the Future of Europe and the negotiations on the Constitutional Treaty that followed it also took place against the shadow of eastern enlargement. In fact one of the most important justifications for the Constitutional Treaty was that which stressed the need to streamline decision-making in the EU of 25. Thus even if the eastern enlargement differed significantly from previous rounds in terms of scale and diversity, academic literature and political commentary continued to focus on the established preoccupation with widening and deepening.[23] The questions related to the '*finalité*' of integration are of course intimately connected with the EU's ambitions for further widening. This is because, as Jan Zielonka suggests, one cannot study the question of enlargement without reference to that of more or less integration, or at least the impact of enlargement on the process of integration.[24] The relationship between the two phenomena therefore will also be a factor throughout the book. This, however, will not impinge on the main task at hand, which is the analysis of the *eastern enlargement* process and its significance for the European Union.

Part I

The unfolding of eastern enlargement 1989–2004

2 1989 and beyond

The New Europe takes shape

Introduction

In the spring of 1994, the first formal applications for membership of the European Union by the Central and East European (CEE) states were made. Almost five years had passed since the dramatic days of peaceful revolution of 1989. In that period, many of the old certainties of the Cold War had disappeared. The Soviet Union's implosion had rendered the CEE states free to pursue their own external policies for the first time since the 1930s. Across Europe the entire framework of economic, political, security, and cultural relationships seemed to be in flux as the EU struggled to put in place a concrete process that would govern its relationship with the new democracies. Although it was cautious about making any categorical promises of membership, it became clear that enlargement of the Union to include those countries in CEE that had expressed an interest in joining represented the only viable policy option for the Union. This chapter serves a dual purpose. First, it seeks to describe the evolution of the EU's relations with the CEE states in the years after the 'new beginning' of 1989; second, it will outline the main elements of EU enlargement strategy towards CEE and how the EU became progressively committed to a wide enlargement round. It begins by describing the events of 1989–90 and their significance for the European Union.

The EU response to the 1989 revolutions

The dramatic but largely peaceful revolutions that transformed Central and Eastern Europe in 1989 are often described in grandiloquent terms. Phrases such as 'velvet revolutions', 'geopolitical earthquake' and 'acceleration of history' quickly entered political discourse as scholars and public figures struggled to come to terms with the magnitude of the events. Within a short time it became clear that the demise of Communism held profound implications for the future of Europe – both east and west. As the old certainties of the Cold War era gave way to a somewhat amorphous geopolitical framework, the EU found itself confronted with a drastically altered European configuration. The Europe of the Twelve would now have to address the question of how it might relate to *and* possibly assimilate its neighbours to the East.

In Central and Eastern Europe, the Gorbachev reforms had effectively emboldened reformers and encouraged dissent. In short, internal Soviet disarray provided Warsaw-Pact dissident opportunity. Prior to the era of *glasnost* and *perestroika*, relations between the EU and the CEE states were practically non-existent.[1] EU activity was mainly confined to a few narrowly concentrated areas of trade, ensuring the protection of key economic sectors from unfair competition from the Eastern Bloc.[2] At a political level, Cold War geopolitical thinking hindered the development of closer relations.

For the Central and East European states emerging from the shadow of the Soviet monolith, the aspiration was clear: a 'Return to Europe' – the Europe from which, it was frequently asserted, these states had been forcibly separated for over four decades.[3] The new CEE governments from the beginning framed their endeavours and aspirations with explicit reference to the core values of European integration.[4] They sought freedom, prosperity, and a secure place in the international community of nations, especially within European organizations. Opinion polls pointed to massive support for 'joining Europe'.[5] For the European Union, however, the aftermath to the peaceful revolutions would produce a period of intensive questioning: first, what was actually meant by 'European'; second, and more pragmatically, how should the Community respond to the CEE states' stated desire for membership of the club. For the first time, Article 237 of the Treaty of Rome, which simply stated that 'any European State can apply' for membership of the Community, began to be scrutinized.[6]

Even at this early stage, however, a division between EC/EU 'drivers' (advocates) and 'brakemen' (obstructionists) was in evidence. On one side British Prime Minister Margaret Thatcher unashamedly made the case for an EC commitment to enlarge. The question of what motivated her advocacy is usually answered with the assertion that she saw a wider Europe as a tool for slowing down the integration process and forestalling, if not derailing, any moves to embrace federalism. It was undoubtedly the case, however, that she also admired the CEE states for overthrowing communism and embracing the dual freedom of the market and the ballot box. At the Aspen Institute in Colorado on 5 August 1990 she called for a pan-European 'Magna Carta'.[7] Her foreign minister Douglas Hurd was equally supportive, as was John Major once he became Prime Minister.[8] For some European leaders, however, the idea of a speedy enlargement was just too big a leap of the imagination. French President Francois Mitterand, for example, declared in Prague that it would be several decades before the CEE states could become members of the Community.[9] The Commission for its part took a middle path at this time, urging closer links but seeking to deflect the question of membership.[10]

In November 1989 the enthusiasm and readiness of the West to help was clearly expressed.[11] Altruism could indeed be detected, not just in the rhetoric but also in the actual nature of the response.[12] The heady atmosphere was captured in the European Council's declarations at the Strasbourg summit in December 1989 where it specifically acknowledged a 'special responsibility' for Central and Eastern Europe and suggested that the Community was the only point of reference of significance for the CEE states.[13] This was despite the fact that the revolutions had

caught the Community off guard. For the EU this was as much a question of adjusting the cognitive, as well as the physical, map of Europe. EU policy, according to Sedelmeier and Wallace, was characterized at this time by, among other things, hyperactivity, enthusiastic pledges of support, and consensus that the EU should play a leading role in the transformation process in CEE, even if it was unclear what this might involve.[14]

Initially, talk of a Marshall-type Plan for Eastern Europe was commonplace, with the EU appearing to acknowledge the existence of a moral imperative for large-scale aid transfers to the eastern countries.[15] The Luxembourg accord of June 1988, billed as the Joint Declaration on the Establishment of Official Relations, led to the initiation of bilateral trade deals with the CMEA member states, and can be seen as ushering in a new phase of more normal relations.[16] The Community removed long-standing import quotas on a number of products and extended the General System of Preferences (GSP) to the CEE countries. The Commission began a major assessment of the progress of economic and political reform in the region.[17] The resulting Trade and Cooperation Agreements (TCAs) would, by October 1990, be signed by all of the former Warsaw Pact states in Central and Eastern Europe.[18] A Central European Free Trade Association (CEFTA), formed from former Comecon members, was also instituted in 1993 as an additional mechanism for freeing up trade.[19] This was in addition to a Central European initiative – the so-called Visegrad declaration – which sought to turn the three countries Hungary, Poland, Czechoslovakia into a single economic zone.[20] Further encouragement was garnered from the decisions made at the G24 summit of July 1989 (actually the G7 summit but recognized retrospectively as the wider G24 grouping), which provided substantive help to the reforming Eastern countries by means of rescheduling of debt, provision of aid to tackle fiscal problems, and, most significantly, commitments on aid for economic development. With respect to pledges of financial aid, it is estimated that the G24 block together committed approximately $45 billion over a three-year period.[21] Further commitments were made in the months that followed.[22] Alan Mayhew's calculations show that the actual grant assistance delivered to the recipient countries amounted to only 15 per cent of the headline figure promised.[23]

Despite the EU's rhetorical support for the process of transition, however, the reality was that doubt and vacillation soon replaced Western enthusiasm. Consequently, a tremendous gap developed between, for example, the amount of aid promised and that which was actually disbursed. Iver T. Berend showed that had the Marshall Plan been emulated for Central and Eastern Europe, even on a limited basis, with, for example, a Western contribution of only one half of one per cent of GDP, this would have yielded up to $100 billion annually for reconstruction and transition in Central and Eastern Europe.[24] Nothing on this scale was realized.[25] If one shifts the focus to EU aid alone, and employs Berend's model the outcome reflects very poorly on the EU15. In 2004 the combined EU15 GDP amounted to over €9 trillion. A Marshall-style financial aid programme would have delivered approximately €90 billion per year to CEE. Even a contribution of one half of one per cent of EU GDP would have yielded a figure of €45 billion

annually for a limited period. The financial package agreed for the acceding states at the Copenhagen summit in 2002 amounted to a total of €40.8 billion for the period 2004–2006.[26] At first glance the headline figure seems quite generous. But it equates only to approximately 0.15 per cent of EU15 GDP for each year 2004–2006. Further probing, however, reveals a significant dilution of that headline amount. It does not include contributions made to the EU budget by the incoming states for 2004, 2005 and 2006. If that is factored in the net financial aid accorded the CEE states in the period amounts to a sum of only €10.3 billion for 2004–2006. That amounts to no more than one thousandth of EU GDP.[27] As Table 2.1 demonstrates this is a very long way short of Marshall-era support and even significantly less than the support the EU15 provide on a bilateral basis to developing countries. The aggregate EU15 financial aid to developing countries amounts to

Table 2.1 EU GDP and potential financial aid to Central and Eastern Europe 2004–6

Country	*2001 GDP (billion euros)*
Austria	210
Belgium	257
Denmark	180
Finland	135
France	1446
Germany	2063
Greece	130
Ireland	116
Italy	1217
Luxembourg	22
Netherlands	427
Portugal	123
Spain	650
Sweden	234
United Kingdom	1591
EU15 Total GDP	**8811**
1% of EU15 GDP	**88**
0.5% of EU15 GDP	**44**
0.1% of EU GDP	**8.8**

Source: author's calculations

0.3 per cent of EU GDP, in other words about three times the amount the CEE states will receive between 2004–2006.[28]

Further evidence of this apparent failure of response is provided by comparative analysis of actual EC/EU aid to CEE and transfers to its own poorer member states. In 1992, the peripheral EU countries (Ireland, Spain, Greece and Portugal) received fifteen times more per capita than did the CEE countries.[29] Ten years later the gap had narrowed but was still very significant. Poland would receive €67 per capita, Hungary €49, Slovenia €41, and the Czech Republic €29 in the period up to the end of the 2006 financial framework. By contrast, in 2000, Greece received €437 per capita, while Ireland got €418, Spain €216 and Portugal €211. Further, it was stipulated that aid to individual CEE states was not to exceed the imposed 'absorption capacity' figure of 4 per cent of GDP. This threshold was set much lower than had been the case in previous enlargement rounds. It is little wonder that the CEE states look wistfully at the Cohesion states and their very generous levels of subvention.[30] The point is further put in perspective when one considers that Ireland, although already by 2000 one of the richest states in the Union, was still in receipt of almost six times more aid than was envisaged for Poland.[31] To further emphasize the lack of support offered CEE a comparison with German transfers to its eastern Länder can be evinced: in 1993, these amounted to a staggering $5900 per capita.[32] In the decade after unification, net fiscal transfers from the German Federal Government to the former East Germany amounted to some 1.2 trillion DM. This figure amounts to ten times what the EU has allocated in aid to all the CEE candidate countries in the financial framework to 2006.[33] The impression of the CEE countries remaining the poor relations is difficult to refute and is reflected in the opinion of some that the Oder-Neisse line quickly transmuted into a new and lasting economic divide, separating Europe's haves and have-nots.[34]

PHARE

Notwithstanding the gap between EU commitments and disbursements, there did emerge a more coherent collective approach to financial aid and economic restructuring in the transitioning states. The G24 conference of July 1989 committed its members to aiding the economic reconstruction of Central and Eastern Europe. Out of this would evolve a practical operational device to assist with financial aid and technical matters. This became known as PHARE;[35] it would eventually encompass all of the CEE states.[36] The European Commission at the time identified the prime missions of PHARE as supporting the process of economic transformation, with a focus on core areas such as industry, agriculture and energy, and providing financial support for CEE efforts to reform and rebuild.[37] In addition, the programme included food and humanitarian aid, balance of payments help and access to European Investment Bank (EIB) loans.[38] PHARE soon became the biggest assistance programme in CEE with funding increasing from an initial amount of €500 million in 1990 to €1600 million in 1995. In total, the PHARE programme allocated €4.2 billion for the period 1990–94; this increased to €6.693

billion for the period 1995–99, with another €4.7 billion provided between 1999 and 2002. The focus of PHARE would change in time from demand-driven support for transition-related restructuring, developing in parallel with the pre-accession strategy, into an entirely accession-driven instrument.[39]

If PHARE was intended as a crucial instrument for the support of restructuring it quickly became apparent that inherent problems compromised its effectiveness.[40] Firstly, the financial support was very modest given the scale of ambitions for PHARE. Second, analysts railed against the perceived inadequacies of the PHARE distribution system and in particular against the preponderance of western management consultants employed in implementation. Pflueger demonstrated that only ten per cent of PHARE funds were channeled into investment in the early 1990s, whereas management consultants, frequently from the west, pocketed vast amounts.[41] Official concern was publicly expressed and this contributed to a demonstrable loss of confidence in the programme on the CEE side.[42] The EU itself acknowledged the legitimacy of the complaints. In 1993, the EC Court of Auditors brought into sharp focus the mismanagement of specific components of the aid budget concluding that 'almost none of the leading personnel in the management units are nationals of the recipient countries. Thus, the claimed recipient control over implementation seems specious.'[43] The question of serious fraud undermining the new aid programmes was also a recurring one. There did not seem to be sufficiently rigorous scrutiny of EC aid.[44] Further criticism of PHARE was based on the employment of a mixture of bilateral and multilateral aid, which at times compounded the problems of implementation and conspired against the overall goals of the programme. A Belgian government memo expressed the general frustration: it called for more consistency between the policies of member states and that of the Community.[45] The overall picture was one of good intentions, compromised by administrative deficiencies and a lack of coordination.[46] Acknowledgement of the inadequacies of the PHARE programme came at the Copenhagen European Council summit meeting in June 1993. Consequently PHARE took on a new and explicitly political orientation; it was redesigned to keep pace with political developments, in particular with regard to a more concrete accession scenario. After 1994 the programme was characterized by support for the legislative framework and administrative structures, as well as for projects promoting democratization and civil society, and for investment in infrastructure, involving cross-border cooperation.[47] The move to substantive capacity-building had begun, even if it was somewhat tentative.

In addition to PHARE the EU also put in place two new financial institutions intended to provide finance and advice to governments in Central and Eastern Europe. These were the European Investment Bank (EIB) and the European Bank for Reconstruction and Development (EBRD). The EIB was guaranteed by the EU and made project-based loans, targeted at productive or infrastructure investment available at competitive interest rates. EIB loans were hugely important for the transitioning countries in the early 1990s when their access to investment capital was negligible. Later investment would be focused on trans-European infrastructure projects such as the upgrading of train and motorway routes.[48] The

EBRD, a French government initiative, was designed to provide support for balance of payments problems, currency convertibility, and aid in instituting programmes in technology, training and development.[49] There was an enormous amount of publicity attached to its launch on 15 April 1991.[50] An amount of disquiet, however, centred on both the choice of London as the headquarters for the bank and on the activities of its larger-than-life president, Jacques Attali.[51] As early as 1991 there were suggestions that the bank was failing in its remit.[52] At its second annual meeting in London on 1 April 1993 there was uproar amid claims of great extravagance.[53] When Attali decided to resign there was little surprise.[54] Even after his departure, however, the Bank was dogged by negative publicity with suggestions that management consistently favoured French companies and Gallic interests.[55] Nevertheless change was effected and the bank began to have an impact.[56]

The Europe agreements

The third arm of early EU policy developed out of the existing template of association and association agreements, which had been used to manage relations with third countries since the inception of the EC.[57] It became apparent that a deeper form of association agreement would be required in managing relations with CEE. Following on from the initial trade and cooperation agreements of 1989 and 1990, the EU saw the need for a more effective institutional framework in which the new relationships, both political and economic, might be consolidated. The Association Agreements (or Europe Agreements as they were more commonly referred to) were described as 'second-generation' agreements, symbolic of a second stage of relations between the EU and the CEE countries. The first such Agreements, with Poland, Hungary and Czechoslovakia, were signed on 18 December 1991 and came into operation on 1 March 1992.[58] The European Commission defined the Agreements as 'a legal, political and economic framework for the relationship of the signatory CEE countries with the EU'.[59] They provided the framework for bilateral relations between the EU and its member states with the partner countries. Described as representing 'far-reaching liberalization' with respect to trade and economic ties, the Agreements were viewed by the EU as a positive contribution to the CEE efforts to reduce the economic disparities with the EU member states. They covered trade, political dialogue, legal approximation and other areas of cooperation, including industry, environment, transport and customs. They aimed progressively to establish a free trade area between the EU and the associated countries over a given period, on the basis of reciprocity, but applied in an asymmetrical manner. According to the Commission, the Agreements were 'based on shared understanding and values' and prepared the way for economic and political convergence.[60]

For all of the normative rhetoric that framed the new EU–CEE relations, the tectonic plates of economic reality continually impinged upon efforts at deeper engagement. Testimony to the protectionist nature of the Europe Agreements abounds.[61] In this respect, they were frequently portrayed as being one-sided in

defending EU interests, and hardly representative of a mechanism designed to lead to membership of the associated countries.[62] CEE leaders were quick to point to the incongruity of the EC position.[63] Indeed, the delays and tensions which would characterize much of the enlargement process to follow were very evident in the negotiation of the Europe Agreements.[64] Although the EC had made concessions during the final negotiations, the Agreements nevertheless protected the so-called 'sensitive' sectors of key EU industries such as agricultural products, textiles and coal and steel.[65] These were the sectors where CEE producers wielded significant comparative advantage relative to their EU competitors. Although the EU provided greater market access, the restrictive features of the Agreements effectively limited CEE market penetration. These sectors accounted for approximately 40 per cent of total CEE exports. The impact of these restrictions on CEE trade may be gauged by focusing on one important component of CEE trade: agricultural goods. The clear trend is of a highly advantageous swing to the European Union in the terms of trade. The EU, which in 1989 had a trade deficit in agricultural goods of some 960 million ECU, had by 1993 turned this into a surplus of 433 million ECU.[66] Although CEE trade with the EU certainly increased, EU trade performance improved much more significantly. Between 1995 and 2000, for example, while EU total exports grew by 63 per cent, exports to CEE grew by 112 per cent. Between 1995 and 2000, the EU's global trade surplus amounted to some €45 billion. Its trade surplus with CEE, however, reached €100 billion, or more than twice the global figure.[67]

The protectionist instincts of the EU were already evident during the negotiation of the association agreements, as some member states sought to block generous terms for the CEE countries.[68] Mayhew identified three important results of such use of instruments of commercial defence by the EU: it caused damage to the economies of the associated countries at a critical stage in their transition to market economies, caused many in these countries to doubt the wisdom of trade liberalization and had a negative impact on public opinion.[69] Indeed, concern grew to such an extent that Jacques Delors was forced to comment thus: 'You cannot shed tears of joy for the people of Eastern Europe one day and the next tell them that you will not buy their products.'[70] His view was shared across Europe.[71] A second criticism of the Europe Agreements was that they did not establish a clear link between association and membership.[72] The Commission had attempted to pre-empt the argument by denying any clear relationship and stating that there was 'no link either explicit or implicit' between association and accession with membership constituting a 'totally separate question'.[73] A formula in the preambles to the Agreements recognized membership as a final objective of the CEE states. But this was very different from endorsing in any way the prospect of CEE accessions.[74]

This hesitant and rather ungenerous response to CEE on the EU's part was predicated on a number of factors. First, the Union's self-absorption in the early 1990s stands out. Paradoxically, the demise of Communism acted to the disadvantage of the CEE-associated countries because it triggered an intensification of Western European integration efforts.[75] Indeed, Maastricht is singularly identified as the *quid pro quo* for German Unification; the assurance of a united Germany's

renewed commitment to its EU partners. Suspicion of German hegemonic or aggrandizing intent was not slow in materializing. Eastward enlargement, it was widely thought, would benefit Germany economically and geopolitically much more than any other EU member state. Thus, fear of the putative German giant caused some of the present member states to steer enlargement along the 'slow lane'. For the CEE states this meant that, at precisely the moment of their return to the mainstream European interstate arena, they were effectively locked out of the central political process that would shape the future Europe. Their absence from the Maastricht negotiations, for example, was striking.[76] Exclusively the incumbent members would determine the shape of the new European compact without any input from the Central and Eastern European States. CEE leaders thus watched Maastricht unfold with a great degree of concern.

Second, the impact of the 1990s Europe-wide recession on the member states, and, later, the deflationary policies employed in many countries in order to conform to the EMU convergence criteria, also had a measurable negative influence on the Union's early approach to eastward enlargement. Budget deficits, increased unemployment and attendant social strain resulted in the subordination of enlargement to domestic policy issues in many member states in the early to mid 1990s. Third, the logistical problems encountered by the Commission in its efforts to coordinate aid programmes for the CEE states were significant; it had never before in its history been presented with a challenge on this scale. Dependent on outside experts brought in on contract and with a lack of resources devoted to the management of programmes in DG I, the Commission soon ran into implementation difficulties and lots of criticism. Sedelmeier and Wallace assert that the EU found it easier to devise ad hoc policy than to design a more rounded approach. This was a common charge, though mostly levelled with the benefit of hindsight and with little regard to the problems relating to speed, timing, and staff and expertise shortages.[77] In addition, rivalries within the Commission – principally between DG I and DGs III (industry) and VI (agriculture) – and within national administrations – typically foreign ministries against sectoral ministries – contributed to the problems in the early stages. Sedelmeier and Wallace present this as a 'macro/meso' divide among policy makers, with 'macro' policy-makers (usually located within the foreign ministries of national administrations) typically taking the long-term view and being more sympathetic to the CEE concerns, while 'meso' policy-makers (usually to be found in sectoral ministries) engaged in short-termism and were very susceptible to the claims of special interests. Even within DG I there was significant division along similar lines.[78]

Finally, the gradual realization, on the part of EU leaders, of the daunting institutional and policy implications of enlargement also encouraged caution and inertia. Analysis of the micro-implications of enlargement was provided by a wide range of commentators and by the European Commission and European Parliament.[79] The shadow of enlargement thus hovered over every major internal EU debate from the early 1990s onwards. Throughout that period growing concern about the direction of EU policy towards Central and Eastern Europe manifested itself on a regular basis. Indeed, a European Commission official was quoted as

saying: 'The level of seriousness about enlargement is not minimal, it simply does not exist.'[80] The initial euphoria of 1989 then soon gave way to muted resignation as the EU found that its response to the emerging democracies became increasingly affected by the economic and political vicissitudes of both EU and global politics. For their part the CEE states continued to press for membership at the earliest opportunity.[81]

Toward a new phase in relations: the Copenhagen summit

If the peaceful revolutions of 1989 constituted a starting point for the EU's efforts to integrate Central and Eastern Europe into EU structures, then the decisions taken by the European Council at Copenhagen in June 1993 represented no less significant a milestone. Copenhagen provided real momentum, according to Peter Ludlow, by transforming the enlargement question 'from a theoretical possibility to an agreed goal', and by articulating substantial if vague criteria by which progress could be measured.[82] In the run-up to the summit meeting the Commission produced a new report on enlargement strategy.[83] This proposed specific measures for deepening the relationship with the associated countries, including accelerated market access for the CEE states, increased economic and technical assistance, and an intensification of political dialogue.[84] Crucially also, it recommended that the associated countries become eligible for accession once they met certain economic and political conditions. EC foreign ministers, meeting in the General Affairs Council (GAC) at Luxembourg on 8 June 1993, agreed in principle on measures to accelerate the political and economic integration of CEE into the Community.

The European Council endorsed the Commission's view, announcing that it 'agreed that the associated countries in Central and Eastern Europe shall become members of the European Union'. As Graham Avery points out this was the first time such a promise of membership had been extended to third countries even before they had officially applied for it.[85] Further, it was decreed that accession would take place 'as soon as the associated country is able to assume the obligations of membership by satisfying the economic and political conditions required'. These conditions included the achievement of stable institutions that guaranteed democracy, the rule of law, human rights, and respect for and protection of minority rights, the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union.[86] The European Council also introduced another important criterion – the ability of the Union to absorb new members 'whilst maintaining momentum' and without compromising the deepening of the Union. Thus there was formed an explicit linkage between further deepening and widening of the EU. Enlargement could take place, as long as it did not impair the integrity of the integration process. The European Council also agreed that 'future cooperation with the associated countries shall be geared to the objective of membership', thus establishing an explicit link between cooperation and accession that did not exist in the Europe Agreements. To this end, the European Council proposed the creation of a new

'structured relationship' with the CEE states, which it defined as a 'multilateral framework for strengthened dialogue and consultation on matters of common interest'.[87] The structured relationship would consist of meetings between the Council and its counterparts (government ministers) from the CEE states on policy matters falling under each of the three pillars of EU activity: EC areas (single market), CFSP, and JHA (immigration, asylum, combating organized crime including the traffic of human beings). Separate procedures were also established for meetings of foreign ministers under CFSP. The European Council also proposed regular high-level meetings of the Commission President and EU Presidency with their counterparts from the applicant states, and joint meetings of the heads of state and government when appropriate.[88]

The Copenhagen summit also further elaborated measures to accelerate efforts to open EC markets to CEE products, moving faster in this regard than was originally envisioned in the Europe Agreements.[89] Important changes to the PHARE programme came about as a response to the concerns about its efficacy.[90] The reorientation of PHARE included a new emphasis on infrastructural development. The EC also committed itself to more financial assistance and help in the approximation of laws by providing training in EC law and procedure.[91] As PHARE's objectives changed it became much more oriented towards the preparation of the associated (later candidate) countries for accession.

In retrospect the Copenhagen Process was also notable for the activism displayed by a range of different political actors. Most commentators now concede the importance of the European Commission's advocacy in pressing for the accommodation of CEE preferences in respect of trade. Also of significance was the approach adopted by CEE state representatives, much of which consisted of reminding the EU leaders of the 'historical obligation' and 'practical necessity' which enlargement represented. In a key memorandum presented to the Commission in October 1992, the three Visegrad governments declared that:

> Our three countries are convinced that stable democracy, respect for human rights and continued policy of economic reforms will make accession possible. We call upon the Communities and the member states to respond to our efforts by clearly stating the integration of our economies and societies, leading to membership of the Communities is the aim of the Communities themselves. This simple, but historic statement would provide the anchor which we need. [92]

The pressure from the CEE states was important in particular for highlighting the gap between EU rhetoric about welcoming the post-Communist democracies into the democratic and market capitalist fold, and the substance of actual EU policy, which was much less accommodating of CEE interests. Through such pressure, the CEE states exploited the feelings of moral obligation toward Central and Eastern Europe held by many within the EU.[93] To this we must add the pressure exerted by the academic community and the governments of key member states. The German government, in particular consistently argued that the post-Communist countries must be given a firm prospect of membership. During a visit to

Warsaw in February 1992, the then German Foreign Minister Hans Dietrich Genscher declared that Poland, Hungary and Czechoslovakia should become full EC members 'as soon as possible'.[94] The following month, he declared that these countries should be admitted to the EC by the end of the decade.[95] Even among the member states that were less enthusiastic about enlargement, there was a growing acceptance of the need to better integrate the CEE states. After Copenhagen the enlargement process took on a more identifiable and discernible shape as new modes of cooperation, adaptation and preparations for membership evolved.

3 Beyond Copenhagen

The deepening of EU–CEE relations

Introduction

For all of the positive developments that emerged from Copenhagen, progress was difficult as ever in the months after the summit. At times it looked to the CEE states as if the gap between the rhetorical commitments and EU action was alarming. What was needed, it was frequently asserted, was a concrete timetable and a road map for accession. This chapter examines the second stage in EU–CEE relations, traces developments through the deepening of institutional relationships, and the move to a firm pre-accession process. It concludes with an analysis of the 1999 Helsinki summit where enlargement was declared an 'irreversible' process by the European Council.

In the aftermath of Copenhagen two particular problems presented themselves. The first lay in the EU's continued absorption with internal problems. With a succession of exchange rate crises and attendant threats to the plans to launch EMU, along with the problematic ratification of the TEU, enlargement seemed to recede in importance.[1] To this was added the distraction presented by the ongoing accession negotiations with the EFTA states – Austria, Sweden, Finland and Norway.[2] A wide-ranging Commission policy review was followed by further reform of PHARE and declarations stressing the need for the CEE states to harmonize their competition and state-aid policies with EU regulation in these areas.[3] The Commission's strategy came together in a wide-ranging policy document published in September.[4] Perhaps less obvious, but nonetheless significant, was the fact that with the arrival of the Santer Commission at the beginning of 1995, 'there was a major shift in priorities and commitment'. Jacques Santer and his Chef de Cabinet Jim Cloos approached enlargement in reactive rather than proactive terms. Where Delors and his team had taken a lead and acted as persuaders for unity, Santer and his team were much more cautious in their approach; their essential view of enlargement was, according to one informed insider, one of 'disbelief in the feasibility of the enterprise'. They held to a 'firm conviction that the EU would do damage to itself, if it tried to go too far too fast'.[5]

Notwithstanding the inertia produced by this cautious approach, a deepening of relations in the economic sphere continued apace.[6] The integration of political and security structures also came on to the agenda, if at a slower pace and fashioned

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Introduction

For all of the positive developments that emerged from Copenhagen, progress was difficult as ever in the months after the summit. At times it looked to the CEE states as if the gap between the rhetorical commitments and EU action was alarming. What was needed, it was frequently asserted, was a concrete timetable and a road map for accession. This chapter examines the second stage in EU–CEE relations, traces developments through the deepening of institutional relationships, and the move to a firm pre-accession process. It concludes with an analysis of the 1999 Helsinki summit where enlargement was declared an 'irreversible' process by the European Council.

In the aftermath of Copenhagen two particular problems presented themselves. The first lay in the EU's continued absorption with internal problems. With a succession of exchange rate crises and attendant threats to the plans to launch EMU, along with the problematic ratification of the TEU, enlargement seemed to recede in importance.[1] To this was added the distraction presented by the ongoing accession negotiations with the EFTA states – Austria, Sweden, Finland and Norway.[2] A wide-ranging Commission policy review was followed by further reform of PHARE and declarations stressing the need for the CEE states to harmonize their competition and state-aid policies with EU regulation in these areas.[3] The Commission's strategy came together in a wide-ranging policy document published in September.[4] Perhaps less obvious, but nonetheless significant, was the fact that with the arrival of the Santer Commission at the beginning of 1995, 'there was a major shift in priorities and commitment'. Jacques Santer and his Chef de Cabinet Jim Cloos approached enlargement in reactive rather than proactive terms. Where Delors and his team had taken a lead and acted as persuaders for unity, Santer and his team were much more cautious in their approach; their essential view of enlargement was, according to one informed insider, one of 'disbelief in the feasibility of the enterprise'. They held to a 'firm conviction that the EU would do damage to itself, if it tried to go too far too fast'.[5]

Notwithstanding the inertia produced by this cautious approach, a deepening of relations in the economic sphere continued apace.[6] The integration of political and security structures also came on to the agenda, if at a slower pace and fashioned

through more minimalist clothes. In early March 1994, plans for greater foreign policy cooperation were aired which included plans for yearly meetings among the EU Presidency, the Commission and the heads of state or government of the associated countries as well as special Council meetings involving the foreign ministers of the associated countries. The Council's plan also provided for formal cooperation between the EU and associated countries at international conferences. Significantly, it provided them with the opportunity to associate with EU statements on individual foreign policy questions and created the possibility of joint foreign policy actions by the EU and the associated countries. Thus the extension of the nascent CFSP began to take shape.

In the spring of 1994 the first formal applications for membership by the CEE states were made.[7] These formal applications only increased the pressure on the EU to develop a strategy to prepare the associated states for membership and added to existing tensions within the EU on the direction of policy. Especially evident at this time was the divide between northern and southern member states. This was partially resolved with a compromise that saw the southern member states, led by France and Spain, accept the need for eastern enlargement, while the German government endorsed the idea of a new Mediterranean policy (which would become the Barcelona Process). With this agreement in place, the way was clear for the institution of a comprehensive pre-accession strategy. At the Corfu summit on 24–5 June 1994, the European Council asked the Commission to make specific proposals to advance the process. Specifically, it called for a clear pre-accession strategy to follow up on the Copenhagen decisions.

The Commission's response to the Council request emerged within weeks. The communication, entitled *The Europe Agreements and Beyond*, outlined the major components of the pre-accession strategy:

> The goal for the period before accession should be the progressive integration of the political and economic systems as well as the foreign and security policies of the associated countries and the Union, together with increased cooperation in the fields of justice and home affairs, so as to create an increasingly unified area.[8]

The conscious effort to link pillars two and three to the most integrated area of activity (pillar one) was most striking. This was backed up by the insistence that all acceding states would have to accept not only the *acquis communautaire* but also the *acquis politique* and the *finalité politique* of the Union. In this sense, the EU approach was markedly different to that of previous enlargement rounds. The CEE states were effectively set a much higher threshold than had ever been set for prospective members. The Commission claimed that the existing 'structured relationship' held out the dual benefit of promoting a closer working relationship between the EU and the CEE states, while encouraging cooperation in resolving collective (or trans-European) problems.[9] However, the Commission called for expansion of the structured relationship beyond joint meetings with the Council to include other EU institutions, especially the European Parliament. It also argued that CFSP and JHA issues should be included in the EU's multilateral dialogue with the associated states.[10] The main focus of the Commission's proposed strategy, however, was integrating the CEE states into the Community's internal market. Thus the greatest importance was attached to the transposition of EU law into the domestic legislation of the CEE states. In a more detailed follow-up, the Commission proposed specific measures for promoting its pre-accession strategy. These included recommendations regarding critical policy areas, from state aid and competition policy to further changes to the PHARE programme, and suggestions on the further adaptation of the corpus of EU law and new financial aid instruments.[11]

While the Commission spearheaded EU strategy, it was also greatly promoted by the German government, which held the EU presidency in the second half of 1994. Upon assuming the presidency, the Kohl government declared that progress on enlargement was a key goal of its term in office.[12] Germany encouraged an 'enhanced structured relationship' that would be multilateral in nature and would complement existing bilateral meetings held under the Europe Agreements. Such an arrangement would allow representatives of the associated states to participate in extended meetings of the Council of Ministers and European Council.[13] Not all member states favoured this arrangement, however, and in securing this agreement the German presidency, as Baun shows, had to overcome the fears of some member state governments that Bonn was trying to give the CEE states EU membership 'through the backdoor'.[14] With the invitation to CEE leaders to attend the Essen summit, scheduled for 9–10 December 1994, the German feeling was that this represented an important symbolic gesture, because it would send the CEE states an unequivocal message that the EU was 'not a closed shop'. As Helmut Kohl put it: 'we want to show that these countries will be welcome if they want to join'.[15] Exactly five years after the Berlin Wall had come down, however, ideas about how to best realize enlargement were far from clear.[16]

If, in retrospect, the 1993 Copenhagen summit is identified as the summit which laid out the macro-basis for a successful eastern enlargement, then the Essen summit should be viewed as no less important in terms of outlining the micro-agenda of economic reform necessary to prepare the associated countries for membership. In Essen, EU leaders formally approved a comprehensive pre-accession strategy. Following the Commission's original proposals, this strategy had two key parts: first, an enhanced structured relationship, and second, a White Paper drawn up by the Commission that would provide a 'route plan' for progressively integrating the CEE states into the Single Market.[17] The enhanced structured relationship was aimed at integrating the associated countries politically and at promoting cooperation between the EU and the associated countries in addressing common problems. It also aimed at socializing them into the complex process of EU policy formation and decision-making.[18] Again, the emphasis was cross-pillar in nature. Although the primary focus of the Essen framework was economic, there was also a symbolic and normative importance attached to having the CEE leaders present.[19] Just as important was the inclusion of an insistence on 'good neighbourly relations', effectively a new pre-condition for membership, which in time would evolve into the Pact on Stability in Europe. Based on a French plan,[20] the Pact was

designed to help 'resolve the problems of minorities and strengthen the inviolability of frontiers'. In addition, it was supposed to be a 'staple component of a joint action to promote stability and peace in Europe' and help 'reinforce the democratic process and regional cooperation in CEE'.[21] In the end, the Pact was a success for the fledgling CFSP and a positive step in the EU's efforts to become an effective external actor. By helping to resolve potentially dangerous bilateral disputes, the pact promoted stability and security in CEE.[22] It also helped to create the political and security preconditions for enlargement by minimizing the security risks of taking in new member states.

The main element of the pre-accession strategy set out at Essen was, however, the outline of a detailed road map for integrating the CEE economies into the Single Market. The European Council requested the Commission to prepare and deliver this White Paper in time for its next regularly scheduled meeting at Cannes in June 1995. Despite a number of problems, the Commission delivered on the request and approved the final version of the White Paper in early May.[23] The stated purpose of the White Paper was to provide guidance to assist the associated countries in preparing themselves for operating under the requirements of the European Union's internal market.[24]

Baun suggests that the White Paper did three things. First, it identified the key legislation (or elements of the *acquis communautaire*), to be adopted by the associated countries in domestic law; second, it stressed that the simple transposition of EU legislation by the associated countries would not be enough. Each country was required to put in place a comprehensive legal and administrative infrastructure capable of supporting the legislation. Many felt that this represented the greatest challenge facing the candidate states. Finally, the White Paper also outlined the various forms of financial and technical assistance the EU would provide the CEE states to help in the reform process.[25] Although there were many complaints from the associated countries, the EU insisted that the measures were non-negotiable. Commissioner van den Bröek pointed out that the White Paper was not an obstacle but rather an essential mechanism which would facilitate economic adaptation in the CEE states.[26] The European Council at its Cannes summit formally approved the White Paper. In stressing the importance of not just the transposition but actual implementation of key legislative instruments, the White Paper presented the process of adaptation as both technical and horizontal, in every sense a rational policy process. This meant that it reduced the opportunities for veto groups on the EU side to intervene and block progress. There were both practical and tactical reasons for using this sort of approach. Seen in this light the White Paper stands out as a proactive measure by the Commission to draw out opponents of deeper engagement with CEE.[27]

Given the impetus provided by successive summits, it seemed that the essential building blocks were now successfully in place. Not surprisingly attention increasingly turned to the issue of a timetable for accession. During a visit to Warsaw, Chancellor Kohl promised that Poland, and by implication Hungary and the Czech Republic, would enter the EU by 2000. He thus became the first EU leader to advance a prospective date for enlargement. According to Baun, Kohl's statement

surprised 'almost everyone' and Bonn officials were soon backtracking, suggesting that the date should only be regarded as an assurance of future entry: it need not actually happen prior to or on the date.[28] However, German government officials also acknowledged that Kohl was setting out a strategy that Germany intended to pursue.[29]

In advance of the Madrid summit (15–16 December 1995) the European Council asked the Commission to prepare official Opinions on all ten CEE countries and to forward these to the Council as soon as possible after the conclusion of the intergovernmental conference, due to begin in early 1996 under the Italian Presidency. It also asked the Commission to prepare a 'composite paper' on enlargement and to pursue further its analysis of the impact of enlargement on EU policies, especially the CAP and structural funds.[30] These various reports and analyses would form the basis of the Commission's document, *Agenda 2000*, which would be published in July 1997. Given the large number of countries to be assessed and the short timeframe in which to produce the Opinions the exercise represented a considerable test of the Commission's organizational capacity.[31] By the end of 1995, the focus of policy had thus switched firmly from pre-accession to an accession scenario, though there were still many contingent factors, not least, the upcoming IGC.[32]

The Luxembourg and Helsinki summits

The impression that the enlargement process was one where each step forward was followed by the proverbial two steps back was yet again reinforced when in 1996 the EU's agenda shifted once more to domestic issues, namely the IGC scheduled to be formally launched in Florence in March 1996, and the continuing difficulties faced by many countries in meeting the Maastricht criteria for monetary union. Although advances in the structured dialogue were noted, it was clear that further decisions on enlargement could be taken only when the Commission had completed its various analyses.[33] These were due to be delivered prior to the June 1997 Amsterdam summit, which would conclude the IGC process. The Commission began work on the Opinions in early 1996.[34]

The Opinions were primarily technical assessments of the capacity of each applicant to assume the obligations of membership. The Commission took into account information provided by each candidate country, assessments made by the member states of the Union, European Parliament reports and resolutions, the analysis of other international organisations such as the Council of Europe (CoE), the Organisation for Security and Cooperation in Europe (OSCE), and International Financial Institutions (IFIs).[35] They were intended as an aid to the European Council, which would make the final political decisions about the opening of accession negotiations with individual candidate countries.[36] The Commission's work involved an assessment of the compatibility of the laws, regulations and policies of the applicant countries with the *acquis communautaire*, as well as their ability to transpose EU legislation.[37] The Commission also had to take account of the prevailing political and economic conditions in the associated countries in accordance with

the Copenhagen criteria. On 16 July the Commission formally presented the Opinions (*avis* in French) as part of the *Agenda 2000* report.[38] The Opinions differed from previous enlargement rounds in some crucial respects. Most importantly, they did not evaluate the applicants' preparedness for membership at the time of assessment, but rather in the medium term.

The Commission identified problems in each applicant country with establishing the rule of law and ensuring fundamental freedoms. However, only Slovakia was given an overall negative evaluation in the form of explicit references to, among other things, the treatment of the parliamentary opposition and the lack of independence of the judiciary. Consequently, the Commission recommended that Slovakia be excluded from the group of applicants with which the EU should open accession negotiations, even though it met the economic criteria for beginning accession. The treatment of Slovakia demonstrated clearly that the Union's political criteria were non-negotiable. Whilst there was some latitude in relation to economic issues such as market access and agricultural reform, no such approach could be adopted on the fundamental value system upon which the Union was founded.

In addition to the Opinions and a report on enlargement strategy, *Agenda 2000* also contained the Commission's analysis of key EU policies and their future development. In particular, it focused on the CAP and the Structural and Cohesion funds, two policy sectors that together consumed a great majority (approximately 80 per cent) of the EU budget.[39] The third part contained the Commission's proposed financial framework for the 2000–6 period. In this section the Commission argued that enlargement could be accomplished without any increased budgetary contributions from the member states. Instead, EU spending would be kept within the 1.27 per cent budget ceiling agreed at the Edinburgh summit in December 1992. The Commission's financial perspective included spending on agricultural and structural assistance for new members and pre-accession aid for the applicant states not included in the first wave. The proposals would be the subject of intensive debate and intergovernmental negotiations over the next two years, before a final agreement was reached at the Berlin summit in March 1999.[40] The Commission recommended in effect that enlargement should take place in a series of 'waves', and that a policy of differentiation (among the applicants) should be adopted. Although this led to charges of favouritism, the Commission retorted that its strategy was not based on exclusion of any associated country but rather 'it is a process of inclusion, which will be pursued permanently'.[41] Reaction to the package, needless to say varied according to cost–benefit calculations of both insiders and outsiders.[42]

Agenda 2000 helped shift the enlargement debate to new ground, according to Sedelmeier and Wallace. In effect, the EU had moved to consider the practical policy and institutional implications of enlargement and away from purely external matters such as trade liberalization and political dialogue. The external was now rapidly becoming the internal.[43] *Agenda 2000* also allowed for a much more transparent analysis of progress made by individual candidate states. Each state could now compare its own performance in specific areas to that of other

candidate states and engage in thinking about the type of policy changes necessary to sustain progress. The availability of much more information on the differential rates of progress being made by the candidate states also arguably helped provide a template for EU policy-makers to move the enlargement game forward in a more substantive way. It could equally be argued, however, that *Agenda 2000* further muddied the enlargement waters. The Commission's insistence on balanced and uniform language, designed to bolster reforms whilst underlining the importance of better and more substantive progress left candidate states none the wiser as to the desired pathways of reform in given policy areas. This was especially the case with CFSP and JHA.[44] Neither did the new approach betray any clue as to the eventual date of accessions.

The main instrument that would underpin the Commission's 'reinforced pre-accession strategy' would be the bilateral 'Accession Partnerships' (APs). These would identify specific priorities for reform in each country; each applicant would make precise commitments and outline the ways in which the PHARE programme would support such commitments.[45] These Partnerships provided, *inter alia*, for a single framework covering the priorities in and preparations for accession in each candidate country.[46] Each candidate country would receive its own specific set of accession-related goals and objectives. Future aid would then be conditional upon the achievement of specified objectives and the general direction of reforms. The Commission also recommended increased participation by the applicant countries in various EU educational, cultural, and technological programmes as part of the enhanced pre-accession strategy. Toward the end of March 1998 the EU finalized and approved its Accession Partnerships for each of the CEE candidate states.[47] These included National Programs for the Adoption of the *Acquis* (NPAAs) within a precise timetable, focusing on the priority areas outlined by the Commission in its Opinions. In this sense, each NPAA complemented the Association Partnership: it contained a timetable for achieving the priorities and objectives and, where possible, indicated the human and financial resources to be allocated. The Accession Partnerships would also provide a single framework for EU financial aid and constitute the basis for the Commission's annual reports on the progress of the candidate states.

Each of the Accession Partnerships followed a similar format, setting out both short- and medium-term objectives. These reflected the various chapters of the *acquis communautaire* and covered areas such as the political criteria for membership, economic reform, reinforcement of institutional and administrative capacity, preparation for membership of the internal market, justice and home affairs, agriculture, environment, transport, employment and social affairs, regional policy, and cohesion.[48] The Partnerships would contain precise commitments on the part of the candidate countries relating in particular to democratic norms, macroeconomic stabilization, industrial restructuring, nuclear safety, and the adoption of the *acquis*, focusing on the priority areas identified in each of the Commission Opinions. The programming of accession priorities, as set out in the Opinions, broke down into short-, medium- and long-term priorities to be adjusted in subsequent revisions of the Association Partnerships. The progress made by each applicant

country would be recorded in a screening process and thereafter in individual annual reports.[49]

Although welcomed by CEE governmental leaders, the Accession Partnerships also came in for some criticism, not least for the strictly defined conditionality that accompanied many of the constituent elements of the process. The asymmetry of positions between insiders and outsiders was obvious.[50] Not unnaturally, CEE governments were upset at the explicit linkage within the framework of the Partnerships between future aid and the progress of reforms. Sedelmeier and Wallace thus concluded that 'the language of partnership disguises rather thinly the imposition of EU priorities'.[51] Notwithstanding these criticisms, however, it seems clear that the Accession Partnerships provided an important institutional step toward immersing and integrating the candidate states in Community structures. Familiarity with EU best practice, with respect to issues such as the certification and standardization of professional bodies, or the norms pertaining to structural and cohesion funding would prove important as the process developed. The Partnerships thus represented a further step toward substantive institutionalization of relations short of membership.

In accordance with the priorities of the Association Partnerships, PHARE's role changed again. Two clear priorities emerged. First, because the capacity of the candidate countries to implement the *acquis* was deemed paramount, PHARE would help national and regional administrations – as well as regulatory, supervisory and other bodies – in the candidate countries to familiarize themselves with Community law and procedures. Second, PHARE would continue to help the candidate countries bring their industries and economic infrastructure up to EU standards by helping mobilize the investment required to drive forward technological change and sectoral competitiveness. Particular emphasis was to be accorded to areas such as environment, transport, industrial plant, and quality standards in products, all areas where EU norms were becoming increasingly demanding. PHARE was also allotted a key role in helping with institution-building in the candidate countries. This work centred on adapting and strengthening democratic institutions, public administration, and organizations that had a responsibility in implementing and enforcing Community legislation. It included the development of relevant structures, human resources and management skills and training for a wide range of civil servants, public officials, professionals and relevant private sector actors: from judges and financial controllers to environmental inspectors and statisticians, to name but a few. After the Luxembourg summit PHARE funds were channelled specifically toward these institution-building needs. Later PHARE would be used as a learning vehicle of sorts for the administrative underpinning of the structural funding regimes for the new member states.[52] A review of PHARE commissioned by Gunter Verheugen in 1999 showed that the reforms introduced in 1997 had begun to show positive results even if still quite uneven in terms of outcomes.[53]

Capacity-building instruments

The EU's support for pre-accession reforms in CEE also took on a more goal-oriented form with the introduction of three new instruments of support. The Commission saw these instruments as the most important pillars of the re-structuring programmes underway in the candidate states. The Instrument for Structural Policies for Pre-Accession (ISPA) was launched in 1998. It provided support for the emerging regional entities in CEE and closely paralleled the existing EU structures supporting structural and cohesion funding.[54] The Special Accession Programme for Agriculture and Rural Development (SAPARD) would become the second plank of administrative capacity building. SAPARD foresaw the delegation of substantial responsibility to the candidate states themselves regarding the management of EU funds for rural development.[55] The Commission also showed some innovation by encouraging meaningful local participation including social partners, NGOs and local representatives.[56] The third and final pre-accession instrument, the Twinning project, was launched in March 1998. Twinning aimed to help the candidate countries in their development of modern and efficient public administrations, with the structures, human resources, and management skills needed to implement the *acquis communautaire.* Twinning provided the framework for administrations and semi-public organizations in the candidate countries to work with their counterparts in specific member states. The main feature of the Twinning mechanism was that it set out to deliver specific and guaranteed results and not to foster general cooperation. The parties agreed in advance on detailed programmes designed to meet objectives concerning priority areas of the *acquis.* The key input from the member state administration came in the form of a core team made up of at least one pre-accession adviser seconded to work full time for a minimum of a year in the corresponding ministry of the candidate country, and a senior project leader responsible for the overall thrust and coordination of the project. They were supplemented by carefully planned and timed missions of other specialists, training events, and awareness-raising activities.

The assessment of such capacity-building efforts by the EU yields mixed results. In May 2003 the Court of Auditors reported on environmental aid programmes (effectively an audit of PHARE/ISPA) and on Twinning. It was clear that the acceding states still had a lot of work to do to build their administrative capacity for implementation. Certain EU projects designed to assist institution-building could be seen, at best, as only partially successful.[57] The finding on Twinning was that it had not lived up to initial expectations. Significant progress was made, according to the Auditors, in adopting Community law, but much less on implementation and enforcement. It admitted that it was 'too optimistic' to expect that 'fully-functioning, efficient and sustainable' candidate country organization could be established within a framework of a single project – eighteen months on average. In addition the Court described the Twinning project as excessively bureaucratic, with lengthy periods between needs-assessment and project-realisation, as well as having complicated payment systems. The old PHARE problem of deficiencies in consultant performance was again in evidence. Management shortcomings on

both the candidate state and Commission sides were noted. The low level of take-up of ISPA projects in some candidate countries was telling.[58]

The PHARE annual report for 2002 and the interim evaluation produced in March 2004 (covering the period 1999 through to November 2003) highlighted the strengths and weaknesses of the different forms of capacity-building. The reports revealed an increased emphasis on support for national programmes (NPAAs) designed to address specific weaknesses identified in the annual Commission reports. The 2002 report detailed spending of €1700 million for the year was achieved including some 191 Twinning projects.[59] Some of the internal judgements on PHARE were extremely critical however. The 2004 report stressed that as many as one-third of programmes proved unsatisfactory with substantial weaknesses in needs analysis and design.[60] The most effective of the various programmes were those in the sphere of civil society, where there seemed convincing evidence of successful capacity-building among NGOs.[61] Despite the negative assessment of the programmes most candidate countries could point to some successes in achieving macro policy objectives by the time accession came around. Poland, despite difficulties with ISPA, succeeded in meeting most of its environmental targets. Similarly the Czech Republic could cite improved air quality partly as a result of PHARE-funded monitoring instruments and expert help.[62]

The Luxembourg summit

After *Agenda 2000* the sequencing of both intra-EU decisions and accession negotiations started to take a much clearer shape. The issue of enlargement strategy, however, continued to be the subject of considerable debate within the Commission. This came to a head in early July 1998. By this point, there was general agreement that differentiation among the CEE applicants was necessary, and that an 'enlargement in waves' strategy was preferable to a common start or so-called 'big bang'. Disagreement remained, however, on the number of countries to be included in the first wave.[63] The main proponents of a broader first wave were Commissioner van den Bröek and the Nordic Commissioners. President Santer was among those who favoured limiting the first wave to a smaller number of countries. On 10 July, after an intense week of discussion, the full Commission met to endorse van den Bröek's proposal for opening negotiations with five CEE states plus Cyprus. Thereafter, this would become known as the five-plus-one strategy. Michael Baun argues that the intervention of two important Commissioners, the United Kingdom's Leon Brittan (trade) and Germany's Martin Bangemann (industry), was critical. Each argued that the two countries which were the main subject of debate, Estonia and Slovakia, were prepared for accession negotiations based on an objective assessment of economic performance and that to exclude them would amount to political discrimination.[64] In recommending that the EU begin negotiations with five CEE countries, the Commission claimed that its decision was based on objective performance and adherence to specified economic and political criteria by the applicant states.[65]

The European Council, meeting in Luxembourg on 12–13 December 1997, formally decided to begin the accession process for the ten CEE states plus Cyprus. In the Presidency Conclusions the European Council underlined the historic significance of this decision, declaring that 'with the launch of the enlargement process we see the dawn of a new era, finally putting an end to the divisions of the past'.[66] To provide an inclusive framework for enlargement, the Council decided to set up a European Conference 'which will bring together the member states of the European Union and the European States aspiring to accede to it and sharing its values and internal and external objectives'.[67] The European Council also decided that formal accession negotiations would be launched in March 1998. The decisions were generally welcomed by the applicant countries, including those not in the first wave of negotiations.

The first phase of the accession process for all applicants was the analytical examination or 'screening' of the 31 chapters of the *acquis communautaire*. The Commission, with the help of the applicant countries, carried out this exercise. By early summer 1998 the screening process was well under way and the EU was contemplating the next step, the launching of substantive negotiations with the first-wave countries.[68] Those negotiations actually began on 29 October, with a deputy-level meeting in Brussels between EU permanent representatives and the chief negotiator of each of the six applicant states. The European Council followed the Commission's recommendation of a two-tier approach, even if this was to be subsumed within a 'single framework' that would treat the second-wave candidate countries as equals and give them the chance to catch up. From this point attention focused on the Commission, which was expected to issue the first of its 'Regular Reports' on candidate countries' progress in meeting the criteria in late 1998. The lobbying efforts of the second-wave countries were quite intense in the run-up to the publication of the Commission's second set of Regular Reports in December, as government leaders from these countries visited Brussels.[69] The hopes of the second-wave countries were disappointed, however. Whilst the Commission praised the reform efforts made by the second-wave countries, it nevertheless restated its view that none was ready to begin accession negotiations.[70]

In the aftermath of the Kosovo War in 1999, the Commission proposed that accession negotiations should be opened with all remaining candidate countries.[71] This was despite doubts about whether some had made enough progress in their preparations.[72] Clearly the deterioration of the situation in Kosovo propelled much more serious thought on enlargement strategy.[73] Momentum was in evidence from early in the year. Even the resignation crisis that destabilized the Santer Commission failed to have a serious impact on the process.[74] This strategy rethink reflected the shift in focus to Southeastern Europe and support grew for the idea of including Bulgaria and Romania in the accession negotiations. Many felt that to continue to exclude them would send the wrong message, thus undermining their efforts at political and economic reform with potentially disastrous consequences for stability and security in Southeastern Europe.[75] It was also felt that Bulgaria and Romania should be rewarded for their (domestically unpopular) support for NATO's bombing campaign against their neighbour Serbia, a fellow Orthodox country. The EU also recognized the economic hardship these countries

faced in the wake of the Kosovo conflict and agreed that this deserved special consideration in the EU's decisions on enlargement strategy. The UK and Germany were especially active in promoting the change of strategy, with Prime Minister Tony Blair visiting Bulgaria and Romania in May 1999 and promising to work for their inclusion in negotiations.[76]

The Commission took the view that Slovakia alone did not satisfy the Copenhagen political criteria, but stressed the importance of institution-building in the candidate countries, especially reform of the judiciary and public administration.[77] In justifying the Commission's new 'regatta' approach for accession negotiations, President Prodi declared that it was necessary to 'take a bold step forward'. Thus, the Commission recommended to the Council that it open accession negotiations in 2000 with all applicants that had met the Copenhagen political criteria, and that 'have proved ready to take the necessary measures to comply with the economic criteria'. Commenting on the decision, Commissioner Verheugen argued:

> This strategy will help strike the right balance between two potentially conflicting objectives in the enlargement process: speed and quality. Speed is of the essence because there is a window of opportunity for enhanced momentum in the preparations for enlargement, in accordance with the expectations of the candidate countries. Quality is vital because the EU does not want partial membership, but new members exercising full rights and responsibilities.[78]

The element of conditionality was strong once more with the Commission insisting that the opening of negotiations with Bulgaria should be conditional on a decision by the Bulgarian authorities before the end of 1999 on acceptable closure dates for the Kozludy nuclear power plant. In the case of Romania, the opening of negotiations would depend on progress in reform of childcare institutions. At an extraordinary meeting in Tampere, Finland, several days after the Commission issued its report, the European Council largely endorsed the Commission's new strategy. A broad consensus among the member states in favour of the Commission's plan to expand the accession negotiations was reported, thus paving the way for a formal decision at Helsinki.[79]

At the Helsinki European Council on 10–11 December 1999 the decision was taken to formally invite the second-wave candidates – Romania, Bulgaria, Slovakia, Latvia, and Lithuania – to open accession negotiations in early 2000. It was also announced that, in the accession negotiations, 'each candidate will be judged on its own merits'.[80] With these decisions the EU formally abandoned the strategy of 'enlargement in waves' that had been adopted at Luxembourg and guided the process in the interim period. In explaining the change Commissioner Verheugen argued that the political situation had changed completely, making it necessary to adopt a more inclusive strategy, in particular with respect to Southeastern Europe.[81] Verheugen described the summit's decision as an historic step towards the unification of Europe, declaring 'the iron curtain has been definitively removed'.[82] The Helsinki summit also represented a major turning point in EU relations with Turkey, and specifically, Turkey's place within the accession framework.[83] Turkey would now be considered as a candidate country although there was no question of opening negotiations at that stage. Whilst it is clear that Helsinki represented a major step forward in the process there was still an amount of work to be done to 'seal the deal'.[84] The next two and a half years would involve complex and protracted negotiations, periods of regression, and eventually a triumphal end to negotiations at the Copenhagen summit in December 2002.

4 Closing the deal

Helsinki to Copenhagen

Introduction

If Helsinki had produced a commitment from the EU that enlargement was now 'irreversible' then the millennium began with the now familiar shadow-boxing that had characterized the process over the previous six years. The EU desired more tangible evidence of successful transposition and implementation in the candidate states, while on the candidate state side the by now regular expressions of frustration were never far from the surface. The momentum gained at Helsinki was not totally lost, however. Some member states pressed the initiative using the language of the timetable outlined at Helsinki to make the case for a concrete date.[1]

In the Commission's third series of Regular Reports in November 2000, the same basic procedure was followed as in 1998 and 1999.[2] The Commission's attention was focused on whether the reforms announced or recommended had actually been implemented since 1998. It also assessed each candidate country's progress in terms of ability to implement the *acquis*. The Commission's chief concern was the 'revitalization' of the negotiations, to 'take them into a more substantial phase', and point the way toward a conclusion. The need to reinforce administrative and judicial reform was again a major concern.[3] As to the specific requirements embodied in the *acquis* the picture was generally positive. Many of the legislative changes that the enlargement process required either had been made or were in the process of being introduced. There was also a marked improvement in implementation capacity.

The Regular Reports were accompanied by an Enlargement Strategy Paper, which contained a new accession 'road map'.[4] The 'road map' effectively revolved around the negotiation of the 31 'negotiating chapters' of the *acquis* and was understood as a timetable for completing the negotiations, chapter by chapter, by the end of 2002.[5] Negotiations on each chapter could only begin when both parties – the EU and the candidate countries – were in a position to communicate their respective starting positions. This process alone required a considerable amount of effort, not least on the EU side, where every draft 'common position' submitted by the Commission had to be approved by the Council. In nine cases out of ten, this meant agreement within the Council Working Group on Enlargement composed of middle-ranking officials in the member states' permanent representations.[6]

The French Presidency

With substantive negotiations under way France took over the Presidency of the EU in July 2000. Although many were disappointed by the results the EU did at least manage agreement on the institutional reforms necessary to underpin the enlarged Union. The European Council also endorsed the Commission's road map and made important gestures towards non-EU states, particularly those of the Western Balkans.[7] Most commentators, however, took a very negative view of the French Presidency's impact on the course of negotiations. At both the Biarritz summit in October and the Nice summit in December, Jacques Chirac, the French President, tried to force unilaterally formulated decisions on France's EU partners.[8] Matters were not helped by the complications of French domestic politics, with growing 'cohabitation' rivalry evident between Prime Minister Jospin and President Chirac in the weeks leading up to the Nice summit. In fact, the French EU Presidency frequently put forward draft texts that were then opposed by the French government delegation sitting at the same table. Diplomats from other EU states also found that points apparently agreed during negotiations in Brussels acquired a different spin after having been sent back to Paris to be formulated as texts for further negotiation.[9]

The shabby bargaining surrounding institutional recalibration was perhaps best symbolized by President Chirac, who 'like a late medieval Pope doling out indulgences to prop up an impossible cause, ended up distributing parliamentary seats to anybody who looked likely to cause trouble'.[10] All of this contributed to an atmosphere in which everybody looked for trophies rather than consensus'.[11] This would not be the last time that French politicians wrought controversy and uncertainty upon the enlargement negotiations. In late 2001 foreign minister Hubert Védrine caused consternation in Brussels by suggesting that Bulgaria and Romania should both be fast-tracked to join the other eight CEE states in an even larger 'big bang' enlargement. Citing the need for fairness and the risk of leaving the two countries behind, Védrine argued that there wasn't much difference between adding ten or twelve countries. Many commentators interpreted his suggestion as one designed to derail rather than accelerate enlargement and based on a view that the French government in fact was terrified at the implications of enlargement and the prospect of the EU's centre of gravity moving eastwards.[12] All of this contributed to the existing impression that enlargement negotiations were bogged down and not likely to make much progress.[13] Public opinion polls also tended to reflect the negative mood – in both the EU and in the candidate countries.[14]

The Swedish Presidency

Sweden took on the EU Presidency for the first time on 1 January 2001. Declaring definitive progress on enlargement the central priority of the presidency from the outset, the government of Göran Persson won many plaudits for its handling of the negotiations.[15] Ludlow asserts that although the Swedish Presidency was far from

unblemished, the management of the accession negotiations was an unqualified success, and that no Presidency could have done a better job. Although public opinion surveys showed Sweden to be among the EU's least enthusiastic members, paradoxically the Swedes were the most enthusiastic about enlargement. This prompted Persson to remark 'the Swedes want other countries to join the EU and our own to leave'.[16] At the European Council summit meeting at Gothenburg on 15–16 June 2001 the EU 'confirmed the breakthrough in negotiations and agreed the framework for the successful completion of the enlargement'. Attesting to the fact that the candidate countries had made 'impressive progress' in meeting the accession criteria, the European Council made two other historic statements. The first declared the enlargement process 'irreversible'. The second provided the long-awaited 'road map' or timetable for the first accessions by suggesting 'the road map should make it possible to complete negotiations by the end of 2002 for those candidate countries that are ready. The objective is that they should participate in the European Parliament elections of 2004 as members'.[17] Ludlow asserts that the language used in the Gothenburg conclusions was indicative 'of how much the process had moved on'. First, rather than (Nice) 'welcome new member states which are ready as from the end of 2002', it talked about 'complete negotiations by the end of 2002'. Second, it emphasized that the aim was to enable the new member states to take part in the European Parliament elections of 2004 'as members'.[18] Another significant development was the upgrading of some of the later negotiating entrants to the top tier of negotiations. These included Slovakia, Latvia, and Lithuania. This meant 'the principle of catch-up in the negotiations has been fully realized', according to Gunnar Lund, the Swedish ambassador to the EU.[19]

The breakthrough had come in the final session when Germany, which had resisted the idea of setting the end of 2002 as the date for completing negotiations, bowed to the will of a strong majority of EU states. German hesitation had been based partly on a fear that the provision of a deadline would undermine the EU's negotiating hand, and more importantly, by fears that Poland simply would not be ready in time.[20] The Swedish Presidency managed 'not just to resist but to sweep away most of the objections to enlargement' according to one commentator. By putting the timetable in place it was clear that outstanding differences among EU member states in areas such as agriculture and regional aid would now have to be seriously addressed.[21] Reaction to the breakthrough was uniformly positive with speculation rising that the 'big bang' was not such an unlikely scenario after all.[22] Many people had been sceptical that the big bang could be achieved. The number of such people decreased after Gothenburg.[23] For many observers the political entrepreneurship of Göran Persson was crucial.[24] The Swedish strategy could only succeed, however, because of the substantive attachment on the part of EU political élites to a normative understanding of the enlargement process. The sense of drama was captured in Prime Minister Persson's assertion that 'I was overwhelmed, almost every one of them [leaders of the candidate states] took the floor and expressed their gratitude for what we have done during the last six months'.[25]

The November 2001 annual reports, the fourth, recorded steady progress

towards accession by the candidate countries.[26] The reports also clearly indicated that the 'enlargement in waves' strategy had bitten the dust and that all candidates were being assessed on merit. This was neatly summed up in the definition of a so-called 'Laeken group' of ten countries, which signalled the end of the distinction between the 'Luxembourg' and 'Helsinki' groups.[27]

The Danish Presidency

With momentum building in the early part of 2002, Denmark took over the Presidency of the Union in July. The Danish game plan for concluding negotiations revolved around three interrelated aims: movement toward substantive agreement on Council reform; a holding operation on agriculture; and a timetable which prioritized the October European Council summit meeting. Danish Prime Minister Anders Fogh Rasmussen brought to the presidency energy, commitment and evident communication skills. As importantly, he was supported by a solid administrative and diplomatic foundation. At every level, the Danes were solidly equipped to broker the upcoming talks at the most critical stage in the process. Along with Rasmussen Danish Permanent Representative Poul Christoffersen played a crucial role in anchoring the accession talks.[28] There were still considerable problems to be faced, however, not least the uncertainty surrounding the German elections in September and the second referendum on the Nice Treaty in Ireland, which was due to be held in October and the outcome of which was far from certain.[29]

Financial issues

Financial and budgetary issues, although they had dominated debate on the 'how' and 'when' of the eastern enlargement debate since *Agenda 2000*'s publication in 1997, were left to the very latter stages of the accession negotiations. The Danes assumed the EU Presidency facing the prospect of a total disagreement among the EU15 about how to proceed with the financial and agriculture chapters.[30]

The Berlin agreement of 1999 assumed an entry of six countries in 2002, not ten in 2004. Some form of re-adjustment would thus have to take place in the calculations. And this was reflected in a Commission memorandum in January 2002.[31] The memorandum proposed significant changes in the negotiating position of the Union but without breaking the commitment ceiling entered into at Berlin.[32] The essence of the Commission proposal lay in a phasing-in of both agricultural and regional aid to the candidate states, and the requirement that they pay contributions to the EU budget in full from the moment of accession. The package made a significant concession to the candidates by accepting the principle of direct aid to CEE farmers, even if only on a gradual basis. It also provided the member states with estimates of what each country would contribute to the EU budget in the first years after accession. Commission calculations showed that in addition to Cyprus and Malta, the Czech Republic, Hungary and Slovenia would be losers in net terms. The budgetary imbalances to be redressed were not insignificant.[33] In the

end it was decided that no new member state should end up in a worse budgetary state after accession than before.

The Berlin agreement had not provided for any direct payments to farmers in the new member states. The level of uncertainty regarding the future form and nature of the CAP made it possible for a Commission fudge to be utilized. It argued that the newcomers should be given credible assurances that they would be 'fully integrated into the CAP, *whatever its nature may be*'. This at least went some way to meeting the charge of second-class membership and outright discrimination.[34] The Commission thus went on to propose the introduction of direct payments from 2004, but on only a limited basis, beginning at 25 per cent of the EU15 level in 2004, and progressing to parity by 2013.[35] The Commission judgement was informed in large part by the existence of large numbers of semi-subsistence farms in Central and Eastern Europe.[36] The Commission thus argued that introducing direct aid too quickly could slow down the restructuring process. This could create a vicious circle of low productivity, low standards and high hidden unemployment.[37] The Commission's paper was widely criticized both inside the EU and amongst the candidates.[38] In the immediate aftermath the member states 'gave an impressive display of their disunity. The confrontation was as always three-cornered, with the net contributors in one corner, the partisans of the CAP in another and the Cohesion countries in yet another. All of them expressed their concerns but none more so than the French and the Germans.'[39]

The German view that CAP reform was a precondition for enlargement to take place was accepted neither by the French nor the candidate states. The impasse suggested nothing of significance could be resolved until after the French and German elections. The deterioration in the German domestic budgetary situation was clearly an important factor behind Chancellor Schröder's position, notwithstanding consistent German pressure for CAP reform. Schröder put it like this in the *Frankfurter Allgemeine Sonntagszeitung* on 16 June 2002:

> Even if many find it difficult to believe, Germany is at the limits of its capacity to pay. If I were in these circumstances to countenance the application of the direct payments system to the candidate countries, Commissioner Solbes might as well start immediately to draft a series of blue letters.[40]

To the Germans and their allies on CAP such as the UK the prospect of a mid-term review was to be welcomed. It opened up the possibility of using CAP reform (necessary as an end in itself) as an instrument for alleviating the financial pain of enlargement provision. It was clear also that Germany's concerns were widely shared. Gerrit Zalm, the Dutch finance minister, and his Austrian counterpart, Karl Heinz Grasser, both publicly voiced opposition to the extension of the direct aid programme to candidate states.[41]

The EU began the final lap of the accession negotiations on 19 April 2002. As anticipated the talks would cover the most difficult matters relating to finances and voting powers. The draft common positions drawn up by the Commission came in for extensive review and discussion in the Council working group on enlargement

whilst bilateral talks between the Commission and the candidates accompanied this process.[42] The Germans, the Dutch, and other net contributors clung firmly to their objections and refused to sign blank cheques before they knew what was in the Fischler CAP reform paper. In an effort to calm fears of a delay in enlargement ministers pledged to reach an agreement on direct payments at the EU summit in Brussels in October. Commissioner Verheugen aptly summed up the sense of drift in his address to the European Parliament on 12 June when he admitted: 'there are winds of resistance growing. The climate has become more brutal, more sceptical ... all based on a lack of knowledge and fear'. Chancellor Schröder in a newspaper interview again re-iterated that Germany could not and would not bear the cost of extending the CAP eastward.[43]

On 10 July 2002, Franz Fischler presented his long-expected mid-term review of the CAP.[44] Its main proposals included first, and most importantly, a decoupling of the link between production and direct payments. The Commission recommended that the whole payments system should be replaced by a single payment per farm, the level and character of which would no longer be linked to production. Second, the Commission argued for a reinforcement of environmental, food safety, animal welfare and occupational safety standards. The new payments would be conditional on the recipients' respect for these enhanced standards, thereby increasing the pressure on farmers to follow 'good farming practices'. In addition new schemes in quality assurance and food certification were proposed. Third, there was increased support for rural development particularly by small farmers. This would be achieved by a new system of 'dynamic modulation', which would reduce direct payments by 3 per cent per annum to farmers.[45] The reforms were much more ambitious than most had expected and, according to Ludlow the 'thrust was unpalatable'.[46] Rasmussen, as incoming President of the EU, sought consistently to decouple the enlargement negotiations from debates about CAP reform. But agriculture would continue to complicate the enlargement negotiations to the end.

The 2002 Regular Reports

The next important milestone in the process would be the (earlier than usual) publication of the Commission's annual reports prior to the October Brussels European Council. The reports divided into two parts. The first consisted of a series of so-called regular reports on progress made by the candidates in specific areas (more or less conforming to the negotiating chapters of the *acquis*). The second – the Strategy paper – represented a macro-political analysis of overall progress.[47] Given that the political desire for enlargement had been ratcheted up, however, by the Gothenburg timetable, it was clear that these reports would not simply consist of a functional reporting of progress but indicate also a definite political determination to complete the process. The Commission's determination to conclude the process successfully was manifested in a change in the language employed in the Strategy Report. From an early version, which stated that candidates 'should' be ready to assume the obligations of membership in 2004, the final version inserted 'will' over 'should', thus signaling the Commission's desire to bring

finality to the process.[48] The Commission also endorsed what was already accepted, namely that once the Accession Treaty had been signed, the new member states in waiting should become active observers in all Community institutions and activities. In addition, the Commission also proposed detailed monitoring of the application of Community law in the acceding member states. Six months before the accession date a comprehensive monitoring report, not dissimilar to the regular reports, would be produced. This was unprecedented in previous enlargement rounds and more than anything else reflected the serious gap in legislative implementation still in evidence.

The task of improving the administrative and judicial capacity of the acceding states was also central and had been prioritized in the pre-accession agreements and the NPAAs.[49] Although the Commission had worked with each candidate country on an Action Plan to reinforce their administrative and judicial systems there still existed serious gaps not only in legislation, but in necessary complimentary measures, such as setting up management structures and authorities, establishing coordination and arbitration systems, the training of judges and upgrading of IT systems.[50] Acknowledging the ongoing difficulties in capacity-building the Commission proposed a special, three-year transitional facility for institution-building after accession. In a sense this was an acknowledgement of failure to build up capacity over the past number of years, or at least to do enough, but more importantly it represented a commitment to substantive help in respect of ongoing reform efforts.[51]

Administrative capacity became an even more prominent issue in the run-up to the accession date in 2004 with revelations that the acceding member states were having great difficulty in finding suitable projects to match spending appropriations. The Commission warned that there was a great risk that the new member states would not be able to use the €22 billion allocated to them under the structural and cohesion funds in the programming period 2004–6. Most concern was centred on the apparent failure to fully transpose and implement the necessary statutory legislation.[52] Corruption continued to be a serious impediment to progress. An Open Society Institute publication, *Corruption and Anti-Corruption Policy*, suggested the EU had 'missed or neglected' a number of key areas in examining corruption – 'state capture, public procurement, and public administration in particular'. Collusion between public procurement bidders 'appears to be widespread'.[53]

Although the negotiations continued to deliver results, there remained some troubling issues, which had the capacity to wreck the timetable if not the negotiations themselves. Three in particular stood out in the early autumn of 2002 in the run-up to the crucial Brussels European Council summit. The first was the second referendum on the Nice Treaty in Ireland, which the Irish government went some way toward turning into a referendum on enlargement.[54] The second issue was how the net contributors would deal with the financial implications of enlargement. Finally, there was the destabilizing impact of the Dutch government's political problems to contend with. In particular, one of the three coalition parties, the Dutch Liberal Party (VVD), sought to whip up fears about enlargement. As early as 1 October, the VVD minister for European affairs, Atzo Nikolai told the *Financial Times Deutschland* that his government would not sanction direct payments to candidate country farmers unless there was at the same time a clear commitment by present member states of the EU to reform the CAP: 'No phasing in without phasing out'. The Dutch, he declared, were bigger net contributors to the EU budget than even the Germans. At a time when the new coalition was pledged to austerity at home, it could not countenance additional burdens abroad.[55] Gerrit Zalm, the influential VVD leader and former finance minister, argued that the entry of most candidate states as planned by the Commission was premature. In an interview on 13 October Zalm claimed that Poland in particular and also Slovakia and Latvia were not ready to take up the obligations of membership. Other members of the VVD expressed strong doubts about Latvia's membership. Sources close to the Dutch government asserted publicly that the decision to be taken in December should not be irrevocable and that, until eventual accession in 2004, it should always be possible to say no to a candidate country that does not meet the criteria.[56] Eventually the caretaker government of Jean Peter Balkenende agreed that it would not exercise a veto over enlargement but insisted on some greater guarantees on monitoring especially of frontier controls. The amount of time given over by Rasmussen and the Danish Presidency to ameliorating Dutch concerns was considerable in the run up to Brussels.

The Brussels European Council

In advance of the Brussels European Council in October 2002 there was considerable pessimism that the meeting would fail to resolve important issues such as CAP reform, the financing of enlargement, and outstanding institutional issues.[57] The proposals of the Commission remained simply proposals.[58] Disagreements on direct payments to candidate state farmers continued to generate tension and also entangled the enlargement negotiations in the debate on the future of the CAP. As Mayhew points out this meant that as the negotiations proceeded the countries most in favour of enlargement, Germany, Sweden, the UK and the Netherlands were those against conceding direct income subsidies to the new member states because this would impede the reform of the CAP, while countries traditionally less positive about enlargement, such as France, Portugal and Ireland, were in favour of accommodating CEE preferences.[59] More positively Coreper and the GAERC managed to resolve a lot of outstanding difficulties before the actual European Council meeting took place.[60]

At the summit meeting itself the European Council agreed to the Commission's proposal on direct income subsidies, whilst simultaneously agreeing that budgetary expenditure on market support and direct income subsidies in the period 2007–13 could not rise by more than 1 per cent per year over the level reached in 2006.[61] The dispute about CAP, however, produced 'an open clash between Prime Minister Blair and President Chirac at the table, and, it is said, an even sharper one in the margins of the meeting'.[62] Chirac's suggestion of tying CAP reform to renegotiation of the UK budget rebate, which had been in place since 1984, was

rebuffed not just by the British but also by Rasmussen who argued: 'if we raise all of those questions, we will never finish'.[63] Many saw France as the undisputable winner in the deliberations over agriculture.[64] This was not least because the agreement delayed any lowering of expenditure on the CAP. There was significant resentment at the 'private deal' on agriculture thrashed out between Chirac and Schröder at a pre-summit meeting at the Hotel Conrad in Brussels. Despite constant protestations from Germany about the need to ensure that the cost of enlargement would not be excessive, it looked to many as if the outcome of the Chirac–Schröder Conrad meeting indicated that Schröder was prepared to accept continuing to shoulder the expense of CAP and extending it to new member states as the price to be paid for a successful enlargement.[65]

The Brussels European Council cleared the way for the negotiations to move to a conclusion. But the intra-EU bargaining was far from concluded. There remained significant hurdles and time was running out quickly. Poul Christoffersen, the Danish Permanent Representative believed, however, that an intra-EU negotiation would endanger the Presidency's timetable. He therefore decided to dispense with it. On that basis the Presidency and the Commission proceeded to prepare a 'final offer' that Ludlow argues went well beyond the 'absolute limits' laid down at the Brussels Council. Subsequently there was 'consternation' when Christoffersen announced his plan to Coreper on 25 November.[66] It represented a 'calculated risk' that Copenhagen would present an opportunity to iron out difficulties. What the Commission and the Presidency dubbed 'the final position' in the final week of November was thus their final position and not that of the EU15. It is highly unusual for the Presidency to operate without a mandate from the member states, yet it was, Denmark believed, the only way to progress the negotiations to a conclusion in the short time left.[67]

The joint Presidency–Commission paper went some way toward tackling the considerable difficulties of the candidate countries.[68] This meant, inevitably, increasing the costs of enlargement to the existing member states. The proposal raised considerably, for example, the payments for the decommissioning of nuclear facilities in the acceding states.[69] Cumulatively they implied a significant increase in EU spending over the three-year period, compared with the Brussels European Council figures. According to estimates attached to the 8 November document, total commitments would be just over €1 billion higher than the heads of state and government had agreed to at the Brussels meeting, even though, by moving the accession date forwards from January to May 2004, the Union should in principle have been saving a significant amount of money. It was inevitable that such proposed increases would be contested, perhaps vigorously, by some of the member states.[70]

On 24 November Christoffersen presented, as part of the final negotiating package, a revised budget proposal. Although coming in at about €1 billion less than that of the Commission in January 2002, it was nevertheless significantly more (about €2.5 billion) than that proposed at Brussels in October.[71] The budget included €900 million for a so-called 'Schengen facility', to reimburse candidates for the expenditure, and to accelerate their preparations on border control; €600 million for

decommissioning nuclear power plants; and €1 billion as a lump sum for budgetary compensation, to be distributed among the new member states on the basis of their GNI.[72] Although some of the permanent representatives expressed concern about and even opposition to the package, Christoffersen was not for changing course. His out was that governments would have ample room to negotiate with the Presidency in the weeks ahead. In both Germany and the Nethelands the proposals generated considerable unease, being seen as far too generous and having been conceded far too early in the final negotiating process. The Commission and Presidency were thus presented as 'allies' of the candidates rather than negotiators on behalf of the EU15. Both Chancellor Schröder and foreign minister Joschka Fischer argued that the Brussels figures had to be respected, as did President Chirac on another bilateral visit to Germany.

The package, of course, was not read routinely in all the candidate countries. In fact adjusted for population size there seemed to be some remarkable differences. The Baltic States emerged well over the period 2004–6, Poland and the Czech Republic significantly less so.[73] Thus the likelihood of very difficult negotiations with the latter group of candidate states now presented itself. For many states the prospect of referendums on membership to follow the conclusion of negotiations meant that securing a generous financial package was of the utmost importance if the accession deal was to be sold domestically. Not surprisingly the Polish government was proving particularly difficult. A formal statement from the ten heads of government after a meeting in Warsaw highlighted many of the difficulties the candidate countries had with the package. The statement called for greater budgetary relief, a faster phasing-in of farm subsidies, and a 'fair balance of the rights and obligations of membership'.[74] Less pressing issues related to the problems of individual countries continued to be worked on if not solved. The candidate states seemed to be moving in private toward greater realism in their negotiating positions and it was striking that their most contentious demand – on full and immediate access to direct payments – was not even mentioned in the formal exchanges at the meeting.[75] The Danish Presidency presented its draft 'final package' to each of the ten leading candidate states on 26 November – but without any certainty it would be accepted by the candidates or by the EU member states.[76]

The Copenhagen European Council summit

For many observers it was fitting that the endgame of the eastern enlargement negotiations would be played out at Copenhagen. After all it was at Copenhagen in 1993 that the EU had taken the first important steps toward accepting the former Communist states into its ranks. Going in to the summit meeting the rhetoric of the main players demonstrated no more than a cautious optimism. One early indicator of the negotiating difficulties was the cancellation of the reception and dinner at the Christianborg Palace.[77] The sense of occasion and nervousness was captured in a letter to the *Gazeta Wyborzca* from many of the leading figures in the communist dissident movements who feared the collapse of the negotiations and the opportunity to re-unite the continent: 'We urge that the original idea of solidarity in a

united and democratic Europe should not be buried under the negotiations and group and local lobby interests.'[78]

The most important question to be addressed remained the size and shape of the final financial package for enlargement. In effect the Danish Presidency 'took a punt', to use a gambling expression, on the Copenhagen summit delivering the right result, on the member states not being able to countenance disappointing the candidate states again with another delay. Given the problems experienced at Nice and protracted arguments on the cost of enlargement this was a considerable risk to run. As far as the financial package was concerned the Presidency made clear that this was a matter for the heads of state and government at the summit meeting. Gerhard Schröder, before leaving Berlin, told journalists that a fifth enlargement without Poland was simply inconceivable. The Danish Presidency took this as a signal of Schröder's willingness to go that extra mile for a fair accord. This hopefulness was not as obvious in Warsaw, where after a whole day's meeting of the Polish Council of Ministers it was still less than clear what the Polish bottom lines might be.[79] The Polish position was extraordinary in negotiating terms. Prime Minister Miller was supported by his coalition partner and deputy prime minister Jaroslav Kolinowski, of the Polish Peasants' Party, who over the previous few months had repeatedly threatened to quit the government if Poland failed to get a good enough deal. Miller was being far from disingenuous when claiming that if the deal for Poland was not improved his government would implode. And this was of the utmost importance as the negotiations at Copenhagen were largely centred on the bilateral negotiation between Poland and the EU.[80]

The 'final offer' made by Rasmussen was the revised version of the lengthy paper on the financial package which had been represented to Coreper on 25 November and reflected developments in the last pre-Copenhagen round of negotiations with the candidates on 9 December and the GAERC meeting of 10 December. The total package of financial aid amounted to €40.8 billion (to 2006). But given that the new member states would also contribute to the budget something approaching €15 billion, the net figure was reduced to about €25 billion. The Commission thus suggested a net cost for ten countries over three years of just €10.3 billion per annum, which amounted to just one-thousandth of EU GDP.[81]

The Polish delegation continued to express disquiet. What was to be done? It seems clear that Verheugen was quite heavily involved with the German government in coming up with the idea for a transfer of some money earmarked for future structural operations into a special cashflow facility, which Christoffersen had created after Coreper on 25 November. For the Poles the merit of this was first and foremost that it involved the delivery of cash up front rather than commitments into the future.[82] A figure of about €1 billion 'extra' could thus be procured for the Poles. This was because German Chancellor Schröder agreed to another €1 billion being found for Poland but only by a process of re-classifying money earmarked later for regional aid as a straight and immediate cash transfer.[83] This certainly constituted a negotiating success for the Poles. They clearly envisaged difficulties in finding enough viable projects for regional aid. But the 'cashflow facility' instead represented a lump sum paid into the national treasury with few strings attached.[84]

Once this measure was agreed the success of the negotiations was guaranteed. The successful conclusion of the eastern enlargement process was then announced to the world press in suitably colourful language. The outcome was one which 'testifies to the common determination of the peoples of Europe to come together in a Union that has become the driving force for peace, democracy, stability and prosperity on our continent'.[85] Whatever the nature of the descriptives, the deal had been successfully concluded.

Reaction to the summit focused on the historic nature of the outcome as well as the outstanding contribution of the Danish Presidency. Others took the historical view that this meant, finally, the closing of the darkest chapters in Europe's history. Poland's daily *RzecPospolita* summed up the acceding states mood: 'Good morning, Europe.' The Czech daily *Lidove noviny* asserted: 'A new Europe is born.' The Hungarian broadsheet *Magyar Hirlap* announced: 'The end of divided Europe.'[86] Not surprisingly British Prime Minister Tony Blair felt the hand of history once more upon all present! Not all commentators were as dewy-eyed. In the Eurosceptic London *Times* Roger Boynes castigated the EU for 'behaving disgracefully ... bullying and bludgeoning Central Europe' and cautioned the newcomers on dampening their entrepreneurial spirit within a stagnant EU economy. Conservative leader Ian Duncan Smith attacked the EU for delaying enlargement for so long.[87] The overriding feeling, however, both in the EU and the accession states, was one of relief that the negotiations, which had seemed to teeter on the brink of collapse at regular intervals, had been brought to a successful conclusion.

Completing the formalities and tying the knot

The interregnum between the Copenhagen summit meeting and the signing ceremony in Dublin on 1 May 2004 was not without its moments of excitement. The American-led invasion of Iraq brought to the fore important differences in respect of attitudes to European foreign policy. President Jacques Chirac succeeded in alienating a great number of the new member states in castigating them as 'infantile' and 'reckless' because of their support for the United States in the Iraq war.[88] There was discontent also in some of the acceding states as the accession terms were studied closely. In Poland small farmers were the most vocal in their criticism of the Copenhagen package. Religious groups also complained when it became clear that Poland's accession treaty was not going to include a measure to ban same-sex marriages. All of this boded ill for the referendum.[89]

The finalized text of each accession treaty was the outcome of intensive discussion during January 2003 between the Commission and the acceding states, and was not significantly different from that which was negotiated at Copenhagen. The treaty itself consisted of two parts; the first listed the acceding countries and their dates of accession as well as the official languages in which the treaty was drawn up. The second part was much more complex and voluminous, being composed of five parts, nine protocols, 44 declarations, the Final Act, and 18 annexes. The complete set of documents, drawn up in 21 languages, each occupying 1,000 pages in the

Official Journal or up to 6,000 pages in normal text, was then deposited officially in the archives of the Italian government.[90] The sheer complexity of the treaties threw open different interpretations. The EU stance was simple: any changes were merely the consequences of detailed clarifications.[91] The Accession Treaty itself was signed at the foot of the Parthenon in Athens on 16 April 2003.[92] The Athens daily *Apoyevmatini* referred to the accession treaty as a 'contract of hope'. The EU's expansion not only guaranteed a peaceful future, but would increase solidarity among the member states. German Chancellor Gerhard Schröder declared: 'With this step, the Union is finally overcoming the division of Europe into east and west ... just like the Berlin Wall [in 1989] today it is a reason for shared joy – joy that we are creating a united and peaceful Europe.'[93] The Declaration which accompanied the Accession Treaty and was signed by all 25 signatory heads of state or government was explicit in setting out the fundamental basis not only for the enlargement being realized but the European integration process itself:

> Our achievement is unique. The Union represents our common determination to put an end to centuries of conflict and to transcend former divisions on our continent. The Union represents our will to embark on a new future based on co-operation, respect for diversity and mutual understanding. Our Union represents a collective project: A project to share our future as a community of values.[94]

The *sui generis* nature of the European Union and the determination to further transpose its value system on to neighbouring states and regions was also clearly emphasized:

> Accession is a new contract between our citizens and not merely a treaty between states. As citizens of this new enlarged Union we proclaim our commitment to the citizens of the candidate countries. We are also committed to developing ever deeper ties and bridges of cooperation with our neighbours and to share the future of this community of values with others beyond our shores.

The accession referendums

In the aftermath of Copenhagen attention turned toward the accession referendums that were planned for each acceding state. Recent experience of the referendum process in Denmark and Ireland had demonstrated that voters simply could not be taken for granted. And although 'Yes' votes were expected in most states there arose concern about unfavourable opinion polls in Poland, Hungary and Estonia especially. A more likely scenario was that turnout figures would fail to reach the required threshold levels in a number of states. If that happened the accession referendums would fail, at least in those states where reaching the threshold level was a constitutional requirement.[95] The first state to vote on the Accession Treaty was Malta on 9 March. The result there – a 'Yes' vote of 53 per

Table 4.1 Results of EU accession referendums in Central and Eastern Europe

Country	*Ref. Date*	*Yes (%)*	*No (%)*	*Turnout (%)*
Slovenia	23 March 2003	89.66	10.34	55
Hungary	12 April 2003	83.76	16.24	46
Lithuania	10–11 May 2003	89.92	10.08	64
Slovakia	16–17 May 2003	92.46	7.54	52
Poland	7–8 June 2003	77.45	22.55	58.85
Czech Republic	13–14 June 2003	77.33	22.67	55.21
Estonia	14 September 2003	66.92	33.08	63.4
Latvia	20 September 2003	67	32.3	72.53

cent – undoubtedly emboldened pro-Europeans in Central and Eastern Europe. This was followed by a comfortable majority in Slovenia, despite public opposition to the war in Iraq, which had complicated the government's case for a 'Yes' vote.[96] The Slovak referendum on 16 and 17 May resulted in a resounding vote for accession, although again on a less than overwhelming turnout. The Polish referendum held over two days on 7 and 8 June resulted in a strong 'Yes' vote once again and was achieved on a relatively high turnout of almost 60 per cent.[97] In the Czech Republic on 13 and 14 June a turnout of 77.3 per cent saw a winning majority of 55.2 per cent of votes cast. Estonia voted to join the EU by a decisive 67 per cent to 33 per cent in its vote on 14 September 2003 on a turnout of 66 per cent. Latvia completed the set on 21 September with a similar 67 per cent 'Yes' vote.[98] There was widespread relief after the latter result as Latvia had been seen as the most Eurosceptic of the candidate states.[99] With the referendum process complete national ratification procedures were fully realized.

At the Salonika summit attention turned naturally enough to the Balkans and the prospect of further enlargement. EU leaders effectively promised the political direction necessary to guide the region toward and possibly into the EU. As Romano Prodi put it: 'Europe's unification will not be complete until the Balkan countries are members of the Union.'[100] The task of maintaining momentum toward the accession date was, as ever, that of the Commission. In its so-called 'comprehensive monitoring reports' of 5 November, a post-negotiation continuation of the screening reports of previous years, the Commission made it clear that although there were no serious obstacles now in the way of accession, the problems still being experienced in implementing EU legislation in the acceding states might mean the imposition of safeguard clauses which had been outlined in the Accession Treaty.[101]

For all of the caution on the EU side, however, there was also a palpable sense of relief that the most difficult and protracted enlargement negotiation in its history had been successfully concluded. The fact that the honour of hosting the accession

ceremony fell to Ireland during its 2004 Presidency of the EU was highly symbolic in that Ireland had joined the Community as a poor peripheral state, beset by economic underperformance and high emigration, and made membership of the Union work for it by transforming and modernizing its economy. Ireland indeed was an exemplar of what EU membership offered for the new member states.

Part II

The institutional dimension of eastern enlargement