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## Environmental Politics

Publication details, including instructions for authors and subscription information:

<http://www.informaworld.com/smpp/title-content=t713635072>

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Online Publication Date: 01 March 2004

**To cite this Article** Kramer, John M.(2004)'EU Enlargement and the Environment: Six Challenges',Environmental Politics,13:1,290 — 311

**To link to this Article:** DOI: 10.1080/09644010410001685245

**URL:** <http://dx.doi.org/10.1080/09644010410001685245>

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# EU Enlargement and the Environment: Six Challenges

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JOHN M. KRAMER

Environment will be one of the most difficult chapters to close in the accession negotiations. Taking on board the environmental EU legislation is a tremendous challenge for any national parliament and administration, not to mention the financial, administrative and technical aspects of putting it into practice.

Margot Wallström, European Commissioner for Environment,  
20 June 2000

The prospective enlargement of the European Union (EU) constitutes the pre-eminent force shaping policies towards the environment in ten Central and Eastern European (CEE) countries that have opened formal negotiations to join its ranks (Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia). This circumstance derives from the EU mandate that a prospective entrant before admission must adopt the *acquis communautaire* (*acquis*) 'the common body of EU legislation' of which the environmental *acquis* comprises an integral component. In the legal sense in which the EU understands this dictum, 'it means the complete alignment of national legislation so that it complies 100 percent with the requirements of EU legislation. And not just on paper, but' of course 'also in fact' [*Commission, 1997b: 3*]. Adoption entails three distinct elements with respect to the *acquis*: transposition (incorporation into national legislation), implementation and enforcement. That fulfilment of this desideratum presents profound political, economic and social challenges extending far beyond the environment constitutes a truism. Indeed, by consensus, adoption of the environmental *acquis* because of the stringent deadline entailed therein, requisite costs for its implementation and the breadth and complexity of the issues involved is among the most challenging components of the accession process. The challenge is especially acute given that the candidate countries must rely primarily on their own financial and other resources to meet it – resources already severely strained in meeting numerous other demands including those entailed in the overall accession process. In meeting this challenge, the applicant countries have had to battle against the pernicious legacy of

communist misrule where political indifference left massive degradation of the environment and a relative paucity of resources (human, technical, financial, institutional and legal) available to improve environmental quality [Kramer, 1983].

To what degree accession countries meet these challenges remains an open question given that, as EU officials themselves candidly admit, all of them attach a far lower priority to protecting the environment than their attachment to entering the EU as quickly as possible and in addressing what they consider much more pressing problems of economic revitalisation and growth. Speaking before the European Parliament, Environment Commissioner Margot Wallström acknowledged that there is ‘sometimes a discrepancy between the ambitious target dates for accession and the level of priority with which the environmental chapter of the *acquis* is dealt with’, a circumstance that makes her ‘impatient’ [Wallström, 2000]. Privately, some EU officials also worry that member states will offer the applicant countries a *quid pro quo* by ‘letting them off’ on strict and timely fulfilment of the environmental *acquis* to compensate for being especially tough with them on such politically charged issues as the free movement of labour and refugees (personal interview with Commission staff analyst, Brussels, 1999). In contrast, as Pavlínek and Pickles argue in this volume, the EU has performed an important political function by allowing CEE environmentalists to exploit the imperatives of accession to place (and keep) environmental issues on the political agenda and pressure sometimes indifferent and reluctant officials to act upon them.

### Six Challenges

Eight of the ten CEE applicant countries – all except Bulgaria and Romania – closed the environmental chapter of the *acquis* in their accession negotiations. The European Commission (the ‘Commission’) defines ‘closed’ to mean that ‘schedules for transposition and implementation of the environmental *acquis* have been fully clarified, including plans for further strengthening of the administrative capacity’ [Commission, 2002a]. Bulgaria and Romania began negotiations, in July 2001 and March 2002 respectively, on the environmental chapter. Consequently in late 2001, Jean François Verstrynge, head of the European Commission’s enlargement directorate, contended that ‘we are almost home on environment’ given the advanced state of negotiations on the environmental *acquis* in the accession talks (Reuters, 23 November 2001). However, both the authors in the present volume and the Commission itself in numerous reports make it clear that this is an overly sanguine assessment, as all candidate countries confront pressing challenges as they seek to fulfil the environmental

commitments they made to the EU. These challenges increasingly involve what Environment Minister Wallström calls the ‘much more difficult nut to crack’ of effective implementation and enforcement of the environmental *acquis* [Wallström, 2003].

This study provides an overview of six challenges – most addressed at discrete points in these pages – with which the candidate countries must successfully cope if they are to fulfil the environmental *acquis* and do so in such a way that they ‘crack’ the even more fundamentally important ‘nut’ of building a sustainable environment in the region: (1) the *fiscal* challenge of providing requisite monies; (2) the *administrative* challenge of building both institutional and staffing capacity; (3) the *environmental* challenge of promoting a sustainable environment while fulfilling the *acquis*; (4) the *democratic deficit* challenge of ensuring substantive input for *Vox Populi*; (5) the *energy* challenge of reducing the excessive consumption of environmentally threatening liquid and, especially, solid fuels and coping with the dangers of obsolete nuclear power stations built in the Soviet era; (6) the *political* challenge of mobilising the support necessary to respond effectively to these foregoing challenges.

Several considerations should be borne in mind before proceeding with this analysis. First, assessing the challenges confronting the candidate countries should not obscure the substantive progress they have made, to varying degrees, in the process of adopting the environmental *acquis*. That they have done so in little more than a decade, having emerged from communist misrule with a legacy of profound neglect and indifference towards the environment, and being forced to rely mostly on their own human and financial resources is indeed an impressive achievement. The contributions to this volume speak this, as well.

Even more important, one person’s challenge is another’s opportunity. This truism manifestly applies to environmental accession. The candidate countries have a historic opportunity to meet the challenges of this accession in ways consistent with realising the EU’s own professed goal of ultimately achieving a sustainable environment in Europe. Hence, fulfilment of the environmental *acquis* constitutes a necessary, but not in itself sufficient, step in realising this latter end. If the candidate countries successfully seize this opportunity, they will benefit themselves and prospective candidates in future waves of EU enlargement by providing the latter with a ‘road map’ of how ‘to get it right’ in meeting the challenges of environmental accession. The EU itself can also profit from such a ‘road map’ since it confronts many of the same challenges besetting the candidate countries, including those related to financing and administration and, most fundamentally, of transforming its rhetorical commitment to building a sustainable environment into a substantive reality.

### The Fiscal Challenge

The daunting fiscal challenge of complying with the environmental *acquis* is a pervasive theme in the present volume. This challenge has sparked a contentious debate entailing both the obvious question of how these expenditures will be funded as well as whether the projected costs somehow can be reduced and/or 'stretched out' through sundry transitional periods. One must treat cautiously all estimated costs of compliance, but the requisite expenditures undoubtedly will be huge and impose a heavy additional burden on economies already severely strained in the transition from communist rule. In one widely cited study published in 1997, the Commission estimated that it would cost the CEE candidate countries approximately 120 billion Euro to comply with EU requirements for drinking water supply, wastewater management, large combustion plants and waste management [*Commission, 1997a*]. Subsequently, the Commission revised this estimate now calculating that costs would range between 80 billion Euro and 110 billion Euro, although the costs for individual candidate countries – both absolutely and per capita – differ substantially (see Table 1).

This revised estimate – like its predecessor – should not be accepted literally: at best, it is suggestive of the enormous sums that will be required to fulfil the environmental *acquis*. First, the estimate excludes the investment needs of important new and forthcoming EU environmental legislation such as the Water Framework Directive. Second, for some investment-heavy directives – for example, the Air Quality Framework Directive – the necessary expenditures will only become known after completion of an initial assessment of the scope of the problem and the

TABLE 1  
ESTIMATED ENVIRONMENTAL FINANCING NEEDS IN APPLICANT COUNTRIES

Country	Estimated Total (Millions of Euro)	Euro Per Capita
Bulgaria	8610	1117
Czech Republic	6600–9400	643–915
Estonia	4406	3095
Hungary	4118–10000	497–989
Latvia	1480–2360	620–989
Lithuania	1600	443
Poland	22100–42800	572–1107
Romania	22000	983
Slovakia	4809	888
Slovenia	2430	125
<i>Total</i>	79260–11001	–

Source: Developed from Commission [*2001b: Annex 2*].

adoption of a strategy to combat it. Finally, the required expenditures will vary considerably depending on how strictly EU directives are interpreted and applied. For example, according to a World Bank study, this variable accounts for the enormous differences in the estimated costs of compliance for Poland contained in Table 1 [Hughes and Bucknall, 1999].

The nature and extent of any transitional periods granted by the EU for the applicant countries to ease the burden of complying fully with the environmental *acquis* has been an especially contentious issue in accession. Applicant countries themselves pointed to both the magnitude of the task in adopting this *acquis* and the limited financial and institutional resources they bring to this effort to justify the need for such transitional periods. In principle, the EU endorsed the need to grant transitional periods to fulfil those areas of the *acquis*, explicitly including the environment, 'where considerable adaptations are necessary and which require substantial effort, including important financial outlays ...' [Commission, 1999]. Behind this general statement of principle, EU officials made it clear that considerable restrictions would apply to any transitional periods granted. First, applicant countries needed to provide a substantively persuasive rationale for any transitional period they requested: Commission officials reportedly looked with particular disfavour on requests they considered a disguised form of protectionism for domestic industrialists anxious to escape the onerous financial burden entailed in fulfilling sundry EU environmental regulations (personal interview with Commission staff analyst, Brussels, 1999). Second, applicant countries would receive transitional periods only for relatively short, and clearly defined, periods of time and would need to submit a detailed strategy and timetable for complying with the regulation before they received the grace period. Third, applicant countries would receive transitional periods primarily for the fulfilment of regulations necessitating substantial financial investments rather than for the much less costly transposition of the environmental *acquis*.

Applicant countries at times sought to pressure the EU to make these desiderata less stringent. For example, Poland's chief negotiator with the EU argued that Poland might consider postponing its target date of 2003 for joining the EU unless the latter compromised over its proposed timetable for adopting sundry components of the *acquis*, explicitly including the chapter on environment (PAP, 7 November 2000). Hungary pursued a variant of this strategy by asking why it should adopt politically and economically onerous provisions in the *acquis* when it remained unclear when or if the EU actually would enlarge its ranks. 'The government's view is that the measures disadvantageous to Hungary should be taken at the time of EU accession', not before, as originally planned, by 2002, according to an official governmental spokesman (Reuters, 26 April 2000). Yet the

overriding desire to enter the EU as rapidly as possible ultimately undermined this stratagem. This was most obvious in Poland where, in April 2001, its chief EU negotiator announced that Poland would rescind sundry requests for transitional periods to meet EU environmental standards to keep its entry talks on track: 'To stay in the rhythm of negotiations, we had to change our position' he explained in providing the rationale for the decision (*Reuters*, 8 April 2001). In the end, the longest transitional periods granted to meet EU standards typically were for urban wastewater and the quality of drinking water – components of the *acquis* whose fulfilment entails especially onerous fiscal burdens. Environment Commissioner Wallström promised to ensure strict enforcement of these transition deadlines explaining that 'existing member states will not allow environmental dumping' – a reference to concerns that exporters in CEE countries would have a competitive cost advantage over them if they were not subject to the same environmental regulations (*Reuters*, 23 January 2003). The EU also mandated that transitional periods do not apply to new investments, which must conform to the environmental *acquis* thereby preventing applicant countries from luring investors with the enticement of less stringent environmental standards and, concomitantly, lower costs of production [*Commission, 2002a*].

Overall, the EU estimates that candidate countries on average must spend between two per cent and three per cent of gross domestic product (GDP) to ensure implementation of the environmental *acquis*. To place this task in perspective, consider what the following candidate countries spent on environment as a percentage of GDP in 2001: Czech Republic (1.04), Hungary (1.0–1.1), Lithuania (0.22), Poland (1.7), Romania (0.40), Slovakia (1.5) [*Commission, 2001c*]. In the EU itself, such expenditures now average about one percent of GDP. These data raise the pressing question of where the candidate countries will acquire the monies to fulfil their obligations.

EU officials have made it clear that whatever actual sums the candidate countries ultimately spend on environmental compliance must come primarily from their own resources. At best, EU aid for this 'purpose projected at about five per cent of the estimated requisite monies overall' (personal interview with Commission staff analyst, Brussels, 1999) will target selected high priority projects. The 'Instrument for Structural Policies for Pre-Accession' (ISPA) has been the principal vehicle for EU environmental aid to the CEE candidate countries, although upon accession these monies will come primarily from the EU's regular structural and cohesion funds [see also, *Schreurs, this volume*]. Between 2000 and 2006, the Commission plans to allocate approximately 500 million Euro annually through ISPA for environmental investments [*Commission, 2001b*]. ISPA

funds are also designed to serve as a catalyst to promote aid from other external donors, including the European Bank for Reconstruction and Development (EBRD), the World Bank, and private capital as well. The first fruits of these efforts are now appearing. In June 2000, the EU, the World Bank and the government of Denmark announced they would help co-finance a \$97 million loan to Poland to build small geothermal and gas-fired power plants to produce environmentally clean energy (*Reuters*, 29 June 2000).

Yet total foreign assistance, including ISPA funds, still accounts for a relatively limited share of environmental investments in the candidate countries. For example, in 2001 external assistance comprised no more than ten percent of the environmental investments in Poland [*Commission, 2001d*: 82]. In Romania, external donors have pledged just \$1 billion towards the projected cost of \$22 billion to fulfil the environmental *acquis* (*Mediafax*, 11 March 2003). Not surprisingly in these circumstances, some advocate a substantial increase in EU assistance, contending that it is simply unrealistic to expect the applicant countries to marshal the requisite monies for environmental compliance primarily from their own already heavily burdened domestic economies. In this vein, the European Parliament has asked the EU to double the amount of its environment-related assistance to the applicant countries by 2006 [*European Parliament, 2000*]. Similar arguments are often voiced in the applicant countries themselves. Thus, in representative arguments from Poland, the Minister of Environment contends that 'our firms cannot take on more burdens on environmental issues and stay competitive' while a local governmental official simply states 'without EU funds, it would take us 20 years to become environmentally friendly, with Europe's help, three' (*Reuters*, 20 June 2001). In contrast, a World Bank study sharply challenges these arguments, contending that companies themselves 'should, in almost all cases, be expected to finance any necessary environmental improvements through regular channels as part of their overall programs of capital investment'. The report dismisses concerns about higher environmental outlays undermining industrial competitiveness as 'seldom necessary', citing surveys from the United States on this subject to substantiate its position [*Hughes and Bucknall, 1999: 10, 11*].

Whatever the merits of these respective arguments, it seems clear that the private sector – both producers and consumers – will shoulder a heavy load in financing EU-related environmental investments. To this end, it becomes critical that candidate countries vigorously pursue the privatisation of environmental services such as water and power supply and waste removal and the concomitant establishment of so-called full cost recovery pricing – in plain English, the elimination of subsidies and the establishment



of market-based prices – for them (*Environment for Europeans*, October 2000). While no panacea, these initiatives potentially have the salutary effect of: (1) making the provision of environmental services a profitable business wherein environmental-related investments are included in the costs of production and reflected in the retail price of the service; (2) attracting investment to these now profitable businesses which can be utilised to promote technological modernisation and the more efficient use of resources as a means of reducing costs and increasing profits; (3) forcing consumers to be more thrifty in the utilisation of resources for which they now pay market-based prices; (4) generating a predictable stream of revenue for government from taxes and user fees which can be used to finance environmental projects of national significance, including in partnership with the private sector [*Commission, 2001b: 14*]. This position is consistent with the overall argument in the Archibald, *et al.* contribution [*this volume*], which strongly stresses the interlocking environmental and economic benefits of market liberalisation. It stands in contrast to those authors [e.g. *Pavlínek and Pickles, this volume*] who express reservations with aspects of this process.

### **The Administrative Challenge**

Strengthening their administrative capacity to transpose and, even more importantly, implement and enforce the environmental *acquis* is rapidly emerging as one of the key challenges confronting the applicant countries. Calling this challenge a ‘central plank of environmental protection’, Environment Commissioner Wallström in January 2003 told CEE environment ministers meeting in Brussels that requisite administrative capacity has been ‘identified from the start as one of your weak points’ [*Wallström, 2003*]. A recent EU-sponsored study on this subject found ‘specific capacity problems in almost every candidate country’, but singled out Bulgaria, Poland and Romania for where ‘the most pressing capacity problems occur’ [*Commission, 2001a: 258*]. Reportedly, ‘quite a lot of tensions’ have existed over ISPA projects because of the Commission’s view that at times candidate countries have lacked the requisite administrative capacity to implement them effectively (personal interview with Regional Environmental Center (REC) staff analyst, Szentendre, Hungary, 2001). Yet as Schreurs [*this volume*] reminds us, capacity problems are hardly unique to the applicant countries but often bedevil the EU itself, especially its less developed states, in the effective implementation and enforcement of environmental legislation. That said, the pernicious legacy of communism with its profound neglect of the environment meant that the applicant countries, to varying degrees, began

accession with exceedingly limited administrative capacities to cope with the highly complex, interconnected, and substantively challenging imperatives of the environmental *acquis*.

The Commission has identified many administrative problems in Poland that are found to varying degrees in all applicant countries [*Commission, 2001d: 82*]:

Poland's administrative capacity for EC environmental directives remains a matter of concern. ... Staff resources are limited and the awareness about the requirements of EU environmental directives needs to be improved. Significant training in EU environmental policy is still necessary. Poland's division of tasks over numerous agencies and administrative levels has, in some cases, caused unclear responsibilities. Different bodies are responsible for setting objectives, permitting monitoring, inspection and financial instruments. This risks diminishing the accountability for achieving environmental standards.

The challenge of staffing is multifaceted encompassing the need to increase the number of personnel engaged in environmentally related accession issues, to provide them with requisite training and resources to execute their duties competently, and to retain qualified staff by compensating them adequately so that they do not, as have so many of their erstwhile colleagues, leave for better paying employment in the private sector. The problem, according to the Minister of Environment in Slovakia, whose ministry has only one-third the level of staff that the Commission considers necessary, involves money – or the lack thereof: 'It's all about money – if we had money, we would have administration, too' (*The Slovak Spectator*, 27 January 2003). That a lack of photocopying facilities prevented staff in the Bulgarian Ministry of Environment from receiving copies of EU legislation illustrates – perhaps in caricature form – the simple and basic constraints under which environmental personnel often labour in the candidate countries [*Commission, 2001a*].

The EU has sought to mitigate such problems through the 'twinning' mechanism under its PHARE programme, which overall seeks to enhance the administrative capacity of applicant countries to implement and enforce the *acquis*. Environment has been designated as one of the priority areas for twinning, which primarily entails the long-term secondment of highly qualified civil servants from EU member states to assist their colleagues in the applicant countries. 'Twinning' has assisted Bulgaria in developing a task force to participate in ISPA, Hungary to transpose environmental legislation and establish and manage a Central Environmental Protection Fund, and Slovakia to enhance its administrative capacity to implement measures on air pollution.

The respective Ministries of the Environment in the applicant countries, which under communism were typically politically and administratively powerless, also require considerable strengthening if they are to fulfil their designated role as the principal agency responsible for the preparation and execution of environmental legislation. Besides the aforementioned problem of staffing hindering them in this regard, these ministries are often reduced to a 'coordinating' or 'consultative' role since they lack administrative power and competence over key sectors of the environment. Problems of coordination and clarification of administrative responsibilities are common in such a decentralised system. Further, sectoral agencies tasked with many responsibilities besides environment may not always accord requisite priority to environmental protection. Exacerbating this problem, these ministries are relatively weak politically compared to many other sectoral agencies and often lack the political muscle to overcome this sectoral bias in policy formulation and execution. Such sectoral bias is becoming especially pernicious in the accession process given the imperative to integrate environmental considerations into other policy sectors and the concomitant need to devise the most cost-effective strategies to realise environmental objectives (personal interview with REC staff analyst, Szentendre, Hungary, 2001).

The capacity challenge will be especially pressing at the regional and local levels where governments – in sharp contrast to their mostly moribund state under communism – will increasingly become key players, especially in the implementation of EU legislation. As a ranking EU official explains:

Local authorities will, for example, be responsible for issuing permits for industrial plants. They have to be able to evaluate requests, and this often requires highly technical knowledge. Another task is monitoring air and water quality. To begin with, monitoring equipment has to be developed and certain procedures followed to make sure that everybody is measuring the same emissions. In the end, results have to be reported to the Commission, and also made available to the public (*Environment for Europeans*, February 2002, p.4).

The challenge is reflected in Poland where officials at the regional ('voivodship') level will be responsible for issuing permits to 70 per cent of the installations covered under the key Directive on Integrated Pollution Prevention Control (IPPC). In its 2002 report on Poland, the Commission noted that no environmental departments were yet 'fully operational' at the voivodship level and that Poland must 'urgently' begin training their staff to implement the IPPC Directive [*Commission, 2002b*].

This analysis hardly exhausts the challenge of administrative capacity. In the present volume, for example, both Bell and Kružíková – with their

substantive focus on, respectively, civil society and law – address issues that bear directly on this subject while Pavlínek and Pickles make the useful point that accession may have important ‘indirect consequences’ for the environment by, *inter alia*, strengthening administrative capacities through combating corruption.

### The Environmental Challenge

This contribution argues that fulfilment of the environmental *acquis* constitutes only a necessary first step towards the realisation of a fundamentally more important goal: the creation of a sustainable environment in Europe. It would be a tragedy if EU accession, despite the claims of proponents of the *acquis*, actually led to policies that degraded, rather than enhanced, the CEE environment. Yet many environmentalists contend this is precisely what is happening because the EU is imposing on the applicant countries its own fundamentally flawed developmental ‘model’, which stresses the imperatives of large-scale economic development to the detriment of building a sustainable environment. In this volume, for example, Gille bluntly states this argument charging that the EU ‘stands for unsustainable development’ by placing economic, over environmental, interests.

CEE ministers of environment reportedly echoed this argument in meeting with Environment Commissioner Wallström where they told her the EU needs to take ‘one hard look in the mirror’ about the pressing need to revise EU policies – specifically the massive subsidisation of agriculture and motorisation – that promote environmental degradation and would make an enlarged EU ‘no more sustainable than the present EU’ [Wallström, 2000]. Bedrich Moldan, the Czech Republic’s chief negotiator with the EU on environment, was even more graphic on this subject, calling the extension of subsidies for agriculture and motorisation to the applicant countries ‘disastrous for the environment, biodiversity, social structures, and economies of Europe as a whole’ [Moldan, 2000].

Environmentalists especially target EU pre-accession assistance for its alleged failure to promote the principles of sustainable environmental development. Thus, in two prominent reports, issued in 2000 and 2001, respectively, CEE Bankwatch Network and Friends of the Earth contended that the EU is actually promoting environmental degradation in CEE countries by failing to integrate the principle of sustainable development throughout its assistance programmes. They were especially critical of ISPA, charging that it favoured the creation of a ‘car dependent’ society through its funding of highway infrastructural projects while ‘not at all’ promoting a much more ‘environmentally friendly’ system of reliable and

comprehensive urban public transport and rail service. A related point is that the reports charge that priorities in EU aid reflect the preferences of elites, not the public, since there is little meaningful opportunity for citizen input into the selection and preparation of accession projects [*CEE Bankwatch Network and Friends of the Earth Europe, 2000, 2001*]. Here, however, the culprit may more often be CEE governments themselves and the Commission part of the solution, according to the executive director of CEE Bankwatch Network: 'We, the people living in the accession countries have the right to decide over our future. Unfortunately, our Governments are not making it possible. We are drawing the attention of the European Commission to that problem and hope for their support to make the entire process more open and transparent' [*Friends of the Earth Europe, 2002*].

That the EU will soon require applicant countries to subject all EU pre-accession investment projects before their implementation to a rigorous environmental impact assessment (EIA), including mandatory public participation therein, may mitigate some of these aforementioned concerns. Separately, Environment Minister Wallström has convened a series of 'informal ministerial' meetings with the ministers of environment of the candidate countries to pursue a dialogue among them on environmental issues of common concern, including how to promote the principle of sustainable development. One of the substantive fruits of this dialogue has been an agreement to waive the requirement of a 5 million Euro threshold before a project is eligible for ISPA funds – a requirement that favoured larger projects that critics contend were often threatening to the environment – for worthy smaller scale less costly projects that concomitantly are more 'environmentally friendly' [*Informal Ministerial Meeting, 2001*].

Despite such initiatives, it is obvious that the challenge of promoting sustainable development remains a work in progress. If this challenge is to be met successfully, it will require policymakers in both Brussels and the applicant countries to transform their professed commitment to the EUs own sustainable development strategy, adopted by EU leaders at the 2001 Gothenburg Summit, into a substantively meaningful one that views accession holistically with environmental concerns permeating the *acquis*, not being compartmentalised only into the chapter on environment.

### **The 'Democratic Deficit' Challenge**

An especially critical challenge entails overcoming the so-called democratic deficit wherein *Vox Populi* in general, and private sector environmental groups (NGOs) in particular, have been insufficiently heard in shaping public policy towards the environmental *acquis*. As a report issued in 2002

by the influential World Wildlife Fund bluntly contends, 'civil society access to information and decision-making regarding the accession process and programming for use of EU funds is still largely missing in the candidate countries' [*World Wildlife Fund, 2002*]. Persistence of the democratic deficit makes it difficult to mobilise political support and will to implement often fiscally onerous environmental policies and promote their sustainability by actively involving environmental NGOs in their formulation. The origins of the democratic deficit are rooted both in CEE societies themselves, where the legacy of communism still inhibits the development of vibrant civil societies, and in, as several authors in these pages have demonstrated, the *modus operandi* of EU institutions and how they are managing accession.

In CEE countries, as former President Vaclav Havel of the Czech Republic has observed, strengthening *Vox Populi* has been a 'difficult process' with many public officials retaining the communist era view of the citizenry as an adversary, not a partner, in the exercise of power (*Die Welt*, 18 February 2000). That Bulgaria's Ambassador to the EU recently chastised 'self-styled NGOs' who 'interfere into the negotiations for membership in the EU' by communicating directly with Brussels 'rather than through the national government' is emblematic of such attitudes [*CEE Bankwatch Network and Friends of the Earth Europe, 2001*]. Much work especially needs to be done to make NGOs in the region forceful and effective advocates for the environment, according to a comprehensive report on the subject. This report, based on a survey of approximately 3,000 CEE NGOs, found that the 'vast majority' of them are in an 'unstable, poor, or very poor financial state' that cooperation between them and national and international governmental authorities is 'for the most part poor', and that over two-thirds of them are concentrated in only four countries, the Czech Republic, Hungary, Poland and Slovakia [*Regional Environmental Center, 1998*]. Even in the Czech Republic, with its relatively well-developed NGO sector compared to many of its CEE counterparts, a July 2001 poll found that 58 per cent of the respondents could not name any environmental NGO (although 57 per cent of the sample said they would support the work of such organisations) (*CTK, 9 January 2001*). In an often Faustian bargain, local NGOs may mitigate many of their problems by affiliating with well-known international organisations such as Friends of the Earth or World Wildlife Fund, but at the risk of being, as Bell observes in this volume, 'overwhelmed and marginalised' by their far larger and more powerful Western patrons.

Yet the EU itself, even if unintentionally, has managed environmental accession in such a way largely to exclude CEE environmentalists from substantively meaningful participation in it. This circumstance arises most

obviously because, as Bell notes herein, Brussels mostly has determined the agenda of environmental accession with the applicant countries playing the role of implementers of policies predetermined by the Commission. Then, too, Hallstrom effectively demonstrates in this volume how the Commission, including DG Environment, informally has a strong 'technocratic' bias which prizes the technical expertise of scientists and other professionals and sees the role of grassroots environmental organisations – typically lacking requisite expertise – as transmitters to their own publics of expert-determined policies made in Brussels.

However, initiatives are underway to mitigate this bleak situation. In conjunction with the REC, the internationally funded Hungarian-based organisation charged with facilitating environmental cooperation in the region, the EU is now conducting 'NGO Dialogue' conferences to facilitate discussion on environmental-related issues of accession and to enhance the public stature of these groups as spokesmen for the environment. While Gille [*this volume*] has dismissed such meetings as 'futile', Hicks [*this volume*] has noted more positively that recent sessions have exhibited more dialogue and substantive interchange about broader international programmes. 'Putting its money where its mouth is', the Commission in June 2001 announced that it was approximately tripling the financial support that it provides European environmental NGOs (from 10.6 million Euro to 32 million Euro over a five-year period) so that it could include CEE NGOs in the programme (*Green Horizon*, 29 June 2001). To promote these same ends, the European Parliament officially has invited environmental NGOs to submit annual reports to it identifying 'real or potential deficiencies' among applicant countries in complying with the environmental *acquis* [*European Parliament*, 2000].

The EU also correctly has recognised that if environmental NGOs are to perform their functions effectively, they must have largely unfettered access to reliable and contemporaneous data about the environment. Responding to the imperatives of EU accession, CEE governments increasingly are compiling these data, but, often claiming a need to protect commercial secrets, have been less forthcoming in disseminating them publicly, even to EU officials who request them (personal interview with Commission staff analyst, Brussels, 1999). Consequently, the EU has established a 'Public Right to Know Project' that works closely with environmental NGOs and private individuals to pressure CEE governments to establish minimum standards for public access to information regarding the environment. This promising initiative performs the dual function of simultaneously strengthening the capacity of NGOs to serve as effective advocates for the environment and arming the citizenry with the requisite information to make informed choices about environmental policy. EU legislation

mandating public participation, such as the Environmental Impact Assessment Directive and the Access to Environmental Information Directive, similarly promotes these functions.

### The Energy Challenge

Under communism, CEE governments pursued an energy policy enormously deleterious to the environment. It stressed the forced draft development of energy-intensive industries, including steel, chemicals and mining [*Kramer, 1990*]. Consequently, the economies of the region expended between 30 percent and 50 percent more energy than their counterparts in Western Europe to produce the same unit of national income. CEE countries also produce the wrong kinds of energy to promote environmental quality. Low grade soft coal of high sulphur, ash and cinder content predominates in the production of primary energy in CEE states, except in Poland, where hard coal predominates.

This environmentally threatening legacy persists in the region. Thus, in 1998, energy intensity – that is, tons of oil equivalent consumed per \$1,000,000 of GDP – in the applicant countries was upwards of four to nine times higher than the average of Western European members of the Organisation for Economic Cooperation and Development (OECD). Comparing the energy intensity of the United States – the most energy-intensive user in the West – to those of the applicant countries in 1998, only Estonia had comparable energy intensity whereas all others had levels at least double that of the United States. In some CEE countries, energy efficiency has improved very little in the transition years [*Andonova, 2002*]. The consequences of this for the environment are predictable: for example, in 1998, the applicant countries, relative to output, produced anywhere from three to six times more greenhouse gases than did their counterparts on average in the EU. Simply stated, a decisive improvement in the CEE environment requires that these countries reduce substantially their energy intensities [*EBRD, 2001: 91–3*].

The highly controversial status of nuclear power in the CEE region also has its roots in the communist era where intensive exploitation of the atom comprised an integral component of energy policies in most states [*Kramer, 1995*]. In 1998, an EU-sponsored study of nuclear safety in CEE countries and the former Soviet Union concluded that six Soviet-era nuclear power stations (NPS) still operating within EU aspirant states – each of the two oldest units at, respectively, the Kozloduy NPS in Bulgaria, the Jaslovské Bohunice NPS in Slovakia and the Ignalina NPS in Lithuania ‘were both impractical’ to retrofit ‘to cope with accidents which are normally safeguarded against in Western designs’ and could only ‘be operated for a



short time without excessive risk' [*Commission, 1998: 37–41*]. The concerns are especially acute regarding Ignalina whose reactors (unlike those at its counterparts in Bulgaria and Slovakia) are of the same design and technology as the reactor at the Chernobyl NPS in Soviet Ukraine which caused the world's worst nuclear accident when it exploded on 26 April 1986.

After long and arduous negotiations beset with charges that it was not pursuing the issues with sufficient vigour, the EU finally secured from these states timetables for the closure of the controversial plants. In each instance, it is clear that pressure from the EU which explicitly made the opening of accession talks with each state contingent upon resolution of the issue proved decisive in affirming the decision for closure. In February 2002, Energy Commissioner Loyola De Palacio reaffirmed the link between accession and nuclear safety in the applicant countries, contending that the latter 'should be one of the preconditions for EU entry' (*Reuters*, 18 February 2002). To mitigate the onerous financial burden on the affected countries of decommissioning these reactors – for example, it will cost an estimated 3 billion Euro to close the Ignalina NPS – the EU and other Western donors in 2000 established Dedicated Nuclear Decommissioning Funds for Bulgaria, Lithuania and the Slovak Republic.

Yet these initiatives have failed to assuage critics. For example, the EU has angered many anti-nuclear activists in CEE countries and in EU member states by making it clear that it remains the sovereign prerogative of CEE states themselves to determine whether NPS in the region that the EU deems meeting prevailing standards of safety – a total of 15 reactors – should remain operative or be closed. Indeed, Energy Commissioner De Palacio has argued forcefully for expanded utilisation of nuclear power in the EU as a critical component of its strategy to reduce reliance on importation of energy, especially petroleum (*Reuters*, 18 February 2002). As Axelrod details in this volume, the latest nuclear controversy embroiling the EU involves the opening of the Temelín NPS in the Czech Republic which houses two giant Soviet-designed 1,000 MW reactors upgraded with Western-supplied safety and control equipment.

The EU also has many critics in those countries where NPS will be closed who argue that: (1) they are only closing the plants under duress since these now meet prevailing standards of safety after considerable sums were spent modernising them; (2) the funds Western donors are providing to decommission the plants fall far short of what is needed for this task; (3) the premature closure of these reactors will inflict considerable hardship since the affected countries depend so heavily on the atom as a source of power (in Lithuania, for example, Ignalina supplies upwards of 80 per cent of its electricity and the figure in Bulgaria for Kozloduy is approximately 50 per cent).

While these arguments have merit – for example, regarding Ignalina, the EU has pledged less than 10 per cent of the estimated 3 billion Euro needed to decommission the plant (*Reuters*, 21 March 2002) – they obscure the much more fundamental challenge confronting these countries and, indeed, other applicant countries as well: the imperative to reduce substantially their excessive consumption of energy. Tellingly, in 1999, compared to the United States, energy intensity in those candidate countries where NPS will be closed was approximately five times higher in Bulgaria, three times higher in Lithuania, and twice as high in Slovakia. In the Czech Republic, which operates the controversial Temelín NPS, energy intensity was also approximately double that of the United States. Further, each of these states has higher energy intensity than the average for the region [*EBRD*, 2001].

A detailed discussion of how best to achieve substantial reductions in energy intensity lies beyond the purview of the present study. Suffice it to say that an in-depth study of this subject found that the ‘most significant’ way to achieve this end entailed market liberalisation by eliminating the substantial under-pricing of energy in all transition economies, including those of the applicant countries, which hitherto has provided little economic incentive to their consumers to utilise energy resources prudently [*EBRD*, 2001]. Establishing energy prices approximating actual cost-recovery levels would provide a compelling economic *disincentive* to consume energy profligately and concomitantly would represent a ‘win win’ situation for the environment by both lessening the rationale for relying on dangerous NPS to produce power increasingly in excess of demand and reducing energy-related air and water emissions, which are among the most threatening sources of environmental pollution.

### **The Political Challenge**

The critical challenge confronting applicant countries may well be marshalling the political will to enact requisite policies to fulfil the environmental *acquis* that are inevitably highly controversial, fiscally onerous, and disadvantageous to key groups in society. Stated succinctly, without sufficient political will, none of the foregoing challenges analysed herein is likely to be met successfully. So far in the accession process, the imperative to enter the EU as quickly as possible, rather than any substantive commitment to improve the environment *per se*, has been the overriding motivator compelling the applicant countries to fulfil whatever demands the EU has made regarding the environmental *acquis*.

However, after accession, the status of political will may become more problematic given that, as Jehlička and Tickle argue in this volume, the EU inevitably will have diminished leverage over the former applicant

countries and the latter will have more opportunity to set their own agendas and priorities, including those towards the environment. If the environment is to be a priority under these circumstances, it becomes critical to eliminate the aforementioned democratic deficit in accession. Absent that, *Homo Politicus* is hardly likely to render support and shoulder the burden of complying with the environmental *acquis* if he is largely excluded from its formulation and execution.

To this end, proponents must make a convincing case that complying with the environmental *acquis* – despite its costs and burdens – overall is in the best interests of the applicant countries. As Environment Commissioner Wallström informs, ‘In my meetings with political leaders from the Accession Countries, I have stressed over and over again that environment should not be seen as a cost but rather as an opportunity in the accession process’ [Wallström, 2000]. Proponents can, for example, argue that this end materially enhances their prospects for EU membership since a symbiotic relationship exists between many requisite policies to fulfil the environmental *acquis* and policies the EU demands to promote marketisation and democratisation. From establishing market-based prices for energy resources that provide economically compelling incentives to utilise them prudently to overcoming the democratic deficit in environmental policy making, what is ‘good’ for the environment typically is similarly ‘good’ for fostering vibrant market economies and democratic polities.

Yet more fundamentally, proponents must drive home much more forcefully than hitherto the substantive environmental, health-related and economic benefits likely to ensue from compliance with the environmental *acquis*. A 2001 independent study on this subject, commissioned by the EU, identified many of these benefits, including better public health by reducing environmentally related respiratory diseases and premature mortality; less damage to commercially related natural resources and buildings; reduced risk of permanent damage to critical natural resources such as groundwater aquifers; promotion of eco-tourism; and increased economic efficiency, higher productivity, and enhanced economic competitiveness through the use of modern ‘environmentally friendly’ technologies and higher levels of reuse and recycling of primary materials [Ecotec Research and Consulting, 2001].

Overall, the study estimated that implementing the environmental *acquis* completely by 2010 would bring the candidate countries cumulative benefits during 1999–2020 amounting to between 134 billion Euro and 681 billion Euro. Given the obvious methodological uncertainties associated with these computations, the study correctly stresses the need to utilise the most conservative estimates of anticipated benefits when analysing this

issue. Nevertheless, it is striking that even when following this dictum, the lowest estimate of anticipated benefits (134 billion Euro) is upwards of 18 percent greater than the *highest* estimated cost (110 billion Euro) of fully implementing the environmental *acquis*. Lower levels of air pollution – for example, full compliance with EU directives through 2020 is expected to reduce emissions of particulate matter by 1.8–3.3 million tons while sulphur dioxide (SO<sub>2</sub>) emissions should be some 2–3 millions lower than if the EU directives are not implemented – account for upwards of 55 per cent of the total estimated value of these benefits through improved public health, preventive damage to buildings and reduced damage to crops. Particularly striking, the study estimates that fully implementing EU air quality directives can lead annually to between 15,000 and 34,000 fewer cases of premature deaths from exposure to air pollution – Poland alone could have between 7,000 and 10,000 fewer premature deaths by 2010 – and between 43,000 and 180,000 fewer cases of chronic bronchitis.

Naturally, these estimated benefits of full compliance will vary among the candidate countries both per capita and as a percentage of GDP (see Table 2). This compliance will also reduce transboundary air pollution originating in applicant countries thereby providing annually lowest estimated benefits of 1.7 billion Euro to other applicant countries, 6.5 billion Euro to EU member states, and 9.5 billion Euro to non-EU member countries (notably Belarus, Russia and Ukraine). If utilised effectively, even these most conservative estimates of the benefits of complying with the environmental *acquis* provide potent ammunition to its proponents in meeting the political challenge of convincing the public, in the words of Bedrich Moldan of the Czech Republic, that ‘what we are doing is not because we want to satisfy Brussels clerks but because we, of course, want to have a better environment’ (CTK, 27 October 1999).

If this effort is to succeed, it also becomes critical that the EU eschew the mixed messages that it too often sends on the environment – messages that in word typically say all the right things about environment and the need for sustainable development but in deed frequently entail policies such as the stress on large-scale intensive agricultural development that directly conflict with its rhetorical commitment to sustainability [see *Beckmann and Dissing, this volume*]. Such mixed messages only weaken those environmentalists in CEE countries pressing their polities for a substantive transformation in environmental policy to promote sustainable development in the face of considerable political indifference, at times, even overt opposition, to this end.

TABLE 2  
ESTIMATED AVERAGE ANNUAL BENEFITS OF FULL COMPLIANCE WITH THE  
ENVIRONMENTAL *ACQUIS*

Country	Average Benefits Per Capita (Euro)	Average Benefits as % of GDP
Bulgaria	154.5	10.9
Czech Republic	467	9.65
Estonia	196.5	6.2
Hungary	400.5	8.9
Latvia	136	5.85
Lithuania	216	8
Poland	331	8.85
Romania	246.5	17.35
Slovakia	376	11.45
Slovenia	343.5	3.65

Source: Developed from Ecotec Research and Consulting [2001: 24].

## Conclusion

Whether the bottle is half full or half empty distinguishes conflicting assessments – as reflected in this volume – about the status of environmental accession. The more positive ‘half full’ assessment argues that in the face of formidable obstacles – the daunting legacy of communism, exceedingly limited financial resources drawn primarily from their own reserves, and stringent EU-imposed deadlines – the applicant countries have made remarkable progress in a relatively short period of time in fulfilling key components of environmental accession. As this volume documents, these countries, albeit to different degrees, mostly have completed the transposition of the environmental *acquis*, adopted EU-approved strategies to fulfil their commitments towards the environment, engaged in substantial administrative capacity building both to implement and to enforce the *acquis*, and in many instances are spending as much as, if not substantially more on environment as a percentage of GDP than their counterparts in the present EU. In this perspective, where environmental accession remains ‘half empty’, it is often in areas where present EU members are themselves struggling to overcome similar challenges.

The contrasting, more negative, ‘half empty’ assessment argues that whatever commitments the applicant countries have made towards the environment are purely formalistic and meant only to serve their overriding goal of entering the EU as quickly as possible. This assessment does not spare the EU either, viewing it as, in effect, a hypocritical organisation that virtuously proclaims its commitment to building a sustainable environment but substantively pursues few policies to realise this end. In short, in both

the applicant countries and the EU, political will is largely absent to move much beyond rhetorical affirmations about the pressing need to implement environmentally sustainable policies.

In reality, of course, both assessments – as most of their respective adherents would concede – contain critically important elements of truth. Similarly, all can agree that the challenges analysed in this contribution will persist – and, perhaps, become even more acute – after most of the applicant countries formally enter the EU in 2004.

This author is cautiously optimistic that the EU is evolving in ways – albeit at times hesitantly, erratically, and perhaps overly slowly – that will make it a much more ‘environmentally friendly’ institution than it is now. The clear thrust of this evolution is towards more openness, transparency, accountability and a greater utilisation of market-based solutions to environmental challenges. Critics, as evidenced in this volume, would especially express reservations about viewing the market as a panacea for the environment. This is a valid criticism that justifies prudent public policy to regulate the ‘excesses’ of the market towards the environment, not an argument against how market liberalisation can benefit the environment *per se*.

If this analysis proves largely correct and the applicant countries successfully seize the opportunities available to them, then environmental accession will promote meaningful progress towards the ultimate – and far more challenging – goal of creating a sustainable environment in Europe and, concomitantly, serve as a reasonably accurate ‘road map’ for future aspirants in EU enlargement about the best ways to arrive at that destination.

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