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TOWARDS MEMBERSHIP OF THE EUROPEAN UNION

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Originally, in early 1990, Poland hoped to avoid association status and to begin negotiations directly on full membership of the European Community. Following Spanish or Portugal pattern, such membership could provide for ten year long transitory period subdivided into three stages facilitating gradual assimilation with the Community's system and its institutional framework. Eventually Poland had, however, to acquiesce in much less ambitious solution. On 16 December 1991, the European Agreement** was signed establishing an association between the European Communities and their Member States of the one part and the Republic of Poland of the other part.[1] This treaty, as a whole went into force on 1 February 1994, whereas its provisions referring to trade and trade-related matters went into force on 1 March 1992 by the means of the Interim Agreement accepted by the EC Council on 25 February 1992. [2]

I. The Application

On 5 April, 1994, Poland acting on the ground of Article "0" of the Maastricht Treaty formally applied to the Presidency of the EU Council for membership of the Union.[3]

While applying for membership Poland did not want to push things too quickly or get into a race against the clock. Rather, by submitting its request for EU membership, it intended to show its willingness to open accession negotiations and to set a timetable: accession around year 2000 with five to ten years transitional period as

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** Further referred to as EA. The English text of the European Agreement has been published in ''Droit Polonais Contemporain/Polish Contemporary Law", issue 1 -4, 1993.

[1]Sec: *Official Journal of the European Communities*, L 348, Volume 36, 31 December, 1993; Council and Commission, 93/743/Euratom, ECSC, EC: Decision of the Council and the Commission of 13 December 1993 on the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Poland, of the other part; Final Act; information regarding the date of entry into force of the Europe Agreement with Poland; also: *Dziennik Ustaw*, 1994, N° 11, Załącznik.

[2] Council Decision 92/228/EEC: O.J., N° L 114/1 (30.04.92) (text of the Interim Agreement, ibidem: L 114/2-11).

[3] Polish application was preceded by the Hungarian one of 31 March, 1994, see: *Demandes d'adhésion de la Hongrie et de la Pologne à l'Union* (1746e session du Conseil), 1994, 18/19 April 6292/94 (Presse 68-G), p.

was the case for Spain and Portugal when they joined the EC. Another objective of ''the well thought-out decision by the Polish government is to obtain — through accession — improvements in the provisions of Poland's European Agreement".[4]

The formal accession application was on 11 April, 1994 complemented by sixteen points ''Pro Memoria" submitted to the Presidency of the EU Council by Polish Prime Minister Waldemar Pawlak.[5] The document underlines that for Poland accession means consolidating the results of democratic and systematic transformations and accelerating her economic development.

''Pro Memoria" emphasises Poland's readiness to adopt, at a time and in a manner to be specified in the process of further negotiations, the EU's *acquis communautaire.* It also recognizes that Polish capability and willingness to implement the ''acquis" should remain the major condition for Poland's accession to the European Union. All remaining requirements, including adjustments timetable, the length of the transition period, and the pace of implementation of particular obligations should be decided in direct talks.

In point 8 the ''Pro Memoria" refers to the Government Programme of Adjusting the Polish Economy and Legal System to the Requirements of the European Agreement. It, inter alia, recalls that in the field of legal harmonization, procedures have already been introduced which provide for an obligatory assessment of draft laws from the point of view of their compatibility with the EU, before they are subjected to the actual legislative procedure.

Attention was also drawn to governmental White Paper on Poland's relations with the European Union which, among other, will recommend appropriate adjustments for each of the commodity, services, capital and labour markets.

As concerns inadequacies of the existing arrangements with the EU, the ''Pro Memoria" points-out that the European Agreement deals with the issue of mutual trade in agricultural products in a highly unsatisfactory manner. Successful completion of the GATT Uruguay Round indicates that implementation of its Final Act must inevitably lead to the annulment of, or at least, amendments to, some of the European Agreement provisions. It says that the present arrangements do not consider the structural adjustment. Thus — it is argued — efforts should be made now to define a path leading to the integration of agriculture of Poland and the European Union at a specific time in the future.

II. Legal setting

Polish application has been facilitated by pronouncements made by the Lisbon and Edinburgh European Council's meetings in 1992.[6] They were followed and fur-

[4] See: Ambassador J. Kulakowski's explanation to journalists in Brussels on the motivation and objectives of Poland's formal request for membership of the EU, *Together in Europe,* 1994, 15 April, Nº 47, p. 2.

[5] See also: ''Polish »Pro Memoria«", (in:) *Together in Europe*, 1994, 15 April, Nº 47, p. 3.

[6] See: *European Council in Lisbon* 26/27 June 1992 — Conclusions of the Presidency (SN 3321/1/92, Rev. 1, p. 6) where under the heading 2 item C — ''Enlargement" it was declared that: "As regards relations

ther developed in the Copenhagen Conclusions of the Presidency of 21 - 23 June, 1993 where the relationships established under the European Agreements were formally recognized as an association preliminary to membership.[7]

The Copenhagen Conclusions of the Presidency say:

''The Council of Europe today agreed that the associated countries in Central and Eastern Europe that so desire shall become members of the European Union. Accession — the Council declared — will take place as soon as an associated country is able to assume the obligations of membership by satisfying the economic and political conditions required (...) . The *European Council* will continue to follow closely progress in each associated country towards fulfilling the conditions of accession to the Union and draw the appropriate conclusions".[8]

In legal terms the said above ''progress" may primarily be judged after fulfilment of the requirements set in EA and the follow-up settlements. Accordingly Article 6 of EA provides:

"2. The Association Council shall ... examine the application of the Agreement and of Poland's accomplishment in the process leading to market economy system (...)".

It should, however, be realized that no matter how disciplined observance of any arrangement limited in scope, like European Agreements or even much more comprehensive and complete one like the Treaty on the European Economic Area (EEA) would not, by itself, guarantee accession to the Union. The Community's view has always been that membership must be on the basis of acceptance of the whole *acquis communautaire*.[9] Yet, as the Community developed, its ''acquis" developed too and every new applicant country must therefore be prepared for acceptance of ever more demanding requirements resulting therefrom.[10]

Denmark, Great Britain and Ireland entered the European Community in 1973 after the Hague Summit had confirmed the acceptance by member states of the principle of the Community's own resources and after the Community had introduced the so-called European Political Cooperation schema based on the Davignon report

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with Central and Eastern Europe (...) cooperation will be focused systematically on assisting their efforts to prepare the accession to the Union which they seek". This concept was further developed by the Edinburgh Conclusions of the Presidency, see: Conclusion of the Presidency,: Edinburgh, 11-12 Dec., 1992, (Part D: External Relations, items 7 - 9), SN 456/92.

[7] As the established practice of the EC proves, three basic types of association relationships may be identified. These are:

a) association as a special form of development assistance,

b) association as a substitute for membership, and

c) association as a preliminary to membership.

See: P.J.G. Kapteyn and P. Verloren van Themaat, *Introduction to the Law of the European Communities. After the Coming into Force of the Single European Act*. pp. 829 - 845.

[8] See: *Council of Europe in Copenhagen*, 1993, 21 -22 June, Conclusions of the Presidency (Heading 7: Relations with the Countries of Central and Eastern Europe, sub-heading A, item (iii), pp. 12- 13), SN 180/93.

[9] This view was firmly confirmed by the Commission in its 1992 Report on *Europe and the Challenge of Enlargement* enclosed to the Conclusions of the Presidency, *European Council* in Lisbon 27/28 June 1992 (SN 3321/1/92, Rev. 1), see in particular: items 11 - 13, p. 3 of the Report.

[10] See: supra footnote i, item 9, p. 2.

of 1971. Then came a group of ''Southern" countries as Greece in 1981 followed by Spain and Portugal in 1986. Before the latter two entered the Community a far reaching changes to its decision making procedures and a host of new competences were introduced under the Single European Act aiming at completion of the single market by the end of 1992.[11]

Completion of accession negotiations with four EFTA States took place after the Maastricht Treaty on the European Union came into force.[12] This Treaty added more far-reaching changes to the Community's law-making capacity and sanctioned a considerable shift in policy-making from unanimity in the Council decision-making to majority voting. However, the most ambitious programme envisaged under the Treaty is the establishment of the economic and monetary union by 1999, albeit importance of the intergovernmental arrangements for Common Foreign and Security Policy (CFSP) should not be under-estimated, either.

For the existing Member States the crucial issue became how to bring about the enlargement of the Union while preserving and strengthening the advantages of the hitherto achieved level of integration. To reconcile these two objectives they, as with previous enlargements, have embarked on a process of strengthening the integration before they take any new members.

As the Commission emphasised: ''Enlargement must not be a dillution of the Community's achievements. On this point there should be absolute clarity, on the part of the member states and of the applicants".[13]

Acceding EFTA States — as David Spence rightly observes — ''had a head start in the enlargement process, since much of the important economic integration had been achieved in the complex negotiations leading to the creation of the European Economic Area. The Eftan countries can be integrated more easily into the Union — Spence continues — than the Central and Eastern Europeans, since much of the *acquis communautaire* was incorporated into national law by Sweden, Finland, Norway and Austria when the EE A came into force on 1st January 1994 [14]

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[11] The Single European Act (SEA) was signed on 17 February, 1986 by nine Member States and on 28 February, 1986 by Denmark (after the referendum), Greece and Ireland also after a referendum; see: *Bull. EC Supl.,* 1986, Nº 2. In the Final Act on the adoption of the SEA the Member States made various declarations, including a Declaration on Art. 8A EEC. This proclaims that the date of 1992 mentioned in that Article does not create an automatic legal effect. It is submitted, following de Ruyt: *L 'Acte Unique Européen* (Brussels, 1987) 159 and Toth (1986) 23 *CMLRev.* 803 *et seq.*, that this declaration would not prevent an action being brought for flagrant failure to achieve the objective of the establishment of the internal market by 1992. Even more so, the other declarations made at the time of the signature of the Single European Act can be at best regarded as mere statements of political intent. See: P.J.G. Kapteyn and P. Ver1oren van Themat, *Introduction to the Law of the European Communities After the Coming into Force of the Single European Act,* (Second Edition, Kluwer), p. 102 ff.

[12] Treaty on European Union (Europe Documents, Nº 759/60, 7 February, 1992; also: ''European Union Begins", *Together in Europe,* 1993, Nº 36, p. 1 and 6; A. Arnu11, ''Judging the New Europe", *European Law Review*, 1994, Nº 1, pp. 3 - 15.

[13] See: *Report*, supra footnote 9, p. 2, item 6.

[14] See: D. Spence, ''Towards Enlargement of the European Union", p. 7 (Author is Principal Administrator, The European Commission. This article enclosed to ''Presidency Conclusions — Brussels" 10 and 11 December, *1993* will be published, (in:) *Local Government Politics,* London, Longman, 1994).

Poland and other applicant Central European countries would have to evidence no mean consequence and determination to fulfil the like level of convergence before 1999.

Specific ''conditions of admission and the adjustments to the Treaties on which the Union is founded which such admission entails shall be the subject of an agreement [15] Thus the assumption of relevant rights and obligations by a new member may be subject to such technical adaptations, temporary derogations, and transitional arrangements as are agreed in accession negotiations.[16] As, however, the obligations presuppose a functioning of a competitive market economy and an adequate legal and administrative framework in the public and the private sector, the applicant country without these characteristics could not be effectively integrated. Therefore, the applicant country must not only be willing to accept the Community system but also be able to implement it. As the Commission put it: „Any applicant country without these characteristics could not be effectively integrated. In fact, membership would be more likely to harm than to benefit the economy of such country, and would disrupt the working of the Community".[17]

Thus, even if the Spanish and Portugal rather than the EFTA's Four ''pattern" would be more adequate for Central European applicants to be followed on their way towards full membership of the Union, their accession would require intense and comprehensive preceding adjustments. ''Working capacity" of the legal framework for association of these countries with the Union may substantially influence not only the prospects of adjustment process but also of membership itself.

III. The Scope of European Agreement

Technically speaking, the objective scope of EA comprises:
— political dialogue;
— free movement of goods;
— movement of workers;
— right of establishment;
— supply of services;
— current payments and movement of capital;
— competition and flanking economic problems;
— approximation of laws;
— economic cooperation and
— cultural cooperation.

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[15] Excerpt from Article "0" of the Treaty on European Union.

[16] See: ''The Challenge of Enlargement — Commission Opinion on Sweden's Application for Membership" (SEC (92) 1582 Final), *Bulletin of the European Communities Supplement,* 1992, Nº 5; compare with Commission opinions on application of Finland, SEC (91) 2048 *"Final, Bull. EC Suppl.,* 1992, Nº 6; (b) Norway, CO (93) 142 *Final, Bull. EC Suppl.,* 1993, Nº 2; (c) Austria — SEC (91) 1590 *Final, Bull. EC Suppl.,* 1992, Nº 4.

[17] See: *Report...,* supra footnote 9, p. 2, item 9 in finae.

However, only free movement of goods, rights and obligations of the Parties are defined in a precise manner. Europe Agreement provides for gradual establishment of a free trade area in a transitional period lasting a maximum of ten years, divided into two successive stages, each in principle lasting five years, in accordance with a detailed time-schedule for particular groups of products and under conditions provided for in the Agreement itself or Annexes enclosed thereto. In other areas operative provisions of EA are much less specific. At the same time practically no EA set of objective provisions preclude gradual extension thereto of relevant rules of the Union.

On the other hand, implied delays consequent upon optional departures from the established time-schedule or restraining effects that may result from application of admitted safeguard measures are counterbalanced by explicitly envisaged possibility of extension the original scope and acceleration of integration with the European Union. The latter category of provisions may be illustrated by Articles 14, or 61:2 of the European Agreement. The first of them says:

''Each party declares its readiness to reduce its customs duties in trade with the other party more rapidly than is provided for in Article 9 and 10 if its general economic situation and the situation of the economic sector concerned so permit".

In turn, Article 61:2 provides that:

''During the second stage (...) the Association Council shall examine ways of enabling Community rules on the movement of capital to be applied in full".

Considering that, as to the principle, EA does not foresee extension to Poland of the said freedom at all, the quoted article goes even further than the former one. Since convergence in the field of capital market may be achieved sooner and at a much lower cost than in other sectors, and in manufacturing and agriculture in particular, the above ''opening" may prove to be of great importance for acceleration of the whole adaptative process. It may become a powerful leverage for convergence of Polish economy with the one of the Union.

With regard to the right of establishment Article 44:5 empowers the Association Council to examine regularly the possibility of accelerating the granting of national treatment in the sectors referred to in Annexes XIIb, XIIc, and XIId to EA and by decision to amend respective Annexes appropriately.

Worth separate mentioning in this context is direct applicability of the Community rules and principles with regard to competition and related economic matters as provided under Articles 63:2 and 65 of Europe Agreement. Community's standards have also been granted to Polish companies with regard to procurement rules. Article 67:2 of Europe Agreement says:

„Polish companies (...) shall be granted access to contract award procedures in the Community procurement rules under a treatment no less favourable than that accorded to Community companies as of the entry into force of this Agreement".

Constructed in such a manner provisions of the European Agreement — although far from being comprehensive enough — may be characterized as flexibly task-

oriented, purposeful end-open regulatory set of instruments for gradual integration of the associated partner with the European Union.

However, in some areas, and with regard to agriculture and movement of workers, in particular, the European Agreement lacks sufficiently positive instruments for integration with the Union. As for agriculture, ''Community's standards" are referred directly only to cooperation in animal and plant health (Art. 77:1). Indirectly a possibility of assimilation those standards are implied under Article 20:6 which recognizes ''the need for an increased harmony between the agricultural policies of the Community and Poland". As far as Poland is concerned this can hardly be recognized as satisfactory enough. The main potential for progressive liberalization of trade in agricultural products between the Parties lies in Article 20:6 which refers to GATT standards as developed in ''multilateral trade negotiations". Autonomous standard of the European Agreement itself is rather restraintful. With regard to movement of workers, Community's standard is not envisaged at all, whereas autonomous standards of the Agreement are, as to the principle restriction-oriented and any possibility for liberalization is under Article 41 reserved either to discretionary action by individual States or to agreements between them. All the same, also in this domain the door has been slightly kept ajar. Thus, Article 42 provides that ''the Association Council shall examine further ways of improving the movement of workers (...)", and make recommendation to such end. Therefore, also in this domain, although to a lesser extent than in some other areas, a role of the Council may prove to be crucial providing its powers are used in an active and dynamic manner.

Among priorities for reform rules of the origin of goods should also be listed. Full and multilateral cumulation of origin operating throughout the EEA should, as soon as possible, be extended to Poland and other Visegrad countries who may wish so. This should be done for the sake of the increased and lasting flow of foreign direct investment (FDI) into those countries and accelerated convergence of their economies with the Union.

The existing rules, as envisaged under the European Agreement, in fact, discourage firms from placing their manufacturing facilities in any particular associated country if they had to supply from these facilities the whole region. This, in particular, is true where supplies originate in whole or in part in the territory bilaterally privileged in its relations with the territory of direct buyer (for further processing or other purposes) or a distributor, as well as with the territory of the final user, but not privileged in its relations with the latter one through the intermediary of the former. This would be the case in transactions bridging together at consecutive stages the territories of the Visegrad, EFTA and the European Union's countries, as well as the opposite way round. Therefore, the existing pattern of origin of goods is, in some way, not only counterproductive in terms of its impact on building conditions for the accession of Visegrad countries to the Union, but also contributes to gradual deterioration of competitive attractiveness of these countries as a place of investment location in favour of the EFTA countries. Maintaing the existing pattern of origins for

five more years may result in insurmountable prevalence of investment location in any EFTA country over their location in Poland or any other Visegrad country.

As Richard E. Baldwin rightly observes: ”Pan-European integration is proceeding, but with no coherent structure”. The bilateral ’’spokes”, as he calls European Agreements, are separately linking each of the Central and East European countries to the Western European ’’hub”. This — he continues — not only slows growth in the East but is also harmfull to the West by depriving it of worthwhile investment opportunities. At the same time thus structured relationships are frustrating the aspirations of Central and East Europeans. In a longer run this would create dangerous political problems for Western Europe and would mean missing important economic gains.[18]

Therefore, the Polish Government rightly in ’’Pro Memoria” observed that the European Agreement provides for further negotiations in many areas critical to mutual cooperation and the introduction of new provisions and the definition of their character and direction should be closely linked to Poland’s future membership. Thus, as the Polish Government concluded, membership negotiations would be a suitable form for establishing the conditions, pace and desirable shape of Poland 's integration with the EU.

IV. Which way to the Union’s membership

While preparing for accession negotiations we should be aware of the inventive multiplication of various secondary status proposals. It may be well illustrated with the European Parliament Report prepared by the German MP Klaus Hänsch.[19] Proposals presented in the Report include maintaining the EEA as an ante-chamber to the Union, with prospective member states able to move into the EEA having progressed through an association agreement. Thus David Spence believes that ’’the EEA may well prove a sensible option for those applicants where full acceptance of the Community rigours would be counter-productive — both for the Union and for the country concerned. Likewise — he continues — the European Agreements are already intended to be a stepping stone to full membership. They may prove an acceptable alternative to full membership in the medium term”. In principle one could agree with the above theory.

The membership of the EEA could really — at the first glance at least — seem the second best solution to full membership of the Union itself. At the same time, however, it is also the most demanding one. It was tailored to the needs of a group of rich and economically highly developed countries which for a number of reasons were not originally prepared to join political and security structures of the Community. On the economic side those countries need no adaptative transitory period or

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[18] See: R.E. Baldwin, *Towards an Integrated Europe*, London 1994 (Publ. Center for Economic Policy Research — CEPR, ISBN 1 89828 13 8).

[19] See: K. Hänsch, *Report of the Committee on Institutional Affairs on the Structure and Strategy for the European Union with Regard to its Enlargement and the Creation of a Europe wide Order,* (European Parliament Session Documents PE 152.242/Fin. 21 May, 1992).

assistance for accommodation with the Single Market. Their membership in the EEA was preceded by almost twenty year long period of the free-trade area-type relationship with the Community.[20] For all the above reasons the status of EEA-type membership seems neither particularly well suited to the needs of Poland and other Central European Countries nor ''digestable" for the Union itself.

On the other hand, an essence of most other yet pondered secondary-status schemes boil down to the postponement of full membership of the Union for indefinite period. In contrast with the above what is worth positive attention are structural elements contained in a proposal recently presented by earlier mentioned Richard Baldwin, the Co-Director of the Centre for Economic Policy Research International Trade Programme and Professor at the Graduate Institute of International Studies in Geneva. Baldwin proposes a European trading system of three concentric circles, where membership of each circle would evolve at a pace determined by development in each of the participating country.[21] The European Union would be the central circle with initially very limited membership.

The so-called ''Organization for European Integration" (OEI) would be the next largest, comprising all the Union Member States plus the ''front runner" Central European Countries (CEC) that were not yet Union members. The OEI would provide an intermediate stage on the way to EU membership. According to Baldwin proposal, the OEI would resemble the present EEA, although without freedom of the movement of workers, and would be responsible for extending the Single Market to non-Union partners.

The outer circle — Baldwin proposes — would embed all existing European Agreements into the so-called Association of Association Agreements (AAA), which would create a European duty-free zone for industrial products. The AAA would bring all the Association Agreements under one umbrella and impose an additional requirements, and in particular MFN treatment guaranteeing that any liberalization by an AAA member must be extended on the same basis to all AAA members. This would eliminate the disadvantages of the "hub-and-spoke" bilateralism and facilitate collaboration towards gradual extension to the outer partners of all four freedoms on which the European Union is built.[22]Using Baldwin's proposal as a starting platform for further negotiations would make sense and could be fruitful.

The above underlines the importance of what was said both by the Polish Prime Minister in the discussed earlier ''Pro Memoria", and by Czech Premier Vaclav Klaus on 10 March during his talks with the President of the European Commission,

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[20] See: J. Norberg, ''Free Trade Agreements of the EFTA Countries with the EC - Experience and Problems", *Svensk Juristtidining,* 1988, Nº 77; J. Temp1e Long, ''Institutional Aspects of EC-EFTA Relationship", (in:) *Creating a European Economic Space Legal Aspects of EC-EFTA Relations* (Papers from Dublin Conference, October 1989).

[21] Compare the Author's views (in:) *Poland and the Emerging European Economic Space,* paper presented at the London School of Economics and Political Sciences Conference on Emerging European Economic Space, London, 1990, 29 November.

[22] See supra, footnote 18 compare with: ''Partnership for European Cooperation", (in:) *Together in Europe,* 1994, 1 April, Nº 46, pp. 1, 2 and 12).

Mr Jacques Delors, namelly that ''association arrangement is not sufficient and needs to be supplemented and further developed in order to prevent the appearance of a vacuum"[23] between the act of association and the actual accession. The phase leading from the entry of the association agreement into force, to accession needs to be ''permanently enriched" so that it progressively fills the gap between the two parties. For Mr Klaus the main focus was ''what to do to fill the gap". The answer to this question, I am afraid, cannot be simple.

We are aware that the time of our adjustment to the requirements of the European Union will be much longer in the economic area than in the political one. One may only agree with Edouard Balladur, the French Prime Minister, who stated in his first exposé at the National Assembly on 8 April, 1993 that the ''countries of Central and Eastern Europe that are applying for the Communities membership should at first be included in the political structures of the Communities before the reforms they have been introducing, some day let them join (the Communities) on the economic level". Helmut Kohl, the Federal Chancellor, in his speech given on 5 February, 1994 in Munich at the conference on the security policy, considered it very important as regards confidence and security constructing that ''the countries of the Central Europe striving at the European Union be urgently included in the common foreign and security policy" which would constitute supplementation to the ''Partnership for Peace".

The British-Italian proposal in this matter envisages consultations to be held and positions of the states associated with the European Union to be agreed on certain questions as well as their participation in common missions. However, it is hardly possible for the European Union to undertake such discussions on their partial membership of the European Union before 1996 i.e. before the conference is held to review the European agreements with the associated countries of Central Europe. Nevertheless, the countries concerned should submit their appropriate proposals, individual ly or together, to the EU as soon as possible.

I can hardly see any legal obstacles for Poland to be granted full membership to the Western European Union. After all, the Brussels Treaty on WEU provides for only one kind of membership — the ordinary one. Any other forms of''membership" like ''associated membership", or recently invented ''partnership association" have political decisions as their base. They were never ratified as a treaty itself. Consequently, they represent de facto revisions of the Brussels Treaty. Their ''binding force" is of a political nature and may be changed or waved under the same procedure for the needs of particular circumstances and individual cases e.g. for the needs of Poland's access to full or ordinary membership of the Western European Union.

As a matter of fact, that would correspond with the needs recognized in Mr Baladur's exposé mentioned above.

Granting Poland a full membership of the Western European Union could be seen as a legal means of indirect assimilation of that country to the political and

[23] See in: ''Czech Premier Minister Meets President Delors in Brusseles", *Together in Europe*, 1994, 15 March, N° 45, p. 2 (column on).

security mechanisms of the European Union without undermining the coherence of the Union's institutions as a whole and thus avoiding the undesirable ''Europe à la carte" approach.

Such a solution would, in its substance, be a reverse though legally much simpler and less expensive replica of the EEA formula. The EEA was invented to avoid ''Europe à la carte" effect, at the same time exonerating the EFTA countries from the political and military or security duties resulted from evolution of the economic community towards the European Union.

Hence, if the previous solution is regarded admissible, this one should hardly evoke any reservations either. The moreover that Poland aims at no everlasting exceptions from the Union's ''acquis" and its mechanisms in any area.

Not all applicants are as clear on this topic, as Poland is.

The Czech Prime Minister said, when questioned about the type of the European Union the Czech Republic would like to join, that he was definitively in favour of much more flexible Community with less strict institutions. From his responses it was clear that his choice would be a more towards free-trade area arrangements and a much looser institutional set up. "1 want to joint the Common Market" said the Czech Premier, in order that "we could have the same links with the Twelve that existed for example between Denmark and France twenty years ago."

Readers will recall that 20 years ago, Denmark was a new member of the EEC which, at the time, was a customs union only equipped with its innovative form of supra-national institutions. Poland has no interest in such journeys into the past. Our aim is to be an ordinary member of the Union as it is and would evolve further at the choice of its members. We wish to share all the rights and responsibilities, temporary exemptions being reserved in a transitional period for the adjustment purposes.

As concerns the expansion of the Union's powers vis a vis the national ones, we see the subsidiarity principle introduced and defined in Article 3b of the Maastricht Treaty and developed by the Community organs to be adequate response to the problem.[24]

At the same time Poland cannot be expected to acquiesce in a peripheral status of a more or less dependable nature. In view of Russia's intense endeavours at a strategic partnership in the NATO, along with and also superior to the ''Partnership for Peace", Poland cannot afford its staying beyond the western system of defence guarantees. Lack of those guarantee will connote placing Poland in the grey area of security the guarantors in that area would effectively be made up by the NATO and Russia acting jointly, i..e. within a peculiar condominium. Therefore there is no alternative for Poland's full membership of the Western European Union but that of the NATO.

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[24] See: *The Principle of Subsidiarity* (Communication of the Commission to the Council and the European Parliament), Brussels, 1992, 27 October; also *Commission Report* of 24 November, 1993 (COM (93) 545) and *Background Report — Adapting Community Legislation to Subsidiarity*, Commission of the European Communities, 1994, 25 January, (ISEC/B3/94).