THE CENTRAL AND EASTERN EUROPEAN COUNTRIES IN THE NEW EUROPE: THE PRE-ACCESSION STRATEGY

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1 INTRODUCTION

The Central and Eastern European Countries (CEECs) are preparing for membership in the European Union (EU). A so-called pre-accession strategy was adopted by the Essen summit of the EU in December 1994. The main elements of this strategy are the association agreements, known as Europe Agreements, and a so-called structured dialogue. The Commission has also published a White Paper in May 1995 advising the CEECs on how to prepare for participation in the Internal Market. A further component of the strategy is the PHARE programme of financial assistance, which was started already in 1989. The first Europe Agreements were negotiated with Poland, Czechoslovakia, and Hungary in 1991. By the end of 1996, 10 CEECs had negotiated Europe agreements. Those with Poland and Hungary entered into force in 1994, those with the Czech Republic, Slovakia, Bulgaria, and Rumania in 1995 and those with the three Baltic countries, Estonia, Latvia, and Lithuania, in 1998. The one with Slovenia is still awaiting final ratification. The Europe Agreements, structured dialogue and other components developed over a few years add-up to a pre-accession strategy, which prepares the CEECs for membership in the EU.

Since the Copenhagen summit of the EU in June 1993, the EU has recognised that the CEECs having Europe Agreements can become members of the EU on certain conditions at some time in the future. It was the Essen summit of the EU in December 1994 that outlined 'the strategy to prepare the associated countries of central Europe for membership.' It added the 'structured dialogue' to the Europe Agreements. Whereas the Europe Agreements are bilateral agreements between the EU and the respective CEECs, including some bilateral institutions of association, the structured dialogue means multilateral meetings of ministers and officials from all CEECs, the EU member states as well as representatives of the Commission.

This paper will outline the components of the pre-accession strategy and very tentatively discuss the significance and impact of this strategy. So far very little research on the administrative impact of the pre-accession strategy

has been published. Research has been more oriented towards economic and political change in the CEECs since the end of the Cold War. The CEECs are going through a transition process from Communist, centrally planned systems to democratic market economies. The importance of the administrative capacity of the CEECs is recognised in EU documents. Joining the EU require the new members to take over and implement a large body of EU rules and regulations, the so-called *acquis communautaire*. The part of the *acquis* which is of central importance for the Internal Market is outlined in the White Paper published in May 1995. It is a kind of guide for the CEECs in their legislative process. Given that the Internal Market, which is based on the four freedoms, viz. free movement of goods, services, capital and people, is the most important part of the EU's first pillar, the European Communities (EC), the CEECs can already do a lot domestically to prepare for membership by putting the relevant domestic legislation in place and making sure that it is implemented.

The process of adapting to EU rules actually started soon after the end of the Cold War. 'Anticipatory adaptation' it was called in one study (Haggard et al. 1993). The CEECs wanted to 'return to Europe' after having been under Soviet domination for more than forty years. Western Europe, including the EU, set the standards for new legislation.

2 THE ISSUE OF MEMBERSHIP

Membership for the CEECs in the EU was not immediately on offer. It was only at the Copenhagen summit of the EU in Copenhagen in June 1993 that the EU made membership of the CEECs its objective. The European Council stated on that occasion:

> The European Council today agreed that the associated countries in Central and Eastern Europe that so desire shall become members of the European Union.

Membership would depend on fulfilling certain prerequisites. The conditions were stated the following way:

> Membership requires that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities, the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union. Membership presupposes the candidate's ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union (EC Bull., 6-93).

The Lisbon summit of the EC in June 1992 had also included the following among the conditions mentioned in a general report on enlargement: 'acceptance of the Community system and capacity to implement it, including a functioning and competitive market economy, and an adequate legal and administrative framework' (EC Commission 1992).

The conditions set up by the Lisbon and Copenhagen summits can be seen as a kind of measuring rod for the process of change in the CEECs. The process of harmonising domestic law to the existing Community law for the internal market can also be seen as an indication of a candidate country's progress towards membership.

3 THE EUROPE AGREEMENTS[1]

The end of the Cold War started the process of developing and improving relations between the EC and the CEECs.

On 29 June 1988, the EC and the Council of Mutual Economic Assistance (CMEA or COMECON) formally recognised each other's existence. The CEECs (and other CMEA countries) could now establish missions at the EC (Maresceau 1992). Eventually the CMEA ceased to exist in 1991.

Negotiations about trade agreements between the EC and CEECs could start after the mutual recognition in 1988. It was Hungary, which had gone furthest in the area of economic reform at the time, that got the first agreement on trade and commercial and economic co-operation with the EC on 26 September 1988 (Official Journal of the EC (OJ) L 327, 30 November 1988). Later, other trade and co-operation agreements were concluded with Poland, the USSR, the German Democratic Republic (GDR), Czechoslovakia, Bulgaria, and finally with Romania. Because of German unification in 1990, the agreement with the GDR never entered into force.

Through these first generation trade and co-operation agreements, the parties accorded each other most-favoured nation (MFN) treatment in accordance with GATT. The EC abolished some quantitative restrictions. Abolition, reduction or other modification of tariffs was to be examined. So too was the possibility of reciprocal concessions for agricultural products. Existing agreements in the area of textiles were not affected. The agreements had a safeguard clause and established joint committees. The section on economic co-operation was rather general, including *inter alia* a reference to 'the development of a favourable climate for investment, joint ventures and licensing arrangements.'

Soon after the first trade and co-operation agreements were negotiated between the EC and the CEECs, things started moving very quickly. The collapse of the Communist regimes in Eastern Europe in 1989 called for more assistance from the West to facilitate the reform process. The summit meeting of the group of Seven (G-7) in Paris in July 1989 asked the European Commission to co-ordinate assistance from the 24 members of the Organization for Economic Cooperation and Development (OECD). Initially, this focused on economic assistance to Poland and Hungary, which led to the establishment of the so-called PHARE (Poland-Hungary Aid for Reconstructing the Economy) programme by the Commission in September 1989 (Ungerer 1990).

After an informal summit meeting in Paris in November 1989, President Mitterrand said:

> We are ready to co-operate by all available means in creating healthier economies in exchange for a proven return to democracy, respect for human rights and the organisation everywhere of free elections (Quoted from Van Ham 1993, p. 175).

In September 1990, the Council adopted the regulation that allowed the PHARE programme of economic assistance to be extended to Czechoslovakia, Bulgaria, Yugoslavia, and Romania (OJ L 257, 21 September 1990). Later, other extensions took place.

The idea of moving from trade and co-operation agreements to association agreements emerged quickly. In August 1990, the Commission proposed the possible conclusion of association agreements, called 'Europe Agreements,' with the CEECs. It was decided that negotiations should be started with Hungary, Poland, and Czechoslovakia. Conditions in Bulgaria and Romania were not yet considered satisfactory. In the case of the Soviet Union, the idea in 1990 was that the existing trade and co-operation agreements offered an appropriate framework for relations (EC Commission 1990). Later, the Baltic countries also negotiated association agreements. The other former Soviet Republics were offered Partnership and Cooperation Agreements which did not go as far as the Europe Agreements. No membership is on offer for the former Soviet Republics, with the exception of the tree Baltic states.

The Commission's August 1990 Communication suggested that Europe Agreements should have a common framework including:

- political dialogue
- free trade and freedom of movement
- economic co-operation
- cultural co-operation
- financial co-operation
- institutions of association.

However, within the common framework, specificity and differentiation were

foreseen as taking the specific political and economic situations of the different Eastern European countries into account.

Apart from allowing a political dialogue, the agreements were, first of all, to aim at gradually establishing a free trade area. This would include the 'phasing out of customs duties, remaining non-specific quantitative restrictions and measures having equivalent effect.' This would happen through two phases. The EC would 'move more rapidly towards free trade than associated countries, thus assisting their economic recovery.' At the end of the second phase there would be 'reciprocal free trade.'

Concerning the three other freedoms the Commission's communication was much more vague:

> Once associated countries' economies have been brought substantially into line with the Community's consideration can be given to the free movement of services, capital and persons (EC Commission 1990, Annex p. 1).

The Commission also suggested that the approximation of laws should be carried out in many areas to facilitate economic interactions. In reality, the Commission suggested a unilateral adaptation of the *acquis communautaire* by the CEECs to assure genuine free trade. So the process of anticipatory adaptation found its support in Brussels.

The official opening of negotiations with Hungary, Poland, and Czechoslovakia took place on 20 December 1990 and agreements were concluded in December 1991. The negotiations went through difficult moments, with trade in agricultural products being the most difficult issue.

The agreements confirmed the general structure of what the Commission had proposed. They established a political dialogue at the highest level, and will realise a free trade area over a ten-year period. For industrial products many tariffs were abolished when the agreements entered into force. Asymmetry was foreseen; the EC would abolish tariffs faster than the associated countries. The EC was to abolish all customs duties for industrial

products over five years, the CEECs would take more time, varying between the countries and products. But there should be total elimination within 10 years. There were special protocols on agricultural products, textiles and coal and steel. Given the EC's Common Agricultural Policy (CAP) the EC could not offer free trade for agricultural products, but some concessions were offered. In the final compromise, the EC offered to increase its meat imports from the CEECs by 10 per cent per year over five years and reduce tariffs by 60 per cent over three years. This was linked with a triangular solution whereby the EC would help the still existing USSR financially to buy agricultural products from the CEECs, which would then be subtracted from the EC quotas (Van Ham 1993, p. 199).

The agreements did foresee free trade in textiles and steel, but after longer transition periods than for other products. Customs duties for textiles should be abolished at the beginning of the seventh year and for steel at the beginning of the sixth year (Maresceau 1993, p. 220). These transition periods were shortened by a year at the time of the Copenhagen summit.

Agricultural products, textiles and steel were the sensitive products, seen from the EC side. Among the Member States, France was particularly concerned about agricultural products, Portugal about textiles, and Spain about steel. The CEECs, on the other hand, were very critical of what the EC could offer for these products, where they are competitive. The agreements also included safeguard measures, anti-dumping rules and rules of origin, suggesting that there could and would still be non-tariff barriers (NTBs) to trade, even if approximation of laws might abolish some of these. A liberal inter-governmental interpretation of the EC can explain these limitations of the Europe Agreements (Haggard et al. 1993; Moravcsik 1993 and 1996). Domestic politics limited what the EC could offer.

There were also rules on 'movement of workers, establishment, and supply of services.' However, the agreements granted only national treatment to workers from the associated countries legally established in the EC as regards working conditions, remuneration, or dismissal. Social security is not included in the same way (Maresceau 1993, p. 228). In the area of services national

treatment is to be granted, but there could be problems of recognition of qualifications in some areas. In the service area there is to be progressive liberalisation, 'taking into account the development of the service sectors' in the EC and associated countries. Capital movements relating to the movement of goods, services and persons are to be liberalised. There will be free movement of investment-related capital. Measures in some of these areas are rather weak and need further development through the Association Council, which was one of the institutions created by the agreement. Also created were an Association Committee and a Parliamentary Committee.

An important aspect of the Europe Agreements is competition policy. Indeed, the agreements incorporate the basic principles of articles 85, 86, and 92 of the EEC Treaty. The associated countries commit themselves to apply these competition rules in their domestic laws and practice. Included in the agreements were also economic, financial and cultural co-operation (Maresceau 1993).

The first three Europe agreements were signed on 16 December 1991. Since they were so-called 'mixed agreements,' i.e. partly falling under the competencies of the Member States, they had to be ratified by the 12 Member States. Being based on article 238, they also needed the assent of the European Parliament. The ratification process was thus expected to take some time. The commercial part of the agreements was therefore adopted as interim agreements on the basis of article 113 of the EEC Treaty. These interim agreements came into force on 1 March 1992. The Europe agreement with Czechoslovakia had to be re-negotiated with the Czech Republic and Slovakia after the dissolution of Czechoslovakia in January 1993. New agreements were signed on 4 October 1993.

Negotiation of Europe agreements with Bulgaria and Romania began in the middle of May 1992. These negotiations were made difficult because of human rights questions. On 11 May, the Council adopted the following declaration:

> The Council stresses that respect for democratic principles and human rights, as defined in the Helsinki Final Act and the Charter of Paris for a new Europe, and the principles of the market economy are essential components of cooperation or association agreements between the Community and its CSCE partners.
>
> The Commission is requested to act accordingly to ensure that agreements to be concluded by the Community contain an appropriate mechanism which is operational in emergencies, including provisions relating to non-fulfilment of obligations.
>
> In the context of a political dialogue with the five countries of Central and Eastern Europe, the Community and its Member States will inform their partners of the importance they attach to the principles referred to above (Bull. EC 5-1992, point 1.2.13).

Since the first three Europe agreements had not included a human rights clause, there were some problems in convincing the Bulgarians and Romanians that such a clause was necessary in their agreements. But this was now a general EC policy (Guggenbühl 1995).

Since Bulgaria turned out to be more sensitive in respect to agriculture, textiles and steel, it took longer to negotiate the Bulgarian agreement than the Romanian one. The agreement with Romania was signed on 1 February 1993. The one with Bulgaria was signed on 8 March 1993. Interim agreements came into force on 1 May and 31 December 1993 respectively.

Nine of the Europe Agreements with the CEECs have now come into force (OJ L 347 and L 348, 31 December 1993; OJ L 357, L 358, L 359, and L 360, 31 December 1994; OJ L 26, 2 February 1998; OJ L 51, 20 February 1998; and OJ L 68, 9 March 1998).

Slovenia ratified its Europe Agreement in July 1997. It is going through

the final ratifications on the EU side. The interim agreement applying the trade-related parts of the Europe agreement entered into force on 1 January 1997.

The association agreements between the EU and CEECs can be seen as a kind of international regime. They establish norms, rules, procedures and an institutional framework. The agreements aim mainly for free trade, with the exception of agricultural products where the CAP makes it impossible for the EC to offer free trade. For textiles and steel the transition periods were longer, since these are sensitive products from a political-economy point of view within the EC. The agreements also include obligations and rights in respect to services, capital movements and, to a smaller degree, people. They thus touch upon all of the so-called four freedoms but fall short of the access to the internal market given to the EFTA countries through the EEA agreement (Laursen 1995b).

The agreements include a political dialogue concerning democracy, human rights and foreign policies.

The agreements also include economic and cultural co-operation. Financial transfers take place through the PHARE programme and the European Investment Bank (EIB).

4 THE STRUCTURED DIALOGUE

The next step in the evolution of EU-CEEC relations was the adoption of the pre-accession strategy at the Essen summit in December 1994. It is based on the association agreements but was supplemented by multilateral structural relations and the preparation of the White Paper entitled 'Preparation of the associated countries of Central and Eastern Europe for integration into the internal market of the Union.'

Structural relations mean joint meetings between the EU and the associated CEECs. These meetings have added a multilateral component to otherwise bilateral relations.

Under the heading of 'structural relations,' a first meeting between the

economic and finance ministers of the 15 Member States and the six CEECs and three Baltic States took place on 22 May 1995. This meeting included a presentation and discussion of the White Paper (Bull. EU 5-1995). A number of other meetings have taken place since then.

5 THE WHITE PAPER[2]

The White Paper entitled 'Preparation of the associated countries of Central and Eastern Europe for integration into the internal market of the Union' was adopted by the Commission on 3 May 1995. The Annex was adopted on 10 May (EC Commission 1995a). The White Paper gives the CEECs a guide to the process of preparing for integration in the internal market, listing the most important EC legislative acts relating to the internal market and providing suggestions concerning the order in which they may be adopted.

The first part of the White Paper is the general introduction. It gives the 'purpose, context and nature of the exercise.' The second part, the Annex, contains the sector analyses, 'explaining the purpose and development of legislation in each sector, describing the structures that are necessary to ensure its implementation and enforcement and suggesting the sequence in which legislation in each sector might be tackled.' The first part runs into 41 pages. The Annex runs into 438 pages covering 23 different policy sectors, from free movement of capital to consumer protection. Although focused upon the legislation of the internal market, it also includes competition, social policy and environmental policy. In the literature on the internal market, these have been called flanking policies because of their importance for the internal market. The 23 sectors covered were:

1. Free Movement of Capital
2. Free Movement and Safety of Industrial Products
3. Competition
4. Social Policy and Action

5. Agriculture
6. Transport
7. Audio-visual
8. Environment
9. Telecommunication
10. Direct Taxation
11. Free Movement of Goods in Unharmonized or Part-Harmonized Sectors
12. Public Procurement
13. Financial Services
14. Personal Data
15. Company Law
16. Accountancy
17. Civil Law
18. Mutual Recognition of Professional Qualifications
19. Intellectual Property
20. Energy
21. Customs and Excise
22. Indirect Taxation
23. Consumer Protection.

The completion of the internal market inside the EC was the central idea in the programme of the new Jacques Delors Commission in 1995. Its completion was facilitated by the 1992 programme which became part of the Single European Act (SEA) adopted in 1986. The programme listed about 280 directives that needed to be adopted to assure free movement of goods, services, capital and people. It stipulated that the normal voting procedure in the Council of Ministers would be qualified majority voting (QMV). This way the slowest member(s) could not set the pace. It would take at least three member states to block a proposal. Indeed, European integration got a new momentum in the mid-1980s. The main exemption from QMV was taxation policies that still require unanimity.

The new momentum of integration from 1985 onwards got the members of the European Free Trade Association (EFTA) to turn to the EC. They already had Free Trade Agreements (FTAs) dating back to 1972/73. Now they wanted access to the internal market. This eventually led to the negotiation of the European Economic Area (EEA). The Swiss people, however, turned the EEA down in a referendum in December 1992. Because of the limited influence on policy making it gave the EFTA countries, three of these, viz. Austria, Sweden, and Finland, decided to seek membership. They joined the EU in January 1995. A parallel Norwegian membership bid failed in a second referendum in Norway in 1994. The EEA is therefore left with Norway, Iceland, and Liechtenstein as members on the EFTA side.

The CEECs have now become the EU's most important neighbours. Where the EFTA countries were/are small, rich, economically and politically developed countries, the CEECs are struggling to develop market economies and pluralistic democratic political regimes. They immediately turned towards the EC in 1989 after the end of the Cold War for assistance and guidance.

The purpose of the White Paper is to assist the CEECs in three ways:

1. by giving a list of the most important laws that apply for the internal market and suggest in which order they might be introduced;

2. by indicating which administrative and technical structures are necessary to assure that legislation is effectively implemented and enforced;

3. by describing how technical assistance from the EU can be adapted and improved to give the best possible support for the associated countries' efforts.

The White Paper is a guide, not a legally binding text. The current contractual relationship between the EU and the CEECs remains the Europe Agreements.

Let us look at some of the policy sectors included in the White Papers:

Free movement of capital is one of the four basic freedoms. The purpose is to get an optimal allocation of capital. The theory is that capital will move to where it is most productive. This will increase efficiency and thus create welfare.

Liberalisation of capital movements within the EC started with a directive in 1960 which liberalised most long-term capital movements. This directive was supplemented by a second directive in 1962 on securities trading. However, it was only in 1986 that all long-term and medium-term capital movements were liberalised and, finally, in 1988 that all short-term capital movements were liberalised. The 1992 programme contributed to the realisation of this freedom within the EC.

Formal liberalisation, however, is not enough. Among requirements necessary to operate the legislation, the White Paper mentioned the following:

1. A clear and reliable regulatory framework for foreign investment has to be established; in particular clear investment protection guarantees and other parameters important for foreign investors, such as tax legislation.

2. Furthermore, a sufficiently efficient and open financial market, in particular the banking system and some forms of securities markets, has to be established in order to ensure that flows are channelled into productive investment.

3. Finally, a set of instruments for monetary policy has to be developed which allow monetary aggregates to be controlled under the condition of open capital markets (EC Commission 1995a, Annex p. 2).

If we look at the goods sector, this is a vast sector where there are many possibilities of limiting the free movement. Inside the EC, efforts have been

made since the beginning within the customs union to assure free trade. If national authorities set different requirements for products, this will create technical barriers to trade. The EC first tried to harmonise national legislation. It turned out to be a slow and difficult process. On 7 May 1985, a new method was adopted which partly replaced, partly supplemented harmonisation within specific sectors.

According to the new method only essential requirements based on considerations of safety, health, and environment are set. As explained by the White Paper: 'Voluntary standards, drafted by private-sector European standardisation bodies, offer suitable, but not compulsory, technical solutions to meet the essential requirements. Products manufactured in conformity with the essential requirements of the directives can be marketed anywhere in the territory of the European Union.' Conformity assessment procedures are carried out by independent bodies. The standards are worked out by standardisation bodies such as Centre Européen de Normalisation (CEN), Centre Européen de Normalisation Èlectronique (CENELEC), and European Telecommunications Standards Institute (ETSI).

This is linked with the principle of mutual recognition. In principle, one can assume that a product which is legally marketed on one national market will also be legal on the markets of the other member states. This principle, incidentally, was first developed by the European Court of Justice (ECJ), which has played an important role in the European integration process.

Next to the new method, harmonised legislation remains for a number of areas, especially concerning motor vehicles, chemical products, foodstuffs, and pharmaceuticals, i.e. sectors where public health and safety are directly concerned.

During the process of preparing for membership, the CEECs must adopt the existing harmonisation legislation, and make sure that there are authorities which can control the application of the legislation. In respect to the new method, the CEECs must accept the principle of mutual recognition and take part in the work of the standardisation bodies.

Getting rid of barriers to trade should lead to increased competition. Com-

petition policy in general is an important part of the EC. The Treaty of Rome outlined the essential principles of EC competition policy, mainly in articles 85/86 prohibiting anti-competitive behaviours by undertakings and article 92 setting strict conditions for state aids. The White Paper explained:

> It is important that the economies of the CEECs start functioning within an acceptable regulatory framework in order to prevent markets developing in a way contrary to the associated countries' own interests by leading to monopolised and inefficient market structures. An active competition policy will help the transition process by creating healthy economic structures and avoiding abnormal profits (EC Commission 1995a, Annex p. 51).

It was therefore 'of utmost importance to ensure that the approximation process already set in place under the Europe Agreements be continued in all areas of competition policy, ... and there must be a continued effort to ensure enforcement of the policy.'

Within the EC, competition policy is enforced by the Commission and the ECJ. Within the EEA, the EFTA side had to create an EFTA Surveillance Authority and an EFTA Court playing similar roles on the EFTA side. For the CEECs enforcement is still basically up to national authorities. 'It is expected that the wider market will only be accepted by all players to the extent that a level playing field is established by the introduction of formal competition rules and by their effective enforcement.' Whether such an incentive is sufficient remains to be seen.

In respect to services, the White Paper mainly deals with financial services. A well-developed and competitive financial sector is of great importance for a market economy. Further, 'it is of the greatest importance that the users of the financial system (both domestic and internationally) have full confidence in the system. This trust can only be created via prudential legislation and the creation of efficient supervision or control of the companies in the financial

sector' (EC Commission 1995a, Annex p. 281). The EC system has created a single market for financial services based on co-ordination of minimum requirements, home country control, and a single licence. The CEECs would have to train personnel, introduce appropriate legislation, and effective supervisory bodies. 'Every effort must be made to strengthen the quality of the supervisory bodies so that they are able to perform their duties adequately' (EC Commission 1995a, p. 282).

In respect to movement of persons, the White Paper limits itself to a chapter on mutual recognition of professional qualifications. The professions of doctor, lawyer, merchant-navy officer, and primary- or secondary-school teacher in many countries 'are open only to those who have undergone education and training in accordance with the relevant legal requirements.' Mutual recognition of qualifications 'is an appropriate mechanism for overcoming this obstacle to the free movement of persons and to the freedom to provide services' (EC Commission 1995a, Annex p. 334).

The development of EC legislation in this area has gone through three kinds of legislation. It started with 'transitional directives' from 1964 to 1982. They dealt with recognition of professional experience. Three to six years of experience was generally stipulated.

A second kind of legislation was based on automatic recognition of professional qualifications, based either on minimal co-ordination of education and training or by establishing the criteria for recognition. The first subgroup applies for health-care professions of doctor, nurse responsible for general care, dentist, midwife, veterinary surgeon, and pharmacist. The second subgroup applies only to architects.

The latest and third kind of legislation concerns recognition of qualifications without co-ordination of education and training. A 1988 directive introduced a general system for the recognition of higher-education diplomas awarded on completion of professional education and education and training of at least three years' duration. It was supplemented with another directive in 1992. These two directives cover all regulated activities and professions not falling under a specific directive. The system, for instance, covers the

activities of surveyors, accountants, and engineers. Under this system, recognition can be described as semi-automatic. A host country may require a migrant to compensate for the difference in education and training by completing an adaptation period or taking an aptitude test. In principle it is the migrant that chooses between the two. For lawyers a test may be required.

As regards these third category 'general systems' directives, the CEECs' authorities would progressively be invited to attend meetings of the group of co-ordinators who apply the directives.

The White Paper includes a section on the environment. The listed legislation is the one that concerns the free circulation of goods, not the full scope of environmental legislation. Environmental legislation affecting the internal market is based on article 100a of the Treaty, while general environmental legislation is based on article 130s. Both of these articles were added to the treaty by the SEA in 1986. Whereas most internal market legislation according to the SEA could be adopted by a QMV in the Council, environmental legislation based on article 130s required unanimity. The Maastricht Treaty (1992) creating the EU has now introduced QMV for most environmental legislation.

The environment suffered in Eastern Europe during the years of Communist rule. It is therefore important that the EC now puts high priority on the environment in its relation with the CEECs. The first meeting of ministers of the environment from the EU and the CEECs took place in October 1994. Such meetings should now take place yearly.

Since the White Paper concentrates on the internal market, the Common Agricultural Policy (CAP) is not covered as such. However, certain aspects of trade with agricultural products are included, especially legislation concerning veterinary, plant health, and animal nutrition legislation. Actually, no less than about 200 legislative measures are included, out of about 1000 that exist in the area of agriculture.

The White Paper further deals with social policy and action, including equal opportunities for men and women, health and safety at work, labour law, and working conditions. There are also sections on transport policy, telecommunications, public procurement, energy, consumer protection, etc.

All in all, enough to keep the CEECs busy before membership. This, indeed, is the message for the CEECs, membership can and should be prepared. A vast new body of legislation must be introduced to assure the four freedoms, free movement of goods, services, capital and people. And a system of 'surveillance and enforcement,' as it was commonly referred to in the EEA negotiations, must be set up to create a level playing field. All this requires administrative adaptations in the CEECs. New structures and institutions must be created, and officials must be trained to man these institutions. As the Commission explained:

> The main challenge for the associated countries in taking over internal market legislation lies not in the approximation of their legal texts, but in adapting their administrative machinery and their societies to the conditions necessary to make the legislation work. This is a process requiring the creation or adaptation of the necessary institutions and structures, involving fundamental changes in the responsibilities of both the national administrative and judicial systems and the emerging private sector (EC Commission 1995a, p. 23).

Part of the pre-accession strategy is to assist the CEECs in this process, partly by financial assistance through the PHARE programme. But the Commission has now also established a new Technical Assistance Information Exchange Office (TAIEX) in Brussels.

6 EARLY PRE-ACCESSION REPORTS

The Commission produced the first reports on the pre-accession strategy in 1995. They were, however, kept in rather general terms and they did not contain the quantitative data that will be needed for a more informed assessment of the impact of the strategy.

On 29 November 1995, the Commission adopted a progress report to the Madrid meeting of the European Council on the pre-accession strategy, as requested by the Cannes summit in June 1995. This report gave a general overview of the pre-accession strategy and the political and economic situation in the CEECs. It argued that the pre-accession strategy had strengthened the reform process and consolidated relations between the CEECs and the Union. In respect to the political situation in the 10 CEECs, the report stated:

> In general, democratic institutions are functioning well, elections are free, and constitutional provisions are observed. Human rights are, on the whole, respected. But the situation concerning the protection of minorities, respect for constitutional checks and balances, and the independence of the media and of non-governmental organisations gives concern in some cases where further progress is needed to ensure political stability (EC Commission 1995b, p. 5).

All CEECs recorded positive economic growth in 1994. But, 'with the exception of Poland, output had not yet increased enough to offset the contraction in the early years of the transition process.' Recovery was producing a modest decline in unemployment, inflation had been reduced and fiscal and monetary policies continued to be relatively tight in most CEECs.

The structural relations part of the pre-accession strategy could be improved further, *inter alia* by concentrating the joint meetings on more concrete questions (EU-Bull. 11-1995).

The pre-accession report did not touch upon the administrative developments in the CEECs directly. It referred to the new Technical Assistance Information Office to be established in 1996 and the new PHARE multi-country programme 'to train officials in the associated countries in the implementation and enforcement of legislation.'

The Commission produced two other reports prior to the Madrid summit in December 1995. On 29 November 1995, it adopted an interim report about

the effects on EU policies of enlargement towards the associated CEECs (EC Commission 1995c). It was argued that the expansion of the internal market to include 100 million consumers in the 10 CEECs would create a new economic dynamism as well as strengthen peace, security, and stability. The budgetary costs could not yet be calculated because of uncertainty about future economic growth and developments in EU policies, especially agricultural and regional policies. The Commission considered it rather unlikely that the 10 CEECs would join at the same time, and it was too early to fix a time schedule (EU-Bull. 11-1995).

On 29 November 1995, the Commission further adopted a report on the different strategies for developing the relations between the EU and the associated countries in the area of agriculture (EC Commission 1995d). The CAP would need to be adapted to enlargement and international developments. It would be necessary to continue and strengthen the reforms started in 1992. Further simplifications would be needed. Prior to enlargement, the EU ought to support restructuring, modernisation, and diversification of agriculture in the associated CEECs (EU-Bull. 11-1995). Again, this report was of a rather general nature.

7 THE ROLE OF TAIEX[3]

TAIEX was set up in May 1996 to make the expertise of the Commission and the member states available to the CEECs. The office quickly developed several services:

1. Documentation and legal advice. This includes a database and microfiche versions of EU legislation and national transposition legislation. Legal advice is given if the CEECs do not understand specific articles in the legislation.

2. A workshop programme covering the 23 sectors of the White