be completed. Areas that are particularly susceptible to corruption are low paid government officials such as police, tax and custom authorities. Given the current concerns about international security and terrorism, the need to safeguard against bribery of customs officials should be a priority.

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<sup>16</sup> EU Commission, *Comprehensive Monitoring Report on Hungary's Preparations for Membership*, (Brussels, Belgium. September, 2003 ). 13

In order to ensure that corruption is kept in check, an independent investigative body should be put in place with no other focus than to fight and investigate corruption. At present, this responsibility has fallen to the Central Investigation Office, which functions as the investigative arm of the Public Prosecution Service. This office holds approximately 285 positions that support anti-corruption efforts. However, corruption investigation is not its sole function. In addition, current laws provide for an array of immunity conditions that apply to judges, politicians and prosecutors.<sup>17</sup> This flaw is in direct conflict with anti-corruption programs such as the “glass pocket program” that is designed to make public expenditure programs transparent.

The practice of paying “gratuities” to obtain services that normally would only require a regular payment is also becoming an issue. The occurrence of this behavior has permeated into sectors such as, health care, business, and most alarmingly, customs, the Parliament and in various ministry offices.<sup>18</sup>

The corruption issue for Hungary will undoubtedly remain a factor beyond accession and will have to be watched closely within the confines of the bureaucracy and political environments. As embedded as is, corruption and its various forms will take several years, if not decades, to be removed.

In respect to the four pillar areas of the community acquis: free movement of goods, persons, capital and the freedom to provide services, Hungary is essentially meeting all of the criteria set forth.

Hungary seems to be well adapted to the precepts of democratic society, save for transparency issues regarding financial corruption and selection processes in the civil

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<sup>17</sup> EU Commission, *Comprehensive Monitoring Report on Hungary's Preparations for Membership*, (Brussels, Belgium. September, 2003 ). 16

<sup>18</sup> Ibid. 15

service and judicial corps. It has a well-developed level of integration with community legislation except were noted regarding administration issues in the agricultural sector. Although these problems may seem slight in comparison to the overall achievements in relation to the Copenhagen Agreement, they block the general spirit of the community and weigh heavily on the ability of Hungary to fully integrate itself with the EU community structure.

### *Latvia*

Since the initiation of accession negotiations in 2000, Latvia has made considerable progress towards the goal of membership. A high level of alignment was attained through legislative and administrative reforms. As application for membership was only submitted in 1995 and the decision to establish normalcy of relations through the accession agreement was entered into force in February of 1998, Latvia has been successful in preparing for membership in a relatively short period of time.<sup>19</sup> The progress had come along so well that while at the Commission meeting in Brussels held in April of 1999, then Commission President Jacques Santer told Latvian Prime Minister, Vilas Kristopans, that if reforms maintained the present course, Santer could recommend that accession negotiations begin in October of that year.<sup>20</sup> Given the inherent complexity that accompanies an endeavor of this extent, it would be expected for deficiencies to exist in certain areas. Under the purview of Administrative and Judicial affairs, there are procedural and policy issues that still require additional assessment and restructuring.

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<sup>19</sup> European Union *Country Profile of Latvia, EU - Latvia Relations*, <http://europa.eu.int/comm/enlargement/latvia/index.htm>

<sup>20</sup> Micheal J. Baun, *A Wider Europe: The Process And Politics Of European Union Enlargement*, (Lanham, Maryland: Rowan and Littlefield, 2000), 121

In review of administrative capacities, there are conditions within the civil service with respect to transparency that require new policy implementation. Restructuring of the salary scheme to make it more unified across all levels of the civil service environment is needed to bring this area of the government in line with other member states. Transparency in the judicial review process for administrative action, which falls under the new Law on Administrative Procedure, needs to have a mechanism in place to ensure that review information is made available for public inquiry.

Further to improving the level of transparency, the realignment of state agencies to become public agencies rests as a responsibility of the State Chancellery. According to the EU monitoring report for accession preparation, only 70 of 170 agencies have completed the transition process. This creates a compatibility issue with other member states in respect to fostering an environment that is conducive to effectively processing and implementing EU legislation. The process for creating a more functional territorial administrative structure has reached an impasse. The original intent was to create a system much like that of municipalities; however, this has been rescinded for a design that is closer to that of regional governments<sup>21</sup>

Many analysts have concluded that the Latvian judicial system must undergo reform if the country is to fully integrate with the EU. The rule of law stipulation under the Copenhagen Agreement is a hard-fast requirement. The issues surrounding the status of the judicial system are systemic in nature. Administrative capacity, professionalism in management systems and issues with competency in support staff have a direct effect on

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<sup>21</sup> EU Commission, *Comprehensive Monitoring Report on Latvia's Preparations for Membership*, (Brussels, Belgium September, 2003.) 11, 12

how the judiciary is perceived by the populace at large.<sup>22</sup> To be compliant, the judicial system must be configured in a manner that is congruent to encouraging the development of an open society environment. Legislative acts have been drafted with a focus to this end, however the adoption of these acts has reached an impasse.

The Law on Judicial Powers act is designed to bring the system in line with EU standards by providing for the division of powers and a greater level of independence for justices as well as facilitating the redistribution of power between the courts, the newly established Judicial Council and the Ministry of Justice. This division of power will function as an internal check and balance system designed to prevent the localization of power within the system. The pivot point on implementation seems to be that current administrative capacities are not sufficient to provide the structural support required to maintain the equilibrium of the system.

The draft on Criminal Procedural Law is focused on streamlining court procedures in processing criminal cases. This is to be effected through procedural revision of juvenile case administration, extending the option of alternative penalties and reducing the docket backlog.<sup>23</sup> Another area of particular concern is the selection and promotions process. There is seemingly neither defined criteria to support this process, nor is there procedural transparency. This leads many to question the level of objectivity regarding nomination and approval for a position, which are precepts that define a democratic society.<sup>24</sup>

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<sup>22</sup> Open Society Institute, *Monitoring the EU Accession Process: Judicial Capacity*, (Budapest, Hungary, September, 2002), 123

<sup>23</sup> EU Commission, *Comprehensive Monitoring Report on Latvia's Preparations for Membership*, (Brussels, Belgium September, 2003.) 13

<sup>24</sup> Open Society Institute, *Monitoring the EU Accession Process: Judicial Capacity*, (Budapest, Hungary, September, 2002), 125

The realization of these measures alone will not assure complete alignment to the EU standards. However they are significant in that implementation will set the precedent for change within the system. The initiation of these changes will provide a valuable impetus to developing a more comprehensive approach to modernizing the judicial system and furthering alignment of the overall governmental system with EU community practices.

Concerning corruption, some measures have been taken to improve the legal authority of the government. The newly founded Corruption Prevention and Combating Bureau (CPCB) drafted a strategy paper with a view to preventing, detecting and combating corruption. Legislation has been enacted to empower the CPCB with capacity to initiate investigations where cases of corruption are suspected within the public sector. This capacity includes as well validation of income and asset declarations made by public officials. Revisions to the Administrative Violations Code have also empowered the CPBP with the authority to impose fines on political parties where violations of political financing laws are breached.

Corruption in Latvia, embedded within political and governmental systems, compromises the core of democratic government systems. It directly undermines the basic values of democracy because the behavior itself is done at a cost to its foundation, which is the trust that everyone under the purview of this system has openly conveyed. The fact that the CPCB has already initiated five criminal cases against ranking government officials and requested the courts to suspend the political activities of eleven

parties demonstrates that this type of behavior is deeply ingrained within the system structure and will take considerable effort to eliminate.<sup>25</sup>

In summary, Latvia is aligned with the EU on most issues, but there are important exceptions. Corruption is a reality and needs to be addressed. In addition, Latvia is non-compliant with credentialed professions, specifically in the health care professions. Training programs in these areas will be needed to meet EU minimum standards.<sup>26</sup> Problems are also apparent in such activities as investment, securities and insurance fields services offering data and information services, and money laundering.<sup>27</sup>

### *Lithuania*

After five years of preparation under the status of applicant country, Lithuania entered into accession negotiations with three other candidate countries in March of 2000. After the accession agreements were finalized, steady progression was made in regards to preparing for membership. The only major issue that arose during this period was that of nuclear safety. This concerned the government's inability to establish a timeframe for decommissioning the Ignalina nuclear power plant, which the EU Commission called for as a stipulation to the accession agreements.<sup>28</sup> As of the current writing of the EU monitoring reports, this issue has been satisfactorily addressed in that

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<sup>25</sup> EU Commission, *Comprehensive Monitoring Report on Latvia's Preparations for Membership*, (Brussels, Belgium September, 2003.) 14

<sup>26</sup> Ibid. 19

<sup>27</sup> Ibid. 48

<sup>28</sup> Baun, 2000. 102, 121

the government has made a commitment to closing the #1 reactor unit by year-end 2004 and the #2 unit by 2009.<sup>29</sup>

In respect to the level of reform in the public sector, a high degree of success has been achieved. The civil service corps is supported by a well-defined legal framework, The 2002 Civil Service Law, which provides for increased levels of political neutrality, equality and transparency within the civil service administrative structure. This covers all aspects of the system; recruitment and examinations, performance evaluations and remuneration.

The infrastructure for public administration is supported under new legislation as well. The Department of Public Administration falls under the purview of the Ministry of the Interior. This agency is responsible for drafting new policy proposals and implementing legislation, approving training programs and maintaining the roles of the civil servants. The existence of this institution will aid in maintaining standards for civil service professions as well as ensure that development of new branches of the civil service corps progress in line with established standards.<sup>30</sup>

The judicial system has undergone considerable reform due to a constitutional ruling in 1999 whereas numerous provisions within the Courts Act were declared unconstitutional. In 2002 two new laws went into effect, the revision of the Courts Act and the National Court Administration Act. These new laws furthered institutional independence through the creation of new administrative agencies within the courts system. Of particular importance is that under the revised Courts Act, a continuing education program is mandated where sitting judges must attend training at least once

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<sup>29</sup> EU Commission *Comprehensive Monitoring Report on Lithuania's Preparations for Membership*, (Brussels, Belgium September, 2003), 36

<sup>30</sup> *Ibid.* 11

every five years or if there are significant changes to laws.<sup>31</sup> The Council of Courts is responsible for establishing budgets, evaluation of staffing needs, and developing and setting administrative standards. The National Court Administration has the burden of daily administration of policy and procedures at the national level, implementation of council direction and providing research and analysis services to the council.<sup>32</sup> These reforms will serve to improve the independent status that a courts system requires in order to maintain autonomy in order to provide the optimal level of unbiased interpretation of the law, a key factor in a system that is gauged by the standard of rule of law. Effective implementation of administration programs and policies that are designed to promote and improve conditions of professionalism within the judicial system will be the decisive factor in the overall success of the administrative reform.

In reviewing the issue of anti-corruption, there seem to be problem areas within the political and civil service environments. The Lithuanian government openly admits that problems exist, particularly with the customs, public procurement, police and health care sectors.<sup>33</sup> Several programs and legislative acts have been initiated in order to address the problem; examples include the establishment of ethics and conduct codes for customs officials, politicians and civil servants. Additional measures have been introduced through interagency agreements between police, customs, the Special Investigations Service (SIS) and the Financial Crime Investigation Service to create mechanisms for sharing information in corruption related investigations.

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<sup>31</sup>Open Society Institute, *Monitoring the EU Accession Process: Judicial Capacity*, (Budapest, Hungary September, 2002), 145

<sup>32</sup> Ibid. 140-141

<sup>33</sup> EU Commission *Comprehensive Monitoring Report on Lithuania's Preparations for Membership*, (Brussels, Belgium September, 2003). 13

Lithuania is as well a party to several international conventions that promote anti-corruption measures; reference can be made to the Baltic Anti-Corruption Initiative (BACI) under the direction of the OECD Secretariat, and the Council of Europe's Group of States Against Corruption (GRECO).<sup>34</sup>

The condition of membership to anti-corruption conventions and the establishment of internal policies and procedures are not in and of themselves enough to ensure that corruption is kept in check. This requires application of the principals incorporated within these instruments in order to provide an effective response to this problem. Issues of corruption should be addressed in a deliberate fashion without delay or special consideration with respect to those involved, nor the circumstances in which they occur. Currently this is an area of concern for the government of Lithuania, with the unfolding of recent events concerning the presidency of Rolandas Paksas.

Through the efforts of a parliamentary inquiry, investigations of President Paksas' office revealed instances where personal friends, who had been appointed to positions of official influence, were offering access to political favors in return for monetary consideration. It was also determined that some of these officials had known links with organized crime activity and possibly elements within the Russian Secret Service.<sup>35</sup> Paksas was eventually removed from office through impeachment proceedings on April 6 2004. The occurrence of this situation speaks directly to the question of internal stability within the ranks of executive level government and to the pervasiveness of corruption at executive levels.

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<sup>34</sup> EU Commission *Comprehensive Monitoring Report on Lithuania's Preparations for Membership*, (Brussels, Belgium September, 2003). 14

<sup>35</sup> The Economist, *Teething Troubles*, February 12<sup>th</sup> edition, 2004, [http://www.economist.com/World/europe/PrinterFriendly.cfm?Story\\_ID=2429078](http://www.economist.com/World/europe/PrinterFriendly.cfm?Story_ID=2429078)

Lithuania took an aggressive approach towards restructuring for alignment with community policies. The government is essentially prepared to assume the obligations of membership in all but a few areas. In the pillar sector, free movement of persons, the issue of mutual recognition of professional qualifications is not fully aligned with community standards. This is directly focused on the requirement for coordination of training in the health care professions and also in the field of architectural design. In the chapter on Fisheries, it has been noted that government structures necessary for the inspection and control of fishing vessels is seriously undermanned for the number of fishing vessels currently in operation, 71 registered vessels operating on the Baltic Sea and 25 ocean going ships for commercial purposes.<sup>36</sup>

When considering the current state of international security, it is extremely important to have a security infrastructure that is established and prepared to deal with internal and external issues. The chapter on Justice and Home Affairs is the sector within the aquis that addresses security. Although Lithuania meets a great portion of the criterion, there are several provisions, which are only partially complete.

In respect to border security, there are several issues that need to be addressed in order to bring current procedures and systems in line with EU standards. Some of the areas that require additional work are visa policy; where the immigration system requires either upgrading or the installation of new information technology systems in order to facilitate communication with the current EU immigration systems, modernization of external border posts, the establishment of a national visa registry to monitor border crossings, recruitment of additional staff, and training.

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<sup>36</sup> EU Commission *Comprehensive Monitoring Report on Lithuania's Preparations for Membership*, (Brussels, Belgium September, 2003). 29

In the concern for measures to combat terrorism, alignment is still needed in areas such as mutual assistance in situations where acts of international crime transit borders of member states. In respect to dealing with money laundering and corruption, revision to current legislation is still needed with regards to seizure of assets used in or obtained through criminal acts. Legislation that supports judicial cooperation in civil and criminal cases still needs to be completed.<sup>37</sup>

To some, many of the issues noted here might seem insignificant in respect to the larger scheme, representing only a small aspect of the overall design. In reality, they are integral components that help to bind the system and that when finally brought together, facilitate the structural unification that comprises the European Union.

### *Malta*

The island nation of Malta has been a constitutionally based republic since 1974. Original application for associate member status was first entered into in 1971. Application for membership occurred in July of 1990 but put on hiatus in 1996. The process was re-initiated in 1998 and culminated in February 2000 with the signing of the accession agreement partnership.<sup>38</sup>

Malta is somewhat challenged with respect to the capacity to develop a comprehensive market economy. There are no known natural sources of raw materials for manufacturing, very little in the way of industrial infrastructure and the economic basis for this society centers on tourism, service industry, storage facilities for ocean

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<sup>37</sup> EU Commission *Comprehensive Monitoring Report on Lithuania's Preparations for Membership*, (Brussels, Belgium September, 2003). 46-48

<sup>38</sup> EU Commission, *History of Relations with Malta*,  
<http://europa.eu.int/comm/enlargement/malta/index.htm>

going cargo and maritime repair facilities in the form of shipyards and dry docks. These facts, actually helped Malta prepare for alignment with the EU. Since the market economy was limited to the opportunities that were available, the broad governmental support structures that exist in more developed market economies did not exist in Malta. Therefore, alignment with the aquis in respect to the pillar criteria and other sectors has not been as invasive as it has for other countries. The administrative capacities and judiciary sectors have experienced the same favorable conditions.

The level of alignment that Malta has achieved is an impressive accomplishment. The civil service corps has undergone a complete and comprehensive redesign. The public service system is administered by the Public Service Commission (PSC), which acts under constitutional authority. The PSC is responsible for all appointments, promotions and removal of civil servants. The operation of these acts is governed by law, which provides for the open and competitive selection of candidates. Recruitment procedures, salary structures and career path management are supported by clearly defined standards of operation.<sup>39</sup>

The Maltese government has maintained a perspective of improving service levels through modernization. An example of this is the implementation of a public portal system that uses remote Internet kiosks to provide direct access to government services. This service has been augmented to provide access to wireless phone systems in order to greater accessibility to the populace in general. The design and implementation of this system reflects an innovative perspective on the behalf of the government as only 15% of

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<sup>39</sup> EU Commission *Comprehensive Monitoring Report on Malta's Preparations for Membership*, (Brussels, Belgium September, 2003). 12

the population maintains private internet access accounts and 51% of the population have either regular or mobile telephone access.<sup>40</sup>

Transparency in government operations has been improved through the use of independent internal and external audit systems. This facet of operations is managed by the National Audit Office, which reports to the parliament and the Internal Audit and Investigative Directorate, which reports to the president's cabinet offices. An Office of the Ombudsman was established in 1995 to advocate the rights of individuals in respect to dealing with offices of the public service.<sup>41</sup>

When reviewing the judicial system, one has the impression that it was modeled after that of a federalist system. The judiciary is a separate branch of the government empowered under constitutional authority, as is the Parliament and the Executive branches. The constitution affords sole authority to the president for appointment and removal of justices. Petitions for removal must come from the House of Representatives with a two-thirds majority vote.<sup>42</sup>

In respect to training of the court staff, new initiatives have been made in integrating case management processes and information technology systems. A training academy has been created to provide instruction in areas of management, legal and practical concerns related to court staff as well as courses designed to keep justices updated on new and amended legislation.<sup>43</sup>

As concerns anti-corruption, this is where the trend in progress takes on a different perspective. Although actual instances of corruption were minimal, the severity

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<sup>40</sup> See Democratic Society Indicators Matrix, appendix. 85

<sup>41</sup> EU Commission *Comprehensive Monitoring Report on Malta's Preparations for Membership*, (Brussels, Belgium September, 2003). 12

<sup>42</sup> Ibid 13

<sup>43</sup> Ibid. 14

and level at which the corruption occurred were considered grave and involved a chief justice and another from a lower court. The fact that this occurred is comprehensible given that at the time of the event, Malta had no anti-corruption program in place.

Investigating acts of corruption involving government officials is now the responsibility of the Permanent Commission Against Corruption. It derives authority from Act 22, chapter 326 of the Laws of Malta. Under this act the body answers to no other authority than itself, it is wholly independent in its operation and has the power to investigate any elected or appointed administrative officials as well as any government department be it ministerial or local government. The commission also has the authority to review and recommend changes to work process that are either at risk to corruption practices or that promote corruption. Findings from these investigations are reported directly to the minister for the Justice Department.<sup>44</sup>

In review of the four pillars criterion, most of the administrative or structural stipulations have been adhered to or are in place in all four areas. What remains in some instances is the final adoption of legislative directives in transposing the aquis into the appropriate legislative acts. There do exist however deficiencies within the sector elements of the agreements.

Malta has had a long history as a port of call for ships transiting the Eastern Mediterranean Sea. Naturally this has led to a well-developed infrastructure in the shipbuilding and repair industry. While under British control, the Malta Dry Docks were built to service the British Naval Fleet. After independence acceded from Britain, the docks came under state ownership with the right of self-management.

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<sup>44</sup> Maltese Ministry Of Justice, Commission Against Corruption,  
<http://www.justice.gov.mt/commcorr.asp>

As the ship repair industry is highly competitive in Mediterranean, dock operations have been heavily subsidized with government aid.<sup>45</sup> Alignment with the Competition Policy of the accession agreement entails restrictions regarding state aid and that all State Maintained Enterprises (SME's) are to be phased out to private ownership by an established date. Malta was directed in the accession agreement to initiate a restructuring program designed to transfer legal proprietary of the Malta Dry Docks and Malta Shipbuilding enterprises to private ownership. Restructuring was to be facilitated through a one time, comprehensive aid package granted by the EU<sup>46</sup>. As of September 2003, according to the EU Commission, no progress had been made in this area. This creates an issue with regards to other member states that have dissolved the capacity to subsidize in this industry and therefore, are subjected to an unfair disadvantage in regards to competition in the shipbuilding and repair.<sup>47</sup>

In the Agricultural sector, deficiencies exist with establishing administrative structures for operating the Paying Agency for agricultural production, importation and export of agricultural goods. Indirectly related to this issue but no less significant, is the installation of the Integrated Administrative Control System, the information technology system which is used to monitor and track production and trade throughout the EU. In the subsection of Veterinary and phytosanitary requirements, the construction of

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<sup>45</sup> International Monetary Fund, *Malta: Statistical Appendix*, IMF Country Report 99/72, August 1999. 17

<sup>46</sup> EU Commission, *Treaty of Accession, Act of Accession, Part Four: Temporary Provisions, Title 1: Transitional Measures, Annex XI: transitional measures for MALTA*. Athens, Greece

<sup>47</sup> EU Commission, *Treaty of Accession, Act of Accession, Part Four Temporary Provisions, Title 1 Transitional Measures, Annex XI transitional measures for MALTA*. Athens, Greece April 2003 [http://europa.eu.int/comm/enlargement/negotiations/treaty\\_of\\_accession\\_2003/treaty\\_accession\\_28.htm](http://europa.eu.int/comm/enlargement/negotiations/treaty_of_accession_2003/treaty_accession_28.htm)

incineration plants for animal waste and unusable by products is considered to be in a state of non-compliance.<sup>48</sup>

In the area of Transportation, Maltese-flagged vessels have been noted to fail safety inspections and be detained at ports of call on an average of 7.4% in comparison to EU flagged vessels at only a 3.5% failure rate. As a result of this condition, Maltese vessels have been blacklisted and placed on a watch list known as the Paris Memorandum of Understanding. The existence of this condition is regarded as negligence on behalf of the Maltese government for not enforcing tighter safety restrictions on its merchant marine fleet.<sup>49</sup>

Taking in all considerations, Malta seems to have made considerable progress in restructuring the government in order to prepare for accession. The areas of the judiciary, public administration and the aquis itself are well established in regards to meeting the Copenhagen criteria. The political structure is sound in its operation and the society generally seems to be content with the social structure.

### *Poland*

Poland gained freedom from Communist rule in 1989, when its first free elections were held since the post World War II era. This was the result of the struggle that began with the Solidarity movement in 1979. Application for accession was submitted in 1994. The central government is formed on a constitutional republic platform with authority derived from consent of the people. There are three branches of administration at the

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<sup>48</sup> EU Commission *Comprehensive Monitoring Report on Malta's Preparations for Membership*, (Brussels, Belgium September, 2003). 26

<sup>49</sup> *Ibid.* 29

central level, executive, judicial and a bicameral legislative structure.<sup>50</sup> Regional and local government is formed on a three tiered structure; Voivodships (regional), Powiaty (county) and Gminy (municipalities).<sup>51</sup>

It is evident that the Poles were enthusiastic about reforming their government after gaining their freedom from the Soviet Union; however, this newly found freedom seems to have become somewhat problematic with respect to political stability. Since 1993, Poland has managed to go through eight government coalitions.<sup>52</sup> The political factions within Poland have discovered the power of political leverage through the use of voting blocks.

On March 25<sup>th</sup>, 2003, a faction of Poland's Lower House split from the Democratic Left Alliance (SLD) and formed a new party, the Social Democracy of Poland (SDP). The leader of the faction is the speaker of the Lower House, Marek Borowski. At the announcement for the creation of the new party, Borowski stated that the SDP would support the SLD only if they were to withdraw support for the current Prime Minister, Leszek Miller. Without the support of his party, Miller, facing an ever-growing unpopularity, was forced to resign.<sup>53</sup> Although the political process is definitely functioning in Poland, the turn of recent events combined with a sluggish economy could lead to further destabilization within the Polish government.

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<sup>50</sup>CIA World Factbook on line: Poland

<http://www.odci.gov/cia/publications/factbook/print/pl.html>

<sup>51</sup> EU Commission *Comprehensive Monitoring Report on Poland's Preparations for Membership*, (Brussels, Belgium September, 2003), 14

<sup>52</sup> The Economist, *Happiness Begins Abroad*, March 11<sup>th</sup>, 2004.

[http://www.economist.com/agenda/displayStory.cfm?Story\\_id=2502990](http://www.economist.com/agenda/displayStory.cfm?Story_id=2502990)

<sup>53</sup> The Economist, *Poland's Miller Waves Goodbye*, March 31<sup>st</sup>, 2004

[http://www.economist.com/agenda/displaystory.cfm?story\\_id=2550211](http://www.economist.com/agenda/displaystory.cfm?story_id=2550211)

The overall structure and legislation to support the civil service corps is in place and congruent with EU standards. The system is supported by the Civil Service Law, which has been in force since 1999 and clearly defines recruiting procedures, employment, salary conditions and the basic responsibilities of employees. There exist however, issues with full implementation due to problems within the system itself.

Full implementation of the law is stalled by a condition of politicization that permeates throughout the managerial and executive levels of the structure. At the root of the issue is that the majority of positions are by direct appointment. This practice is directly preventing the establishment of a fully professional civil service due to the lack of appointments through open competition. An amendment introduced in 2002 would have enabled appointments to senior posts for candidates applying from outside the civil service system would have improved conditions for creating a viable professional atmosphere within the structure; however, the measure did not pass through legislation because the Constitutional Tribunal intervened with a ruling that deemed the amendment unconstitutional.<sup>54</sup>

Public administration is one of the constitutional responsibilities of the Prime Minister.<sup>55</sup> The supporting legislation is in effect, however there is no legislation that standardizes operational procedures for the civil service. As a result of the atmosphere of politicization the overall structure is segmented which results in an incongruent process were policy and planning is concerned. This situation also creates a condition that inhibits inter-agency coordination or collaboration. As well, there is no defined purview

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<sup>54</sup> EU Commission *Comprehensive Monitoring Report on Poland's Preparations for Membership*, (Brussels, Belgium September, 2003), 13

<sup>55</sup> The Constitution of the Republic of Poland, art. 148.  
[http://www.trybunal.gov.pl/eng/Legal\\_Basis/legal\\_basis.htm](http://www.trybunal.gov.pl/eng/Legal_Basis/legal_basis.htm)

with respect to accountability for actions, which promotes an unwillingness to assume responsibility at the appropriate level.

The laws requiring transparency in public administration are in place. However, the basis of these laws include elements of other laws that inhibit full performance because they restrict access based on the grounds of confidentiality and the requirement for establishing the need for access. This condition is in conflict with the spirit of open government and will only serve to inhibit the development of effective administration.

Although much of the required structures may be in place, there are serious issues with the methods and process that are utilized by the Polish administrative system. In order to effect a complete and functional transition to the EU model, politicization within the executive and managerial ranks of the civil service will have to diminish considerably before relations with the other member states will be able to normalize.

In view of the reform process for the courts system, EU monitoring notes that progress in this area is lacking continuity. In order to attain a level of autonomy in procedure that is comparable to that of current member states, Poland's revision of the judicial system needs to be comprehensive and wide ranging. Instances of innovative, specified changes, although important in obtaining the goals of the overall scheme of modernization, are minute in as far as the significance towards complete and measurable effects. The development an autonomous administrative system for the judiciary should be regarded as the primary objective in the modernization process.

There are several areas within the justice system that clearly require restructuring or removal from the operating environment. Currently, the judiciary relies on the Ministry of Justice for administrative support. This creates the opportunity for

interference in case adjudication and exterior influence factors in legal interpretation. This condition also introduces transparency issues with regards to operations and financial management.<sup>56</sup> In respect to clear definition of responsibility, there is no legislation that defines the separate obligations of the Attorney General and the Minister of Justice. The office of any public prosecuting attorney should be clearly independent of any bureaucratic influence. Judges, both sitting and retired, are afforded penal immunity under the constitution in both public capacity and in private life. This privilege can only be rescinded by a Collegium of judges under which the conditions are vague.<sup>57</sup>

The legal aid system suffers from lack of development and legislative support. The procedures for monitoring performance are ambiguous, and are not transparent. There is no form of comprehensive training system. A procedure for facilitating promotions is non-existent; justices must apply for higher-level positions, as any other candidate would do.<sup>58</sup>

The aforementioned conditions suggest credence with respect to the overall public opinion that the judiciary suffers from corruption, lack of funding and inefficiency.<sup>59</sup> If Poland is to function as a fully aligned member of the EU, these issues concerning judicial capacity should be rectified without delay. The basic foundation of a functioning democracy is the effective, efficient and impartial application of the laws, which function to provide a societal framework. The current situation of Poland does not reflect this view.

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<sup>56</sup> Open Society Institute, *Monitoring the EU Accession Process: Judicial Capacity*, (Budapest, Hungary September, 2002), 155

<sup>57</sup> EU Commission *Comprehensive Monitoring Report on Poland's Preparations for Membership*, (Brussels, Belgium September, 2003), 15

<sup>58</sup> Open Society Institute, *Monitoring the EU Accession Process: Judicial Capacity*, (Budapest, Hungary September, 2002). 160-161

<sup>59</sup> *Ibid.* 157

The general perspective about corruption is that it is a basic element of the social matrix in Poland. It is perceived as a standard facet of politics and is deeply ingrained within the government system at all levels. The lack of enthusiasm with respect to initiating viable programs designed to root out corruptive practices seems to reflect a casual attitude regarding this subject.

In September of 2002 the Council of Ministers initiated a program for fighting corruption known as the Anti-Corruption Strategy. In this document, the government officially recognizes the existence of corruption and is cognizant of the threat that it conveys against development. It focuses on identifying, revising and or eliminating regulations and processes that promote conditions favorable to corrupt practices. The fact that the number of public officials removed from office for corruption violations remains steady; along with the failure to pass legislation required to implement processes for anti-corruption reform, would indicate that efforts in this area are falling short of being successful.<sup>60</sup>

In respect to the *aquis*, Poland is essentially meeting the requirements except for areas in three chapters. In the field of Free Movement of Persons, legislation regarding the section on mutual recognition of professional qualifications is incomplete. This mainly pertains to professions in the health industry but architects are affected by this deficiency as well.<sup>61</sup> The area of agriculture is lacking performance in the subsections of; setting up the Paying Agency, implementation of infrastructure for the Integrated Administration and Control System has fallen behind, completion measures to ensure

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<sup>60</sup> EU Commission *Comprehensive Monitoring Report on Poland's Preparations for Membership*, (Brussels, Belgium September, 2003). 16-17

<sup>61</sup> Ibid 21

control of transmissible spongiform encephalopathies and the movement controls for animals need to be advanced.

In the section on Fisheries, Poland is falling behind in the installation of the Vessel Monitoring System and the Fishing Vessel Register. Continual delays occur in regards to the completion for the information systems installation required to interface with the EU statistical database used to monitor catch rates in order to manage fisheries' stocks to prevent over fishing.<sup>62</sup>

It is apparent that Poland has some significant issues to deal with as regards to administrative and judicial capacity. The areas of the *aquis* requiring additional attention present less of an impact to correct than the issues that are deeply ingrained within the operation of the public sector. Correction of these problem areas are not prone to be resolved through legislation alone, rather they require as well a significant alteration of the common perceptions as to the adverse consequences that this form of conduct imposes upon society in general.

### *Slovakia*

Slovakia's journey of accession began in 1996 along with the applications of Slovenia and the Czech Republic. Ten years prior to this event, it was a communist satellite country under the control of the Soviet Union, subjected to forced unification with the Czech nation. After Soviet influence collapsed in 1989, the union between the two countries continued until a mutual decision for dissolution occurred in 1993. From

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<sup>62</sup> EU Commission *Comprehensive Monitoring Report on Poland's Preparations for Membership*, (Brussels, Belgium September, 2003). 34

this point forward the country began to develop a democratic infrastructure that supports the precepts of a free and open society.<sup>63</sup>

The government platform is a parliamentary democracy that derives authority from a ratified constitution. The central government is structured to ensure division of power through separate systems comprised of executive, legislative and judicial branches. The legislature is unicameral with members being elected by a constituency.<sup>64</sup>

One might conclude that after all the years of oppression under communist rule, the complete reversal of government structure to support a free and open society, combined with what seems to be the development of a burgeoning and very promising open market system, all is right with Slovakia. Unfortunately, this is not the case where the issue of human rights is in question.

According to some human rights watch groups, Slovakia has come under scrutiny for practices of selling surplus arms to countries that have a previous record of human rights violations. In respect to issues within the direct purview of the Slovak government, complaints of coerced sterilization of Romani women have surfaced in recent months. The discovery of this situation aroused the attention of several non-governmental human rights organizations to issue joint statements calling for full investigations into the allegations.<sup>65</sup>

If in fact these conditions are validated, this then begs the question as to why would the EU Commission overlooked this situation; given the fact that human rights are

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<sup>63</sup> CIA World Factbook, Poland 2004.

<http://www.odci.gov/cia/publications/factbook/print/lo.html>

<sup>64</sup> Ibid. <http://www.odci.gov/cia/publications/factbook/print/lo.html>.

<sup>65</sup> Human Rights Watch online, *Joint NGO Statement on the Issue of Illegal Sterilization of Romani Women in Slovakia July 2003* <http://www.hrw.org/doc?t=europe&c=slovak> and Amnesty International online, *Slovakia: Illegal sterilization of Romani Women* <http://www.amnesty.org/results/is/eng>

considered to be one of the basic principles inherent to the foundation of the community? Some believe that the EU agreed to Slovakia's membership because it would be worse to leave Slovakia out of the fold and allow the continuation of conditions that promote its antisocial behavior. Inside the EU, it is possible to apply pressure through direct policy or sanctions.<sup>66</sup> If this is the rational, one then must question the EU's grounds for not taking action on Turkey's request for membership namely, its record of human rights abuses.

At any rate, significant progress has been achieved in revising the structure of the public administration system in Slovakia. Legal definition has been given to the public and civil services. The Laws on Public Service and Civil Service were placed into force in 2002. The Civil Service Office established under this same purview support the civil services corps in the areas of recruitment, training and providing information in support of drafting secondary legislation.

Under the current structure, there are no issues with transparency in respect to policy or procedure. Slovak citizens are afforded full access to public administration activities. The only area where additional attention is required is the improvement of training programs, as training is currently conducted by both public and private institutions.<sup>67</sup>

In respect to furthering self-government, by way of constitutional amendment, municipal administration has been complemented by the development of eight new regional administrative bodies. At the present, full development lacks the fiscal

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<sup>66</sup> Baun, 2000 91

<sup>67</sup> EU Commission *Comprehensive Monitoring Report on Slovakia's Preparations for Membership*, (Brussels, Belgium September, 2003). 11

decentralization required for these entities to function under a self-sustained environment. Completion of this aspect of the process is expected to finalize at the onset of 2005.<sup>68</sup>

The judicial system is comprised of three tiers: 55 district courts, 8 regional courts and the Supreme Court. Regional courts provide a dual function in that they serve as appellate courts for cases originating at the district level and occasionally preside as courts of first instance. The Supreme Court acts as a court of appeal for first instance cases at the regional level. The Constitutional Court serves to interpret issues of constitutionality and is its sole function. Independence is provided for in the constitution, with transparency of operation secured through other applicable laws.<sup>69</sup>

The long-standing issue of how to regulate the judiciary was decided through the passing of the Act on the Judicial Council in February of 2001. The council functions as the mechanism for the selection, promotion and removal of justices where warranted. This will assist to develop the necessary framework for reforming the judicial administrative piece.

The impetus behind passing reform legislation and placing this process into motion was the increasing backlog of court dockets. The condition became so extensive that the European Court of Human Rights found Slovakia in violation of the European Convention on Human Rights for reasons of excessive delay of justice.<sup>70</sup> This condition is considered a serious deficiency with respect to meeting preparation criteria and the ability to assume the obligations of membership.

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<sup>68</sup> EU Commission *Comprehensive Monitoring Report on Slovakia's Preparations for Membership*, (Brussels, Belgium September, 2003). 11

<sup>69</sup> *Ibid.* 12

<sup>70</sup> Open Society Institute, *Monitoring the EU Accession Process: Judicial Capacity*, (Budapest, Hungary September, 2002). 190

In respect to maintaining competency through training, the structure in place is deficient. Formalization of standards for funding an established legal training program is non-existent within any budgetary plans. The only semblance of training is in voluntary, ad hoc seminars offered through the Personnel Department of the Judicial Ministry or on occasion when the Association of Slovak Judges provides seminars.<sup>71</sup>

In order to ensure a competent judiciary; capable of keeping abreast of the constant changes that are inherent to the legal environment, a well-established continuing legal education program is a basic requirement. Competency in adjudication is a key element to maintaining the integrity of democratic government.<sup>72</sup> The infrastructure for judicial training should be designed and implemented immediately after accession.

Independence of the judiciary should be supported through conferring increased levels of operational autonomy from the Ministry. The judiciary should be free to create and initiate its own policies and administrative standards of operation. Effective adjudication of laws is inherently dependent upon the ability to interpret and apply law in an un-arbitrary manner within an environment that is free from outside influences and fear of retribution. Improvements in this area will serve to promote increased levels of professionalism and therefore improve on the quality of adjudication and result in a direct elevation of the general social condition through improved legal services to the public.

Efforts to actively control corruption could be regarded as perfunctory when considering the pervasiveness in which it is found throughout Slovak society. It seems to extend into a variety of social sectors, occurring in the health care industry, police, the

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<sup>71</sup> Open Society Institute, *Monitoring the EU Accession Process: Judicial Capacity*, (Budapest, Hungary September, 2002). 196-197

<sup>72</sup>EU Commission *Comprehensive Monitoring Report on Slovakia's Preparations for Membership*, (Brussels, Belgium September, 2003). 12

judiciary and surprisingly, education. At this level it would appear that corruption has become an accepted norm within social standards and is regarded as a facet of every day life.

The National Program for the Fight Against Corruption was initiated in 1999. This is comprised of a series of action plans which is currently still in progress. Laws on Conflict of Interest, the Special Prosecutions Office and a special court for matters of corruption are still working their way through Parliament and promise to provide a significantly improved infrastructure for suppressing the proliferation of this problem.<sup>73</sup>

In 2002, a decision was made to redesign the institutional structure. The Government Office formed a new department designated specifically for monitoring and fighting corruption. Duties include implementing and co-ordination of anti-corruption policy with limited but active involvement in drafting new policies and legislation. In addition, a special unit within the General Prosecution Office was created to investigate and prosecute acts of corruption.<sup>74</sup>

From the perspective of universality towards corruption, Slovakia is a party to several international conventions promoting the fight against corruption. In March 2003 the Council of Europe Civil Law Convention on Corruption was adopted by the Parliament. It is also a party to Council of Europe Convention on Money Laundering, Search, Seizure and Confiscation from the Proceeds from Crime, the Criminal Law Convention on Corruption, and the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

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<sup>73</sup> EU Commission *Comprehensive Monitoring Report on Slovakia's Preparations for Membership*, (Brussels, Belgium September, 2003). 13

<sup>74</sup> EU Commission *Comprehensive Monitoring Report on Slovakia's Preparations for Membership*, (Brussels, Belgium September, 2003). 14

Membership does have its benefits, however, being an active member is another issue altogether. Simply acclaiming the fact that one subscribes to a specific point of view or belief is not sufficient affirmation of the fact. Record must show that actions reflect implementation of this position in order to validate the subscription. Slovakia has not fully succeeded in this consideration and must do so in order receive the accreditation of its peers. More intensified efforts must be made to remove corruption as an accepted condition of Slovak society.

In the area of community legislation, there are severe deficiencies in two chapters of the *aquis*. In the Competition Policy section, Slovakia has applied for a transitional agreement with regards to state aid in the steel industry. Under Annex XIV, section 4 subsection 2 paragraph (a) of the Treaty of Accession, Slovakia may apply a corporate income tax exemption to one company in the steel industry, provided that the company does not exceed set production quotas nor exceed set sales quotas to the enlarged EU and that total aid granted does not exceed \$500 million. In return, the beneficiary must meet privatization standards in regards to specified employment levels. The Slovak government is to present a bi-annual report to the EU Commission, that provides information on production activity, annual before tax profits, employment development and staffing costs.<sup>75</sup> According to the Commission's monitoring report, production quotas are not being observed. Due to the fact that this company is receiving state aid and tax exemptions, this over-production affords this company a decisive advantage over other producers, therefore violating the agreement on competition policy.<sup>76</sup>

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<sup>75</sup> European Union Treaty of Accession 2003, Annex XIV, section 4, subsection 2, paragraph (a), (b)

<sup>76</sup> EU Commission *Comprehensive Monitoring Report on Slovakia's Preparations for Membership*, (Brussels, Belgium September, 2003). 21

In the area of agricultural policy there are issues with completion of implementing the Paying Agency and as with many other candidates, installing the information systems required to support the Integrated Administration and Control Systems for reporting agricultural production, a significant element in alignment with the Common Agricultural Policy. The other area that is falling behind in preparation is legislation required to insure adequate standards for public health protection in respect to agri-food purveyors and their facilities. According to the commission report, rapid movement in these areas is required if alignment were to be complete prior to accession in May of 2004.<sup>77</sup>

It is evident that Slovakia has made great strides in its efforts to revising its governmental structure, however, closure must be effected in the areas of; human rights legislation implementation and enforcement, completion of the restructuring process for the judicial system, and full development, execution and enforcement of a comprehensive anti-corruption program. These elements of the government structure, center on the concept of rule of law, which is a primary prerequisite of the Copenhagen criteria for membership. Permitting partial execution of this compliance requirement only serves to affect a disservice upon the applicant, the member states that are compliant with this precept, and ultimately the spirit of the union itself.

### *Slovenia*

Slovenia's social structure is based on rule of law and the government is founded on a Parliamentary Democratic Republic platform that is supported by the provisions of the constitution. The framework of the government is comprised of the Presidency in the

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<sup>77</sup> EU Commission *Comprehensive Monitoring Report on Slovakia's Preparations for Membership*, (Brussels, Belgium September, 2003). 23, 26

executive branch, the Judicial branch that is formed by the Constitutional and Supreme courts, and the Legislative branch formed by the Prime Minister and the Parliament that is comprised of the National Assembly and the National Council advisory body.<sup>78</sup>

Slovenia has enjoyed a progressive relationship with respect to western aligned countries since the 1970's. In relation to other acceding countries, this too has afforded it a distinct advantage in respect to the development of government structures and policies as well as the fruition of relationships with Western society. To a certain extent, Slovenia began the process of integration with the open market system long before applying for EU membership.

In view of the anti-Soviet Bloc political position that the Yugoslav government assumed after the Tito-Stalin break and Yugoslavia's program of decentralized government; Slovenia was conditioned to look towards other accessible markets, which turned out to be the Western open market system.

The need for alignment with the precepts of the Organization for Economic Cooperation and Development was apparent and entailed revisions of government policy structures.<sup>79</sup> Slovenia set about this course and submitted its application for OECD membership in 1996.<sup>80</sup>

In respect to alignment with administrative and judicial capacity, Slovenia has reached a significant level of preparedness in comparison to the other candidate countries. In the area of public administration, the infrastructure is well established and

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<sup>78</sup> CIA World Fact Book, Slovenia <http://www.cia.gov/cia/publications/factbook/geos/si.html>

<sup>79</sup> Whitley, Richard. *Divergent Capitalisms*. New York: Oxford University Press 1999. 214

<sup>80</sup> Noboru, Seiichiro, *Report by the Chair of the Heads of Delegation Working Group on the Enlargement Strategy and Outreach*, Organization For Economic Co-Operation And Development OECD Strategy For Membership Enlargement May 2004. 7-8, [http://www.oecd.org/about/0,2337,en\\_2649\\_201185\\_1\\_1\\_1\\_1\\_1.00.html](http://www.oecd.org/about/0,2337,en_2649_201185_1_1_1_1_1.00.html)

functional; however, the number of ministry organizations and government offices was determined to be overdeveloped and required reduction from 53 to 45 ministries and 21 to 16 government offices.<sup>81</sup>

The civil service corps has legal identity through the Law on Civil Servants, adopted by the Parliament in 2002. This legislation is comprehensive in that provides for an impartial environment with a view to promoting an accountable and professional atmosphere that is free from political influence. The recruitment, advancement and disciplinary structures are controlled by defined standards and processes, which afford complete transparency in execution.<sup>82</sup>

Control of the current wage and salary system is divided among various departments within the administration. The Law on Wages in the Public Sector, which enters into force in 2004, is designed to create a uniformed and transparent system of remuneration within the public sector. In respect to maintaining competency through training, this aspect of the civil service is monitored and administered by the Ministry of the Interior.<sup>83</sup>

The judicial system is well established and operates under a high degree of functionality. It is a three-tiered system comprised of county courts, courts of second instance and four courts of appeal. The Supreme and Constitutional Courts complete the system and function as the final interpreters of civil and constitutional law. The system is governed and administered through the Judicial Council. Judges are afforded immunity through the constitution and transparency in operations is provided through the Act on

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<sup>81</sup> EU Commission, *Comprehensive Monitoring Report on Slovenia's Preparations for Membership*, (Brussels, Belgium September, 2003). 11

<sup>82</sup> Ibid.

<sup>83</sup> EU Commission, *Comprehensive Monitoring Report on Slovenia's Preparations for Membership*, (Brussels, Belgium September, 2003). 12

Judicial Service and the Act on Courts. Continued legal education and training programs are maintained and administered by the Training Center for the Judiciary.

To respond to the issue of case backlog, several programs have been implemented. The Hercules Project is a program that implemented the capacity to rotate justices to venues that are experiencing problems with resolving situations where the process is overburdened. Amendments to the Civil Procedure Act promote the option of in court settlements and reconciliation hearings as an option to lengthy trial proceedings. A pilot project on out-of-court arbitration is in progress, but has not been fully implemented.<sup>84</sup>

In respect to corruption, according to the EU Commission's report, it is rare. Per the report, no recent cases of any consequence have been reported. Anti-corruption legal framework is in place under the provisions of the Criminal Code, the Code of Conduct for Civil Servants and the Law on Civil Servants. A comprehensive program to monitor corruption throughout the government was drafted by the Office for the Prevention of Corruption and is under review for approval by the Parliament. The draft calls for the creation of Commission for Ethics and Integrity, which would replace the current office. The Commission would preside over a task force designated to investigate government corruption cases as well as the responsibility of developing and administering training programs. In addition to these measures, a special unit of the police has been designated as the Organized Crime Section, as well as special group of public prosecutors dedicated

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<sup>84</sup> EU Commission, *Comprehensive Monitoring Report on Slovenia's Preparations for Membership*, (Brussels, Belgium September, 2003) 12.

to processing corruption cases. Authority for these units falls under the Ministry of the Interior.<sup>85</sup>

As previously mentioned, Slovenia has experienced the opportunity to have a long-standing relationship with Western-aligned countries through the establishment of economic ties during the decentralization program of the 1970's. This gave the government the impetus to begin the realignment process within the government structure in order to support these relationships and to establish credibility with open market countries. This opportunity has proved to be an unanticipated benefit from the perspective of preparation for accession.

The only area where the EU Commission report noted a concern with regards to preparation for accession was under the pillar of Free Movement of Persons, where a deficiency was noted regarding mutual recognition of professional qualifications, specifically the general system of recognition and with a few professions in the health care sector.<sup>86</sup> In comparison to the other 8 candidate countries in this study, Slovenia is in a comparatively better position for membership.

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<sup>85</sup> EU Commission, *Comprehensive Monitoring Report on Slovenia's Preparations for Membership*, (Brussels, Belgium September, 2003).13

<sup>86</sup> EU Commission, *Comprehensive Monitoring Report on Slovenia's Preparations for Membership*, (Brussels, Belgium September, 2003). 50

**CHAPTER IV: CONCLUSION**  
**RIDING THE WINDS OF CHANGE:**  
**A PERSPECTIVE ON THE CHALLENGES OF ENLARGEMENT**

To address the concern for promoting infrastructures that further the advancement of democratic society, all of the candidates have taken great measures to create the necessary framework to support this concept. Without question, all of the candidate's government systems operate under some form of democratic platform, be it republic, parliamentary democracy, or parliamentary democratic republic. Each has provided for a form of government that is conducive to a free and open society.

Each government derives its authority from power vested within a constitution. All but two of the candidate countries have ratified their constitutions with those two incorporating the document through adoption. The actual operation of the central government functions under a decentralized model, which is supported by a combination of regional seats, counties, municipalities or local governments.

With respect to promoting an environment that advances conditions favoring human rights, all of the candidates are party to no less than 14 ratified human rights conventions. It has been noted that there are two accounts where human rights violations are alleged to have occurred in one candidate country. One situation received the attention and adjudication of the European Court of Human Rights and another is pending investigation.

To address the capacity for open communication, there is a wide range of options to promote open discourse within the populace both public and private. The number of independent newspapers ranges from 13 to 40 depending upon the country. Access to televised and broadcasted media is well established with the number of independent television and radio stations reaching well over 100 in some countries. The capacity for private communication is well supported with three types of communication in place. Telephone communication infrastructure is well established for both landline and wireless service, with the base population service ratio starting at 43%, reaching a maximum service to population ratio of 100% in Slovenia. Internet access is available at progressive levels and will become increasingly prevalent as the medium comes into the mainstream.

All of the candidate countries have made notable progress in respect to initiate government revision in order to meet the alignment requirements. Below the surface, however, there are issues that cannot be ignored, no matter how well a country may have fared in other areas of the study. There are two issues of prominence that should be of great concern to the government in power, human rights abuses and corruption.

The major abuser of human rights is Slovakia. This same issue has been a primary cause for Turkey's inability to accede to the union. Corruption is an issue for Slovakia, Hungary, Lithuania, Poland, and to a degree, Estonia and Latvia. The latter two Baltic countries are struggling with political stability. Both countries have witnessed the dissolution of 11 governments since gaining independence.<sup>1</sup> Stability of political and government institutions that support democracy are a requisite under the Copenhagen

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<sup>1</sup> The Economist, *Teething Troubles*, Print Edition, February 12<sup>th</sup> 2004, [http://www.economist.com/World/europe/PrinterFriendly.cfm?Story\\_ID=2429078](http://www.economist.com/World/europe/PrinterFriendly.cfm?Story_ID=2429078)

criterion. Discord within the political system makes for difficulty where passing legislation is concerned. Both countries also have concerns with economic performance.

The Czech Republic, Malta and Slovenia are the best suited for accession based on overall performance in respect to the control criteria. They have done exceedingly well in either economic program management, or implementing community legislation and policy, or a combination thereof.

The Czech Republic was by far the best performer economically by consistently maintaining a position among the top three rankings in all of the control criteria. It has demonstrated that it controls the ability to maintain a functioning market economy that is capable of withstanding the volatility inherent to the open market environment. In respect to major deficiencies in community legislation and policy there were three areas of concern, mutual recognition of professional qualifications, implementation of agri-foods health requirements, and technical and social requirements in the field of road transportation.

Malta was surprisingly one of the best performing countries with respect to *aquis* implementation. The only areas of serious concern, was implementation in setting up the Paying Agency, the Integrated Administration and Control System for reporting agriculture production, and competition policy where restructuring of its shipyards is requisite to become compliant with legislation. Malta maintains a high level of interaction with its citizenry through a government sponsored, interactive Internet-based communications system, which provides accessibility to government offices and services. In view of the current economic conditions that Europe is generally experiencing, Malta's

economic performance could be considered impressive with respect to its relatively limited scope of commercial options.

Finally, Slovenia demonstrates the highest level of preparedness with respect to *aquis* implementation combined with an overall solid performance in economic program management. With respect to community legislation, Slovenia managed to maintain a high level of implementation in all areas but one, the mutual recognition of professional qualifications under the of free movement of persons criterion.

As regards economic performance, given the fact that very little FDI was injected into the economic matrix, the economy managed to produce sufficient levels of revenue to enable a sustained average growth rate in salaries of 10.5% over the reporting period, which ranked Slovenia third among the control group. Maintaining a 1.6% positive trade balance ratio also allowed it to attain a ranking of third in standings. Average percent change GDP Growth peaked at 4%, which, for a country with a population just over 2 million, is a respectable level to report.

It is evident that the efforts to develop relationships with countries aligned with the open market system have produced a positive experience for all three of these countries. It is certain that each of them will continue to enjoy the benefits that are associated with a free and open society, and, as a result, each will continue to develop improvements to not only to its own social structures but also to those of the countries which it promotes continued interaction.

This is not to say that candidates which are not selected as top performers are not capable of integration into the EU system. They are, in fact, already members. It is to

say, however, that those who have not performed well at preparing for accession will have difficulty to some degree with effecting full integration.

In 2007, what began as a group of six, war weary countries that embarked upon a journey in search of a way to solve their differences without engaging in war, will celebrate the 56<sup>th</sup> anniversary of their success in the economic unification of 25 sovereign nations. This is the remarkable achievement that centuries marked by attempts at peaceful unification through religious efforts, separated by bouts of hostilities between emperors, kings and armies could not bring to fruition; finally attained in the short span of fifty-six years, through the power of commerce. Immanuel Kant and Adam Smith would both be proud to have seen this achievement.

The countries of the European Union have endured much in order to arrive where they are today. Some believe that their efforts will not produce the anticipated rewards that many Europeans hope to achieve. By some, it is perceived that the union will falter and disband, ultimately fading into memory. Still others are certain that this is the greatness that Europe was intended for and that arriving only required the elements of will and timing. Regardless of the perspective Europe has only one option to take, that is to hold the phare steady and maintain the course that Robert Schuman, Henri Spaak and Dirk Stikker envisioned and plotted those many years ago.

## APPENDIX I

### CYPRUS ADDENDUM

There were two main reasons why Cyprus was not represented in this study. Both issues bore direct relation to the control criteria and form the basis for excluding them from the study.

The effort to discover the requisite information for the economic control did not produce results. It was determined that the available information did not meet the established requirement to insure that all candidates received a fair evaluation. The requirement was that consistent economic reporting had to be traceable for a minimum period of five years. This was needed to establish a base trend from which to gauge economic progress over a period of time. Various sources were accessed to locate this information, the International Monetary Fund, the Organization for Economic Cooperation and Development, the United Nations, European Union statistics as well as the Cypriot Statistical office. Available information only covered a span of four years in each instance of discovery and was insufficient in order to meet the study requirements.

Cyprus is currently under a condition of territorial dispute between the Greek and Turkish governments. Although a functioning decentralized government system is in place, and is supported by a republican platform, a true constitutional framework is non-existent. It is clear that unification issues are at an impasse, leaving the country, in effect, without true international recognition. From this perspective, it was evident that Cyprus could not be measured to the same standard as the other countries of the study group.

SOCIETY MATRIX

	<i>Democratic government *</i>	<i>Ratified constitution *</i>	<i>Decentralized government *</i>	<i>Number of Human Rights Conventions</i>	<i>Independent newspapers ✓</i>	<i>Access to Independent television stations *</i>	<i>Independent radio Stations *</i>	<i>Private / Cellular telephone access *</i>	<i>Private internet connections *</i>
<i>Czech Republic</i>	Y	1992	Y	16	13	150	17	80%	26%
<i>Estonia</i>	Y	N	Y	15	15	3	98	86%	30%
<i>Hungary</i>	Y	1949	Y	17	24	35	74	43%	12%
<i>Latvia</i>	Y	1922	Y	14	26	44	64	48%	13%
<i>Lithuania</i>	Y	N	Y	16	21	27	171	46%	9%
<i>Malta</i>	Y	1974	Y	15	13	6	19	51%	15%
<i>Poland</i>	Y	1997	Y	14	40	179	791	55%	17%
<i>Slovakia</i>	Y	1992	Y	17	15	38	93	80%	20%
<i>Slovenia</i>	Y	1991	Y	16	13	48	167	100%	37%

\* Source: EU Commission Strategy Paper 2002. 89

✓ Source: Online Newspapers.com <http://www.onlinenewspapers.com/>

\* Source: CIA World Fact Book 2003 <http://www.odci.gov/cia/publications/factbook/countrylisting.html>

% Reflects percentage of total population

## **GLOSSARY**

1. Phare, French for guiding light.
2. Aquis Communautaire, French for community agreement.

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