JCMS 2004 Volume 42. Number 2. pp. 321–45

Competition Policy in Central Eastern Europe in the Light of EU Accession*

JENS HÖLSCHER
University of Brighton
JOHANNES STEPHAN
Halle Institute for Economic Research

Abstract

This study reviews the progress made in EU accession candidates on competition policy. The analysis shows that institution-building and legislation are well under way and that anti-trust practice is not too lax. Due to the diversity among the accession countries under review, the study finds that the strictly rule-based framework of the EU might not be the most favourable solution for some candidates: firstly, the small and open economies of most candidates make it particularly difficult to define the 'relevant market' in competition cases. Secondly, the traditionally intense vertical integration of production in accession states calls for a reassessment of 'vertical restraints'. The policy implications of this study suggest that the EU competition task force should take a proactive, case-by-case approach *vis-à-vis* its new members.

Introduction and Motivation of Research

One of the open questions surrounding the latest European venture of eastward enlargement refers to the uncertainty of whether firms in newly acceding countries will be able to withstand intensified competition in the enlarged European market. There is widespread concern amongst current members that the national governments of accession candidates will revert to uncompetitive

* This study was carried out within the context of the two projects 'Is Merger Control too Lax in Transition Countries?' ACE-Project No. P97-8020-R, and 'EU Integration and the Prospects for Catch-Up Development in CEECs: The Determinants of the Productivity Gap' in the EU fifth framework programme No. HPSE-CT-2001-00065. The authors are solely responsible for the contents which might not represent the opinion of the funding bodies. Comments made by two anonymous referees of this journal are gratefully acknowledged.

behaviour by unduly supporting their own industries. Quite apart from their typical labour cost advantage, it is feared that firms in the new member countries could benefit from an unfair competitive advantage ranging from lower environmental standards, to more lax merger control, to price-distorting state aid. To ensure fair competition on a 'level playing field', the negotiations on the final accession treaties consider these perceived problems explicitly. The objective of this study is to review the institutions and policies evolving in the field of competition in accession candidate countries. Whilst a level playing field can best be ensured by laying down the same set of policy rules and the same design of institutions, such an implanting of alien concepts might turn out to be incompatible with the general conditions prevailing in the markets of the country at the receiving end.

The general finding of this study is that great progress has been made in the course of accession negotiations with the European Union (EU) with respect to institution-building and negotiations. The year 2001 can even be seen as a landmark in negotiations on competition between the candidate countries and the EU as far as the adoption and enforcement of the Community's competition *acquis* is concerned (Devuyst *et al.,* 2002). Negotiations with the first wave candidates were concluded by December 2002, and Romania and Bulgaria are still negotiating with the Commission in a number of fields, including notably the competition chapter. From this progress, we can see that all accession countries are implementing the EU model of legislation, which is itself based on the German tradition of competition policy. The leading question is, therefore, whether the adoption of the particularly rule-based German model is appropriate for the EU accession states: the specific circumstances of transition from communism to capitalism can generate particular problems of implementation, which require more measures than simple adoption of the EU rules. These peculiar circumstances of countries in transition are recognized by the EU, not least through the guiding principle of differentiation, which means that each candidate country is assessed on whether or not it meets EU requirements in its own right. This allows countries which began negotiations at a later stage to catch up, and other countries to delay the transition process, when this is deemed necessary because of other policy objectives.

In general, the requirement of the agreement on competition policy is derived from the 1993 Copenhagen criteria, when the European Council decided on criteria to be met by applicants before joining the EU. In the economic sphere, these criteria require the existence of a functioning market economy, as well as the capacity to cope with competitive pressure and market forces within the EU. With regards to competition policy, the EU has translated these criteria into three elements that must be in place in a candidate country before the competition negotiations can be closed:

1. the necessary legislative framework with respect to anti-trust and state aid;
2. an adequate administrative capacity (in particular a well-functioning competition authority);
3. a credible enforcement record of the *acquis* in all areas of competition policy.

We approach our subject by looking in Section II at the EU–CEEC (Central and East European Countries) negotiation process itself. The selection of accession countries focuses on the group of most advanced, yet very differently structured candidates, namely Slovenia, the Czech Republic, Hungary and Poland. Romania serves this study as a comparator at the lower end of the transition progress spectrum. After having passed the first stage of accession negotiations, the Europe agreements (EAs), the CEECs are now in the second stage of negotiations, concerned with the *acquis communautaire*. Where the relevant chapters on competition policy are still open, they are reviewed in detail in this section. Competition policy is then placed in the context of the general economic environment of the chosen set of countries.

Following this comprehensive overview, Section III investigates the EU model of merger control and competition policy. Despite some obstacles due partly to the fact that EU anti-trust policy is itself still going through a process of modernization (identified in this analytical part), this model serves as a blueprint for the implementation of competition policy in the new accession countries. Section IV reviews the implementation of the model in practice. Here we look at the legal transition, provisions for competition policy and the experience of preliminary implementation. These findings are illustrated by examples of merger control carried out by national competition offices. All anti-trust measures in the country sample between 1996 and 1999 are summarized and critically discussed. We conclude that competition policy in the CEECs is well under way, although national differences persist.

I. The EU–CEEC Negotiation Process

Laws, regulations and case law, as well as the institutions governing merger control as part of competition policy, all had to be built from scratch in the CEECs. In the framework of the former economic regime with its close links between the state and the producing sector, competition policy was not only superfluous, the paradigm of economic planning stands in sharp contrast to competition in markets. Additionally, in the case of some transition countries, institution-building had to take place in a situation in which the state itself had been newly established, such as the Baltic states, the Czech and Slovak Republics and the former Soviet and Yugoslav states. These could not benefit from past experience within the borders of their new states and, at least in the initial phase, concerns over the political sphere will have been more relevant.

The First Stage of Negotiations: The EAs

Here, the CEECs had the option of buying into the EU's institutional set-up to cut short the process of their own institution-building with its attendant problems of trial and error. The EU itself instigated this shortcut in the framework of the Europe agreements (EAs) by offering the prospect of eventual EU accession by 'institution-copying'. In the case of non-fulfilment, the country's accession could be delayed or even halted. The EAs can be interpreted as 'creat[ing] a *de facto* rather than a *de jure* obligation for the CEECs to make internal competition law correspond to EU rules' (Estrin and Holmes, 1998, p. 7) and to form the first of the two main stages of EU–CEEC negotiations on competition policy.

The shortcut essentially comprised taking over a ready-made institutional system which already stood the test of time, and for which significant implementation expertise in case law exists. Apart from the preferential nature of this shortcut it is, however, questionable whether the implementation of an alien system is in fact a feasible path down which to proceed: EU competition policy had evolved from harmonization, and at a later stage by co-operation between mature market economies in parallel to national law. It was essentially geared towards providing a counterbalance to the diminishing possibilities of intervention (e.g. protection of national industries by means of tariffs and exchange rates).

EU competition rules were not only designed with a view to economic efficiency, but were implemented to prevent 'unfair competition' from foreign countries (e.g. safeguard and anti-dumping duties). What transition economies needed, rather, was a system geared more towards the promotion of contestable markets within their own economies with, for example, bankruptcy, corporate and competition laws as well as universally accepted accounting standards. This was not the main focus of EU competition policy institutions.

Moreover, as Marchipont points out (quoted in Estrin and Holmes, 1998), EU competition policy, and in particular regulations on state aid, are biased towards providing a level playing field within industries and across economies, rather than between the variety of industries over the whole integration region. A system geared towards the objective of (EU-wide harmonized) industrial policy, however, could prove to be disadvantageous in the case of transition economies: here, the initial task has been to reform the vast structural distortions inherited from the socialist era of economic planning with its distinct industrial biases, i.e. to improve efficiency in the allocation of resources. Moreover, as Estrin and Holmes (1998) point out, the industry-selective feature of state-aid regulations in the EU might even deter an accession candidate 'from promoting investment in areas where it had a genuine comparative advantage but where this might replace capacity existing elsewhere in Europe' (p. 9). Some observers have concluded that implanting the EU institutional framework for competition policy in transition economies is not at all preferable (see, e.g., Barr, 1994), while others such as Estrin and Holmes (1998) assess more positively the net effect relative to the likely alternative of own institution-building

In May 1995, the EU Commission expressed its views on CEEC requirements on competition policy in a White Paper. In general, this states more precisely the provisions set out in the EAs, and expresses the view that the EAs oblige accession candidates broadly to adopt EU competition rules.

The Second Stage of Negotiations: The acquis communautaire

The second stage of the EU–CEEC negotiation process commenced when negotiations on accession began. Until then, there was no *de jure* obligation to copy EU competition policy (leaving aside the Commission's opinion expressed in the White Paper), and there was no time-frame for the adoption of rules. Since accession negotiations, however, the CEECs are required to take over the *acquis communautaire* completely, and within a defined period of time; the competition policy rules form part of this.

This legislative body of the EU is subdivided into 30 chapters, covering political areas such as the common foreign and security policy, legal issues such as justice and home affairs, cultural issues such as culture and audio-visual policy; and a whole variety of economic issues ranging from the four freedoms in the single market to environment and competition policy. Negotiations between the EU and accession states are organized according to these chapters.

By October 2002, negotiations on all chapters had been opened, and most chapters had already been closed, at least provisionally. Negotiations on the chapters under consideration here – No. 6 on competition policy (formally No. 14 on competition and state aids), and No. 15 on industrial policy – had been opened at ministerial level in all countries in our analysis under the German EU Council Presidency. Chapter 6 had provisionally been concluded with Slovenia in November 2001, and in Hungary and Poland in December 2002. Negotiations are still taking place in Romania in the field of competition. Chapter 15 on industrial policy has been closed in all countries in our survey. This position indicates that there have been particular problems in the competition field. Table 1 provides an overview of the number of chapters concluded and the dates of opening and conclusion of negotiations of the chapters which have some bearing on competition policy.

This provisional closure of chapters does not mean, however, that a workable compromise for all issues in the chapter has been found. It only means

Table 1: Negotiations – No. of Provisionally Closed Chapters and Dates

Chapters/Candidates	*Hungary*	*Poland*	*Romania*	*Slovenia*
Number of provisionally closed chapters	30	30	15	30
Years of opening/provisional closure of chapters:				
1. Free movement of goods	99–01	99–01	02–	99–01
2. Free movement of persons	00–01	00–01	02 –	00–01
3. Freedom to provide services	99–01	99–00	–	99–00
4. Free movement of capital	99–01	99–02	01 –	99–01
5. Company law	98–01	98–01	01–01	98–00
6. Competition policy	99–02	99–02	00–	99–01
7. Agriculture	00–02	00–02	02 –	00–02
8. Fisheries	99–99	99–02	01–01	99–99
15. Industrial policy	98–99	98–99	02–02	98–99
16. Small and medium–sized enterprises	98–98	98–98	00–00	98–98
19. Telecommunications and information technologies	98–00	98–99	00–02	98–99
21. Regional policy and co-ordination of structural instruments	00–02	00–02	02 –	00–02

Source: «EurActiv.com» portal.
Note: For ease of reading, the dates of opening and closure of chapters have been abbreviated. Situation after the Copenhagen summit of 12–13 December 2002.

that the majority of issues have been settled, whilst some minor points – albeit particularly sensitive – are still unsettled (typically, this will concern the granting of derogations strictly limited in time). Chapters can therefore be reopened again by either side at any time. The fact that even the chapter on industrial policy, the properties of which are closest to those on competition policy, has been closed in all accession countries underlines the provisional character of the negotiations until now. Furthermore, the formal closure of negotiations in any chapter should be regarded not only as provisional, but also confined to what both sides might have agreed in terms of regulations and rules. No immediate repercussions on national law or even the handling of respective topics at national level can necessarily be expected from the closure of chapters. These need further approval by national legislative bodies with a view to implementation and adaptation.[1] Apart from this, those negotiations are a supranational political process and both sides have a rational motivation

[1] In their negotiation positions, accession countries frequently specify that most of the rules in the *acquis* will be directly applicably only from the date of accession (see, e.g., Negotiation Position of Hungary, 1999).

to keep chapters open: when concluding negotiations, compromises will be made not only within chapters but also between chapters.[2]

The Respective Negotiating Positions on Competition Policy

Hungary. In 1990, Hungary introduced the Competition Act, and subsequent amendments were adopted in 1996 on the prohibition of unfair and restrictive market practices. The performance of the Hungarian anti-trust authority, the Office of Economic Competition, and its legally and financially independent status, grants Hungary a significantly credible enforcement of competition law. The Commission stated in its latest report that anti-trust legislation 'is already to a large extent aligned with the *acquis*' (EU, 2000a, p. 41), yet further improvements are necessary, in particular on vertical restraints and with respect to the human potential and resources in the anti-trust authorities (EU, 2000a, p. 41).

This overall positive assessment of the competitiveness of Hungary's markets and anti-trust policy is of particular relevance here, as some larger formerly state-owned companies have survived the rigours of large-scale privatization, suggesting at least the possibility of some monopolistic power on the part of some firms. Moreover, and probably more importantly, Hungary accumulated the biggest stock of foreign direct investment (FDI) between 1989 and 1999, some 36 per cent in terms of share of GDP (EBRD, 2000; own calculations). Some investment projects by foreign investors had been purchased by multinational firms in the course of privatization which again suggests the strong market position of these firms in their fields of activity.

At a more precise level, Hungary requested a six-month adaptation period for the application of some Community regulations pertaining to, *inter alia,* individual categories of agreements and concerted practices, competition on transport, etc., as laid down in regulations by the Commission and the Council.

In the field of state aid, the EU reports show a lack of transparency (see Negotiation Position of Hungary, 1999), an insufficient role for the State Aid Monitoring Office in controlling aid, as well as a lack of comprehensiveness in the state aid inventory (EU, 2000a, p. 41).[3] In respect to this, Hungary's negotiation position is that approximation to EU standards must be pursued in line with the level of integration: following the association phase in which compliance with EA obligations is granted by and large, 'from the date of accession a state aid coordinating institution will have to be established according

[2] After all, issues raised in chapters are often interlinked and can reappear in other chapters, as, e.g., state aid for environmental business projects in the chapters on competition policy and environment.

[3] In 1999, Hungary's budgetary subsidies amounted to 4.8 per cent of GDP which, in comparison to other accession candidates, is in the upper bracket. The Czech Republic's subsidies amount to 7.7 per cent of GDP, although this figure includes the Konsolidacni Banka (EBRD, 2002, pp. 156 and 172).

to the Community rules directly applicable in Hungary' (Negotiation Position of Hungary, 1999). This, however, rests on the assumption that 'the country or its regions concerned meet the eligibility criteria of Objective 1 regions under the relevant Community Regulation on Structural Funds' (Negotiation Position of Hungary, 1999).[4] The Hungarian government notes that the Commission has 'some degree of discretion or at least some room of interpretation or assessment when deciding whether an aid scheme or a specific aid is compatible or incompatible with the common market', and that it expects that 'due account of the level of economic development of the country and the need to remedy the regional and social difficulties' (Negotiation Position of Hungary, 1999) will be taken by the Commission. In effect, Estrin and Holmes (1998) make a compelling case that the relevant regulations today in the 'EAs imply a narrower perspective on state aids than the Rome Treaty' (p. 9), on the basis of which the *acquis communautaire* regulations apply.

At the Copenhagen summit of 12–13 December 2002, negotiations were concluded with some important transitional arrangements pertaining, e.g., to incompatible fiscal aid for small and medium-sized enterprises (until the end of 2011); to offshore companies (until the end of 2005); and to fiscal aid granted by local authorities (until the end of 2007). In addition, the generous fiscal aid schemes for large enterprises must be discontinued through conversion into regional investment aid with a percentage ceiling of support (EU 2002, p. 19).

Poland. The Polish government sees its own regulations, as set out in the 1990 Act on counteracting monopolistic practices, already in 'almost full compliance' with the EU legislation (Negotiation Position of Poland, 1998, p. 88). Recently, Poland adopted further improvements focusing on notification of intended mergers (i.e. *ex ante*), and on the terms and procedures for controlling entrepreneurs' compliance with provisions on counteracting monopolistic practices (EU, 2000b, p. 41). The EU also assesses Poland's anti-trust legislation as being 'to a great extent compliant with EC law' (EU, 2000b, p. 42), even though some further reforms are necessary, including regulations pertaining to vertical restraints. Moreover, the Office for Competition and Consumer Policy (OCCP) is called upon to give priority to monopoly cases such as, e.g., cartels.

In the field of state aid, Poland recently passed several legal acts, including one on public finances which 'guarantees transparency of public spending … and [is] compatible with the rules of fair competition. Simultaneously the act introduces controls which are intended to determine whether State grants have been duly used' (Negotiation Position of Poland, 1998, p. 89). A second Act

[4] As the Hungarian regions are defined today (NUTS II), only one, Kozep-Magyarorszag, reaches the level of GDP per capita (in PPP) of 72.4 per cent of the EU-15 average (EU, 2001, Vol. 2, p. 64); its inclusion in the structural funds is therefore uncertain. The current criterion for objective 1 funds is 75 per cent of the EU-15 average.

on the admissibility and monitoring of state aid to entrepreneurs approximates Polish law to EU regulations. It provides for a 'general prohibition of granting the aid, with simultaneous admissibility of exemptions in conformity with regulations of the Treaty of Rome and secondary legislation in this field' (Negotiation Position of Poland, 1998, pp. 89–90). Monitoring by way of notification and identification of the scope and objective of the granted aid and of its impact on competition to a special authority, is granted by the OCCP. In line with the quality of regulations, Poland's budgetary subsidies amounted to a mere 0.4 per cent of GDP in 1999 (EBRD, 2000, p. 196). In the assessment of the EU, Poland has achieved a 'relatively high level of legislative approximation in the field of State aid control' (EU, 2000b, p. 42), albeit here also some disparities remain and are of concern, e.g. restructuring aid projects which are not covered by state aid control. Moreover, the Commission stresses that more resources, including personnel, are necessary to allow the OCCP to meet both its existing and new responsibilities satisfactorily (EU, 2000b, p. 43).

As in the Hungarian negotiating position, Poland assumes that its regions will qualify for structural funds under objective 1, though no explicit conditionality clause has been expressed.[5] Poland also takes the position that it should be granted a transition period until 2017 for its enterprises in the existing Special Economic Zones to finance operational and export aid which should be exempt from the principle of aid cumulating, aid ceilings and restrictions ensuing from principles for granting aid to the motor vehicles sector (Negotiation Position of Poland, 1998, p. 91). In the view of the EU, these zones violate the *acquis* as well as the provisions set out in the EAs. The Commission acknowledges that 'acquired rights', once granted to investors (such as, e.g., tax holidays until 2017), must be upheld, but criticizes the Polish government for continuing to grant such permits up until the entry into force of the amended law (EU, 2000b, p. 42).

In concluding the negotiations with the EU, Poland was able to achieve some transitional derogations at the 2002 Copenhagen summit, comparable to those granted to Hungary. Amongst the most important arrangements are: a phase-out of incompatible fiscal aid for small enterprises (by the end of 2011); incompatible fiscal aid for medium-sized enterprises (by the end of 2010); and the conversion of incompatible fiscal aid for large companies into regional investment aid – again with a percentage ceiling. Additional transitional arrangements have been concluded, for example for state aid in the field of environmental protection (to allow for the fulfilment of derogations in the chapter on environment) and the restructuring of the steel industry (until the end of 2006).

[5] Given the way that Poland's regions are set up, no region will have to fear not meeting the criterion for structural funds. The richest region is Mazowieckie which barely exceeds 50 per cent of average EU-15 GDP per capita (EU, 2001, Vol. 2, p. 64).

Romania. The EU opened negotiations with Romania in March 2000 by starting with nine chapters, and now 22 have been provisionally closed. In the chapter still open on competition policy, the EU Commission has asked for some further reforms. Despite acknowledging that anti-trust legislation is 'already largely in line with the *acquis*' (EU, 2000c, p. 44), in particular in terms of restrictive agreements, abuse of dominant market position and merger control, via secondary legislation on block exemptions and notification procedures, further alignment in the field of vertical restraints has been called for in the latest EU report on Romania. Anti-trust policy in Romania is the joint responsibility of the Competition Council and the Competition Office which have successfully dealt with an increasing number of cases.

In respect to state aid, Romania introduced a new law in January 2000 which is, again, largely in line with the *acquis*. Here too, further adjustments have been requested by the EU Commission, including secondary legislation on regional aid and aid notification (EU, 2000c, p. 45). Moreover, the Romanian State Aid Monitoring Authority appears to lack resources and trained personnel; the EU sees the need to strengthen this institution further (EU, 2000c, pp. 45–6). More importantly, however, the Romanian government adopted a law on 'industrial parks' in August 2000 which, according to the EU, 'do not appear to be in line with the recently adopted Romanian legislation on state aid nor with the Community competition *acquis*' (EU, 2000c, p. 45). However, budgetary subsidies amounted to less than 2 per cent of GDP in 1999, much lower than in Hungary (EBRD, 2002, p. 200).

In an '*Aide-Mémoire* on Opening Accession Negotiations with the EU', the government states that harmonization of 'Romanian legislation with the "acquis communautaire" is continuing in a systematic manner on the basis of the priorities set in the Accession Partnership and the National Programme for Accession to the European Union. Special attention is given to the adoption and implementation of the legislation pertaining to the EU single market with a dynamic impact on economic reform' (Romanian Government, 1999). In the same paper, the government confirms its determination to make every effort gradually to fulfil all conditions for EU accession. In the case of Romania, an implicit condition of harmonization of legislation on the inclusion of regions in the EU's structural fund policy is not even necessary, as all regions have GDP per capita levels of less than 40 per cent of the EU-15 average. The richest region, that around the capital city, reached only 40.3 per cent in 1998 (EU, 2001, Vol. 2, p. 64).

Slovenia. The Law on Protection of Competition, enacted in 1993, was already 'partly in conformity with the *acquis*' (Negotiation Position of Slovenia, 2000, p. 3). Since then, a new Act on Prevention of Restriction of Competition was introduced, ministerial instructions on procedures and conditions for the determination of the relevant market were issued, and decrees on block exemptions and the form of notification of firm concentration were adopted, all of which made Slovenian legislation fit even more closely with the *acquis* (EU, 2000d, p. 41). Parallel to the legal reforms, Slovenia set up the Competition Protection Office as a functionally independent institution with powers laid down in the new laws. This office has already handled several anti-trust cases, and is still in the process of increasing its capacity. In sum, the EU assesses anti-trust policies in Slovenia as being largely satisfactory: 'existing legislation is fully in line with the EC rules' (EU, 2000d, p. 42).

Legal and institutional provision for state aid policy in Slovenia has been sharpened recently by a framework Act on State Aid Control which contains the basic EC principles and procedural provisions, and a government decree on the purposes and conditions for the granting of state aid. While these 'provisions are now largely in line with the *acquis*' (EU, 2000d, p. 42), the new Act does not apply to already existing aid schemes – a harmonization programme is already in force. Particularly positive is the EU's assessment of the Slovenian state aid report for the years 1998 and 1999: 'it largely follows the methodology and the presentation of the Community's Survey on State aid and provides for a very good level of comparability' (EU, 2000d, p. 41). Institutionally, control is monitored by the newly established Commission for State Aid Control, supported by the State Aid Control Section of the government.[6] Slovenia still has significant difficulty in restructuring its leather, footwear, textile and apparel industries (programmes were due to run until 2003), as well as the steel industry, for which some additional state aid will be necessary. On integration, the Slovenian government expects its economy (as a single NUTS II region) to qualify for EU structural funds. However, Slovenia already has a level of GDP per capita of nearly 70 per cent of the EU-15 average (EU, 2001, p. 64) and, considering that with enlargement the new EU average will be even lower, Slovenia might not qualify for objective 1 at all.

Following provisional closure in November 2001, this chapter was finally closed in December 2002 with no transitional arrangements being granted.

II. EU Anti-trust Modernization and Competition Policy

Legislation in the area of competition policy at the EU level is based on the German tradition. The general thrust of this approach is that anti-trust policy in Europe is rule oriented, rather than relying on a case-by-case approach found in Anglo-Saxon law. In terms of institutional design, EU competition policy is decided by the Commission. We will discuss aspects of this structure, and

[6] In 1999, Slovenia subsidized from its budget only 1.7 per cent of GDP (EBRD, 2002, p. 212).

then EU anti-trust modernization and its relevance for the accession countries will be considered.

The German system has two authorities, the cartel office and the monopoly commission, acting on the basis of the 'law against limitations of competition'. This law was enacted in 1957 and was created within the context of *Ordnungspolitik,* the influential Freiburg school of economic thought. The founding father was Eucken, who laid down the basics in *Grundsätze der Wirtschaftspolitik* (Eucken, 1952).

The Freiburg school is based on the openness of markets and a strong state punishing the abuse of economic power. The state, however, does act according to rules laid down in law and is assumed to be non-activist and non-discretionary. This approach makes *Ordnungspolitik* so attractive to neoliberal policy-makers. The foundations are nevertheless more serious. Hayek, who went to Freiburg at a later stage in his career, developed a system in which competition was a procedure of discovery. In his view, the principle of competition is the driving force behind economic development, as it leads to innovation in processes and products (von Hayek, 1969). Competition is needed as a prerequisite for a functioning price mechanism, which signals the relative scarcity of products. The law against the limitation of competition sets the level of playing field for the market system. Prices serve as signals of the incentive system assuring productivity and efficient cost control.

The immediate consequence for the EU (German) model of rule-based competition policy is external openness of foreign trade and internal price liberalization. The case of transition economies illustrates the fact that these two components are not enough to ensure competition, because here we find an economic structure dominated by huge state monopolies from their communist past. This aspect is specific to transition and means that time for institution-building and restructuring is needed for the creation of a competitive market order.

The EU (German) law has been taken as a blueprint and introduced with some modifications in the transition countries. This law is normally structured as follows:[7]

1. General regulations
2. Ban on collusion and collusive behaviour
3. Procedures for exceptions
4. Market-dominating enterprises
5. Enterprises with special and exclusive rights or natural monopolies
6. State aid

[7] Here we refer to the law implemented in Estonia (see Sepp and Wrobel, 2000), as this has already been the subject of academic and independent analysis. In addition, the case of a very small open economy displays some aspects of competition policy in the light of EU accession more clearly than do bigger countries.

7. Merger control
8. Unfair competition
9. State supervision authorities
10. Responsibilities in the case of violation of competition law
11. Application regulations

This law has been implemented with some country-specific modifications across more or less all the transition countries which are EU membership candidates. There are, however, some important aspects to be considered. We focus on three economically oriented levels:

1. Definition of the relevant market
2. Exemptions from the rules
3. Modernization of EU anti-trust law

First of all, the definition of the relevant market in order to determine 'market domination' distinguishes between the 'product' and 'geographical' market. With respect to the latter, in many cases in transition countries the relevant market is not the domestic market but the EU market as a whole. This is particularly relevant in the case of mergers and takeovers through FDI. Here national legislation falls short in regulating industry structure. Furthermore in an era of globalization there are cases where the relevant market is the world market. With no global anti-trust authority in place, this involves massive legal problems of regulation.[8] In general, we can say that the smaller the domestic markets, the more the relevant market goes beyond national borders. This depends on the specific industrial structure but, *ceteris paribus*, a small economy (measured in GDP) will face a greater demand and subsequent opportunities for economies of scale beyond its borders. For transition countries, this aspect is particularly important, because they are all small economies according to GDP measurement, the Baltics and Slovenia in particular. This problem is normally addressed through the possibility of exemptions from the law justified by the government or the anti-trust authorities themselves, which leads to the second aspect mentioned above. In some cases, domestic markets are so small that a market-dominating position of one enterprise is accepted for the sake of being competitive at the international level. This also depends on the traditional ways in which nations treat their national champions, a relevant factor for transition countries where the state and public sector are still closely interrelated. In the original German model, the ministry of economics has, within limits, the right to allow the market-dominating position of enterprises, and can overrule decisions of the anti-trust administration.

[8] An illustration of the complexity of this problem is highlighted by the case of *the United States* v. *Microsoft* (see Fleischer and Doege, 2000).

Horizontal and vertical cartels are also exempted from the ban on cartels, if collusion effects a market share of not more than 5 per cent, with vertical cartels also having the same percentage. The criterion of a market-dominating position is a market share of 40 per cent[9] with identifiable independent behaviour on the part of the enterprise in question. The same benchmark applies to enterprise alliances and mergers. In conjunction with competition policy, consumer protection has the one aim of preventing unfair practices. This includes licensing for certain economic activities (such as trade in weapons, drugs, etc.) and qualification requirements to pursue certain professions (such as driving teachers, estate agents, medical doctors, etc.).

In practice, the application of the law in transition economies is more complex, as will be shown in the next section. Here it should be noted that in nearly all transition countries, former state monopolies in power and energy, telecommunication and water supplies exceed a market share of 40 per cent, and deregulation is required to move towards a quasi-EU type of system. Deregulation by privatization is seen as one possible way out of the dilemma between the model and practice of competition policy in transition countries.

The accession countries adopted the EU model at a time when the model came under growing debate within the EU itself. The modernization of EU anti-trust enforcement law through decentralization has now become a paradigm for other decentralization activities (Monti, 2001). This means that the accession countries are joining the EU at a time when national competition authorities (NCAs) are likely to be given a more important role in competition policy. With regard to the discussion above, the elimination of the Commission's exemption monopoly will have direct repercussions on the NCAs. The EC's White Paper lacks some detail on the specific regulations envisaged, but clearly lays down the principles of co-operation between a network of enforcement agencies: while EC law assumes supremacy over national law, NCAs are not obliged to submit cases of supranational interest to the Commission. The Commission, however, retains the right to intervene at its own discretion. Accession countries might then be confronted by two sets of problems, the first mainly related to administrative problems at least in the short run (see Oprescu, 2001). For example, the notification system in some accession countries cannot be assumed to be as efficient as in the EU. Also, there might still be some kind of 'stamp of approval culture' in place. The second problem is related to the decentralization effort: if NCAs in accession states still have a long way to go in terms of expertise and are supplied with an alien model, then active EU involvement in supranational competition disputes could in fact assist institution-building and learning. In general, the progress of the negotiations suggests that the modernization of EU anti-trust law should not be a major obstacle in

[9] Note that this share is not statutory.

the enlargement process, although its implementation might prove very difficult in practice (Ehlermann and Atanasiu, 2001).

This underpins actual development in Europe, as it is envisaged to continue in the EU enlargement process. Liberalization of markets goes along with the creation of an EU-wide competition policy,[10] which in the near future could be enforced by national authorities. In comparison with EU advancements, a multilateral competition policy on a global scale within the framework of the World Trade Organization (WTO) is still in its very beginnings, and concentrates on price and cost dumping only. The Organization for Economic Co-operation and Development (OECD) has agreed on regulations on consultation between member countries in cases where third-party interests are concerned, but has not agreed on a set of binding rules. The United Nations Conference on Trade and Development (UNCTAD) has agreed on a 'Set of Multilaterally Agreed Equitable Principles for the Control of Restrictive Business Practices', which are binding, but very vague. At the global level, the discrepancy between the model and the reality of competition policy is in even sharper contrast than in transition countries.

III. A Review of Anti-trust Practice in CEEC

Against the background of the two previous sections, we give an overview of the current state of competition policy in the CEECs. We proceed on two levels, one being the bird's-eye perspective of legal transition and provisions for competition policy and, secondly, the ground-level view of cases of merger control, agreements and abuses of dominance in the transition economies. For the former, we look at the EBRD's discrete numerical indicators on institutional reform, provisions for competition policy and, as a control variable, the share of the private sector in the countries assessed here.[11] For the latter, two comprehensive studies provide the ground-level view of actual implementation experiences of competition policy in the region. Further empirical assessment and case studies were taken from the annual reports of respective national competition offices.

Legal Transition and Provisions for Competition Policy

The first observation from the bird's-eye perspective is that the rating of competition policy falls behind the assessment of legal transition in general. This

[10] This appears to follow the example of the North American Free Trade Area (NAFTA), where harmonization of competition law was initiated, but enforcement of the law still lies with the national authorities.
[11] It must be noted that the EBRD's transition indicators are formed from multiple criteria assessments. They represent averages over several criteria, and hence hide some of the more precise facts. For our objective of a bird's-eye perspective, however, those indicators are the most reliable source of comparative information.

must be of concern as, from an economic point of view, competition law can be regarded as the 'constitution of the market economy'. Peculiar circumstances of transition economies such as the definition of property rights might justify this gap, but a closer look is needed at the countries in question.

This is provided by Table 2. The EBRD gives the Czech Republic, Hungary and, with a small gap, Romania considerably high indicators for overall institutional reforms and their use in the field of company law (the highest indicators would have been 4+). In Poland and Slovenia there still appear to be large gaps. Even after more than a decade of institution-building by way of implantation of a well-tested system – with foreign assistance – clearly observable deficiencies still remain. Moreover, the extensiveness of institutional settings and reforms in the field of company law tend to achieve lower ratings than those for the effectiveness of institutions. Hence, in those countries, the legal institutions in place might not satisfactorily compare with the EU's benchmark, yet effectiveness is higher than the state of development of the underlying institutional framework might suggest. Both observations underline our case that the alien benchmark system, the rule-based German model, might not have been the best solution for the CEECs: a slight diversion from the benchmark grants the overall system a higher effectiveness.

In terms of anti-trust measures, state aid, etc., amalgamated into one indicator for competition policy, the ratings of all countries assessed here are slightly lower. This is mainly due to fiscal aid schemes granted to individual companies, frequently as a result of attempts to attract foreign direct investors. Those schemes have typically been designed to end in the foreseeable future.

In terms of a cross-country comparison, the Czech Republic, Hungary and Poland achieve the highest ratings for the transition of company laws and for

Table 2: EBRD Indicators on Institutional Reforms and Competition Policy

	Legal Transition[a]		*Competition*	*Private-sector*
	Extensiveness	*Effectiveness*	*Policy*[b]	*Share*[c]
Czech	4–	4–	3	80
Hungary	4–	4–	3	80
Poland	3+	4–	3	75
Romania	4–	4	2+	65
Slovenia	3+	4–	3 –	65

Source: EBRD (2002), pp. 20, 38.
Note: [a] Legal transition indicators pertain to company law and are for the year 2002.
[b] Competition policy is for the year 2002.
[c] Private sector shares are measured in % of total GDP in mid-2001.

delineating competition policies to guarantee a level playing field. This assessment compares well with the countries' high share of private added value in total GDP. In the Czech Republic, the high rating is only a recent achievement: until recently, the rating was lower due to a deficiency in weaker and comparatively less effective institutions. The country appears to have achieved systemic transformation by relying to a lesser degree until recently on the implantation of the rule-based system, and now that gap has been closed.

In contrast, Romania achieved the highest ratings in terms of transition of company law, yet the lowest in terms of competition policy and share of the private sector. Here, it appears that over-reliance on an alien rules-based system did not produce the desired effect, and the development of its own national system has proved more worthwhile. Slovenia comes close to the assessment of Romania, but here the country's state of development is the highest among the accession countries. This supports our unease over the EU's 'one size for all' vision of institution-building in the CEECs.

Poland is stuck in the middle ground with a competitive domestic market which has emerged not so much from privatization or from FDI, but rather from new establishing firms.

Implementation Experiences in the Field of Competition Policy

For the ground-level view, two related studies are examined and supplemented by information gleaned from the annual reports of the respective national competition offices. The first study is by Mavroidis and Neven (2000) and looks at the number of cases of merger control, agreements and abuses of dominance in the region. The second is by Dutz and Vagliasindi (1999) and provides a more precise evaluation of the effectiveness of implementation in each accession candidate. This is evaluated in nine dimensions grouped into three categories: law enforcement,[12] competition advocacy[13] and institutional-related activities[14] and thereby departs from a traditional emphasis on the number of cases processed in each country. These criteria are independent of the size of the country and have also been chosen 'so as to be amenable to uni-directional rating over time, to exclude the possibility that countries at one level of development where a particular criterion may be less relevant are penalised relative to countries at a different stage' (Dutz and Vagliasindi, 1999, p. 4).

[12] This criterion pertains to the effectiveness of enforcement activities against enterprises and state executive bodies. The third dimension assesses whether fines have actually been levied in cartel cases.
[13] This is measured in the effectiveness of written comments and objections concerning competition policies and related measures with a bearing on competition (infrastructure sectors and privatization policies). The third reflects education and constituency-building efforts aimed at consumers and small businesses.
[14] Institution-related activities are determined by the degree of political independence of authorities, their transparency and the effectiveness of the appeals process based on the relevance of adjudication.

From the ground-level view, the above picture is confirmed for the two front-runners in terms of competition policy – Hungary and Poland. But a look at details of competition policy and merger control in particular shows huge discrepancies.

First of all Poland dealt with a far higher number of cases in both merger control and dominance. The size of the Polish economy in comparison with the Hungarian economy will have contributed to this asymmetry, but it emphasizes the gap in effectiveness already indicated from the bird's-eye perspective. More interesting in the light of the two foregoing sections is that almost no merger was prohibited in either of these countries. The naïve intuition might be to jump to the conclusion that merger control in these countries would certainly be too lax. But this must be put in doubt against the background of the first aspect on model competition law relating to the definition of the relevant market. It can be assessed more carefully with the Dutz and Vagliasindi study.

The following examples of merger control executed by National Competition Offices of Hungary, Poland and the Czech Republic in 1999 provide a more in-depth view of national practices.

In the Hungarian case, of the 46 cases of merger control dealt with by the national competition authority, 44 were initiated by the companies involved and the remaining two did not constitute explicit failures of notification. In four cases, the Competition Council of the Competition Office established that concentrations did not fall under the Competition Act, either because of insufficient market share, or because acquisitions were temporary and involved financial organizations; those do not qualify as concentrations to be notified.

Several of the 46 cases involved international companies – Hungarian law requires notification of mergers with foreign involvement according to the same rules as between national companies. Amongst the international cases were Ford with Volvo, Renault with Nissan, Volvo with Scania, BayWa with RWA, Exxon with Mobil, Höchst with Rhône-Poulenc, Ransart with Julius Meinl. The Ramsard and Meinl case, e.g., was not blocked because their combined market share was clearly lower than 10 per cent in the relevant Hungarian market (purchase as well as retail). Renault and Nissan command a joint share of 7 per cent in the market for passenger cars, and slightly more than 12 per cent for trucks. In all approved cases, the state authority stipulated that concentration 'did not create or strengthen a dominant position and did not impede the formation, development or continuation of the effective competition on the relevant market' (point 25 in the annual report of the Hungarian Competition Office). In other cases involving a significantly higher joint market share (e.g. Györi Keksz and Stollwerk), reaching 64 per cent in a narrowly defined product market (special biscuits for baking purposes), market entry and import conditions were taken into consideration.

In the Polish case, the state authority investigated 1079 cases of the 1238 cases reported to it. One hundred and sixty-two cases were related either to informing firms whether they were obliged to notify the office, or to the Office returning motions in cases with no legal obligation of notification. With no negative decisions, most positive decisions pertained to takeover or acquisition of stocks or shares (824); some involved the assumption of managerial functions in competing companies (29); the acquisition or takeover of an organized part of the assets of another entrepreneur (17); merger of banks (14); traditional mergers of entrepreneurs (13); acquisition of stocks or shares by financial institutions (professional dealers) (11); and other, unspecified means of takeover of control (5). In contrast to the Hungarian case, the Office imposed 53 fines totalling PLN 4 million on firms for failing to notify an intention of merger on time.

Mergers typically involved media operators and advertising agencies such as in the previous year, construction, IT, retail and wholesale companies of foodstuffs and industrial goods. Mergers in pharmaceutical trade companies, as well as in the financial sector, were clearly on the rise in 1999 (Polish Office for Competition and Consumer Protection, 2000, Ch. 2.2).

In the Czech Republic in 1999, 62 cases of mergers occurred, of which 51 were dealt with by the Office. Of the total, 52 companies were in private ownership, four with a majority state share, and six with a minority share of municipalities. In seven cases, the Czech Office either imposed restrictions or conditions on planned mergers. In its decisions, the Czech Office made explicit use of the decision-making experience of the European Commission, pertaining to the definition of relevant markets, as well as to the applicable restrictions and obligations of merging institutions. An instructive example of conditional approval of mergers is the Sabifin/Plzenský Prazdroj case. Here, the South African firm bought shares from the Czech brewery. The Czech beer market comprised 52 companies and the combined share of the merging breweries amounted to 44 per cent. Still, the office authorized the concentration with two conditions: first, the new company had to preserve the trade marks of Plzenský Prazdroj, Radegast, Gambrinus and Velkopopovický Kozel on the domestic market for at least five years. Second, there were restricted rights for selling off part of or all of the shares of the Research Institute for Beer and Malt Making, Inc., as well as Pivovar Velké Popovice, Inc. outside the newly merged group. In support of the decision, the Office took into consideration that the Czech breweries would become part of the third largest group of brewers in the world, which would open access to one of the world's largest beer distribution and marketing networks. In the assessment of the office, 'the concentration has not resulted in any increase of concentration on the relevant market (neither regarding the number of undertakings, nor concerning an increase in the share

Table 3: Anti-trust Measures in Selected CEECs, 1996-99

		1996	*1997*	*1998*	*1999*
Merger control:					
Czech Republic	No. of cases	74	58	57	51
Hungary[a]	No. of cases	30	25	49	46
	Prohibitions	0	0	1	0
Poland	No. of cases	n.a.	1387	1872	1238
	Prohibitions	1	2	1	0
Romania	No. of cases	–	13	50	173
	Prohibitions	–	n.a.	n.a.	n.a.
Slovenia	No. of cases	3	1	11	17
	Prohibitions	0	0	2	0
Agreements and abuses of dominance:					
Czech Republic	No. of cases[c]	30 + 24	27 + 5	67 + 4	54 + 13
Hungary[a]	No. of cases[c]	10 + 69	5 + 28	15 + 44	15 + 35
	Violations[c]	7 + 12	– + 4	1 + 56	6 + 7
Poland	No. of cases[b]	27 + 164	45 + 165	38 + 268	43 + 312
	Violations	79	73	124	124
Slovenia	No. of cases[d]	17 + 13 + 15	19 + 6 + 13	14 + 8 + 8	11 + 2 + 0

Source: Mavroidis and Neven (2000), pp. 11, 23 and 31; Micu (2001), p. 19; Šlebinger (2001), pp. 15 and 17; Hungarian Competition Office (2000); Polish Office for Competition and Consumer Protection (2000); Czech Office for the Protection of Economic Competition (2000).

Notes: [a] The first column 1996–June 1997, second column June–December 1997, third column 1998.
[b] The first number are proceedings instituted *ex officio*, the second such initiated on request.
[c] The first number are agreements, the second abuse of dominance.
[d] The first number are abuse of dominant position, second are cartel agreements and third are vertical and horizontal agreements.

of the mergers of competitors on the domestic market)' (Czech Office for the Protection of Economic Competition, 2000).

While, in 1998, the construction industry experienced a strong trend towards concentration, that was not the case in 1999. The largest number of merger cases in 1999 were recorded in the food industry, and have been on the increase since 1997. Drinking water supply and waste water cleaning and management also experienced strong concentration trends, albeit only in 1999. In the engineering industry, the trend towards mergers started in 1995, and has not abated since. In total, the Czech Office imposed fines amounting to CZK 35,905 in 1999 for merger control, unlawful agreements and the abuse of market dominance.

The same confirmation of theory by empirical observation applies in the second category, namely agreements and the abuse of market dominance. Most of the cases dealt with have been agreed, but there remain a significant number of violations. The interpretation of this observation follows consideration of the third aspect of a model competition law (see p. 333) reflected under the point on 'Procedures for exceptions'. Due to the definition of the relevant market, we predicted that there might be cases in which market domination by of one or more enterprises might be justified. This explains the high number of agreements in Table 3. Nevertheless there remain a relatively high number of abuses. This indicates the effectiveness of competition policy in this field.

The Dutz and Vagliasindi study supports the view that the low number of mergers prohibited in Poland and Hungary does not necessarily indicate lax merger control. Rather, on the contrary, both countries exhibit high values in all three categories: two points out of three have been allocated to both countries in terms of their effectiveness in enforcing regulatory activities against enterprises and state executive bodies, as well as in levying fines, even if in only a small number of cases. Poland even achieved a 2+ for the more tentative assessment of competition advocacy, only reaching a 2– in political independence, transparency and the effectiveness of appeals. Nevertheless, Poland receives a slightly higher rating than Hungary, and also the highest amongst all 18 transition economies assessed in the study. The Czech Republic is evaluated significantly less favourably with an overall rating of 4.3 – not the lowest ranking in our sample, however.

The Dutz and Vagliasindi study assesses Romania more favourably with a sum of ratings of 5, i.e. close to Hungary and Poland, in comparison to Slovenia which has an overall rating of only 3.5. Considering the ratings of the EBRD, Romania appears to be more able in terms of implementation and

Table 4: Effectiveness of Implementation of Competition Policy

	Law Enforcement	*Competition Advocacy*	*Institutional-related Activities*	*Sum*
Czech Republic	2–	2–	1+	4.3
Hungary	2	2	2	6
Poland	2	2+	2–	6.3
Romania	2	2–	2–	5
Slovenia	1+	1–	1	3.5

Source: Dutz and Vagliasindi (1999), p. 5.
Note: The numerical values have been estimated from chart 1 in the study. Each category reflects an assessment on a 0 (min) to 3 (max) scale (so that the maximum rating in the last column would amount to 9.

policy effectiveness than the actual institutional framework would suggest. This is in contrast mainly to Slovenia, but also Hungary and to some degree Poland, where the institutional set-up was evaluated more highly than implementation effectiveness.

Conclusions

The analysis of EU–CEEC negotiation processes and anti-trust practice in the CEECs suggests that competition policy in the accession states is well established, and that there is no need for concern that merger control in particular is too lax. This applies even to Romania, despite the fact that systemic transition in this country is still young, and institution-building in general is hence less developed compared with the more advanced accession states under review. The latter countries have by now implemented all the legislation pertaining to competition policy by taking over the relevant chapters of the *acquis communautaire*.

We found major national differences and some important particularities in EU accession states which need to be accounted for in legislative drafting – at least in the interim until accession states' economies have converged with structures predominant in the EU. In this respect, a small number of derogations all strictly limited in time still prevail, and the nation-states have given good reasons for those to be granted.

It could be argued, however, that this is still insufficient. The results of this study suggest that the strictly rule-based EU system might not represent the best solution for at least some EU accession candidates. Most importantly, these share the common particularities of having highly integrated product markets and often very small domestic markets. This makes it particularly difficult to define the relevant market which, however, is crucial to any decision on competition cases. In many instances, the national markets of the countries under review cannot be seen as the relevant market in terms of merger control and competition policy. Rather, actual market power would have to take into consideration markets outside the country. Another distinctive difference in the economic structures of EU Member States is the comparatively higher intensity of vertical integration of production. Subsequently, regulations referring to vertical restraints applied in current Member States might turn out to be misplaced, so that its enforcement could, to some extent differ between current EU Member States and candidate countries.

The most important recommendation flowing from these results would be to call for a more proactive approach by the EU in this field of economic policy, rather than demanding the implementation of the EU rules only, i.e. without adaptation. This is even more crucial as institutional co-operation between EU bodies and national authorities in the accession countries is still in its infancy. At least during the initial phase of EU membership, a more promising result could be expected if arrangements could be introduced similar to the kind of co-operation and division of labour between EU bodies and national merger control authorities in accession countries which exist today. In this respect, the Green Paper on Vertical Restraints in EU Competition Policy (1997) notes that:

> Vertical restraints are no longer regarded as *per se* suspicious or *per se* pro-competitive. Economists are less willing to make sweeping statements. Rather, they rely more on the analysis of the facts of a case in question. However, one element stands out: the importance of market structure in determining the impact of vertical restraints. … In addition it is recognised that contracts in the distribution chain reduce transaction costs, and can allow the potential efficiencies in distribution to be realised. In contrast, there are cases where vertical restraints raise barriers to entry or further dampen horizontal competition in oligopolistic markets. (Exec. Summary p. iii)

As a final conclusion, this study points towards a need to broaden the scope of research by including the question of market regulation.

Correspondence:

Jens Hölscher
Brighton Business School
University of Brighton
Mithras House, Lewes Road
Brighton BN2 4AT England
email: j.holscher@bton.ac.uk

Johannes Stephan
Halle Institute for Economic Research
Kleine Märkerstr. 8
06108 Halle/Saale
Germany
email: johannes.stephan@iwh-halle.de

References

Barr, N. (ed.) (1994) *Labour Markets and Social Policy in Central and Eastern Europe* (Washington, D.C.: World Bank).

Commission of the European Communities (1997) *Green Paper on Vertical Restraints in EU Competition Policy*. Directorate General for Competition (Brussels: CEC).

Commission of the European Communities (2000a) *Regular Report from the Commission on Hungary's Progress towards Accession*. Directorate General for Enlargement (Brussels: CEC).

Commission of the European Communities (2000b) *Regular Report from the Commission on Poland's Progress towards Accession*. Directorate General for Enlargement (Brussels: CEC).

Commission of the European Communities (2000c) *Regular Report from the Commission on Romania's Progress towards Accession*. Directorate General for Enlargement (Brussels: CEC).

Commission of the European Communities (2000d) *Regular Report from the Commission on Slovenia's Progress towards Accession*. Directorate General for Enlargement (Brussels: CEC).
Commission of the European Communities (2001) *Second Report on Economic and Social Cohesion*. Vols 1 and 2. Directorate General for Enlargement (Brussels: CEC).
Commission of the European Communities (2002) *Guide to the Negotiations – Chapter by Chapter*. Directorate General for Enlargement (Brussels: CEC).
Commission of the European Communities (2003) *Directorate General for Enlargement, Task Force for Enlargement*. Available at «http:// www.europa.eu.int/comm».
Czech Office for the Protection of Economic Competition (2000) *Annual Report of 1999* (Brno: Czech Office for the Protection of Economic Competition).
Devuyst, Y., Känkänen, J., Lindberg, P., Orssich, I. and Roebling, G. (2002) 'EU Enlargement and Competition Policy: Where are We Now?'. *Competition Policy Newsletter*, No. 1/2002 (Brussels: Competition Directorate-General of the European Commission).
Dutz, M.A. and Vagliasindi, M. (1999) 'Competition Policy Implementation in Transition Economies: An Empirical Assessment'. EBRD Working Paper No. 47 (London: EBRD).
Ehlermann, C.D. and Atanasiu, I. (eds) (2001) *European Competition Law Annual 2000: The Modernisation of EU Competition Law* (Oxford: Hart).
Estrin, S. and Holmes, P. (1998) 'Competition Policy for Central and Eastern Europe: The Challenge of the Europe Agreements'. In Estrin, S. and Holmes, P. (eds) *Competition and Economic Integration in Europe* (Cheltenham: Edward Elgar).
Eucken, W. (1952) *Grundsätze der Wirtschaftspolitik* (Tübingen: J.C.B. Mohr).
EurActiv (2003) *Internet resources on European matters, enlargement negotiations pages*. Available at «http://www. euractiv.com».
European Bank for Reconstruction and Development (2002) *Agriculture and Rural Transition*. Transition Report 2002 (London: EBRD).
Fleischer, H. and Doege, N. (2000) 'Der Fall United States vs. Microsoft'. *Wirtschaft und Wettbewerb*, No. 7–8, pp. 705–17.
Hayek, F.A. von (1969) 'Der Wettbewerb als Entdeckungsverfahren'. In Hayek, F.A. von (1969) *Freiburger Studien* (Tübingen: J.C.B. Mohr).
Hungarian Competition Office (2000) *Annual Report 1999* (Budapest: Hungarian Competition Office).
Kennedy, D. (1999) *Competition in the Power Sectors of Transition Economies*. EBRD Working Paper No. 41 (London: EBRD).
Koopmann, G. (2000) 'Internationalisierung der Wettbewerbspolitik: Korrelat zur internationalen Handelspolitik?'. HWWA Discussion Paper No. 108 (Hamburg: Hamburg Institute of International Economics).
Marchipont, J.-F. (1994) 'La Strategie Industrielle de l'Union Européenne'. PhD thesis Brussels, mimeo.
Mavroidis, P.C. and Neven, D.J. (2000) 'The International Dimension of the Antittrust Practice in Poland, Hungary and the Czech Republic'. CEPR Discussion Paper No. 2601 (London: CEPR).

Micu, A. (2001) 'Country Study: Romania'. In Török *et al.* (eds).

Monti, M. (2001) 'Introductory Statement'. In Ehlermann, C.D. and Atanasiu, I. (eds).

Negotiation Position of Hungary (1999) *Official Statement of the Government of Hungary of the Republic of Hungary (CONF-H 5/99), Chapter on Competition*. Available at «http:// www.mfa.gov.hu/euanyag/szi/allaspont/english/ango l06.html».

Negotiation Position of Poland (1998) *Opening of Poland's Negotiations on Membership in the European Union, Poland's Negotiation Position in the Area of Compe-tition Policy*. Available at «http://www.ukie.gov.pl/cona/snen/06en.pdf».

Negotiation Position of Slovenia (2000) *Intergovernmental Conference on the Accession of the Republic of Slovenia to the European Union, Negotiation Position on Chapter 6 – Competition and State Aids*. Available at «http:// www.gov.si/ops/ang/pi/6.html».

Oprescu, G. (2001) 'Modernisation of EC Competition Law: The Case of an Associated Country'. In Ehlermann, C.D. and I. Atanasiu, I. (eds).

Polish Office for Competition and Consumer Protection (2000) *Annual Report for 1999* (Warsaw: Polish Office for Competition and Consumer Protection).

Romanian Government (1999) 'Aide-Mémoire on Opening Accession Negotiations with the EU'. Paper by the Romanian government on the negotiation process, mimeo. Available at «http://www.domino.kappa.ro/mae/dosare.nsf/DosareEng».

Sepp, J. and Wrobel, R.M. (2000) 'Besonderheiten der Wettbewerbspolitik in einem Transformationsland'. *Wirtschaft und Wettbewerb*, No. 1, pp. 26–44.

Šlebinger, M.K. (2001) 'Merger Control and Competition Policy in Slovenia with Case Evidence'. In Török *et al.* (eds).

Török, G. *et al.* (eds) *Is Merger Control too Lax in Transition Countries?* ACE Phare Project No. P97-8020-R, Budapest, July.