

ROMANIA, BULGARIA, THE UNITED STATES AND THE EUROPEAN UNION: THE RULES OF EMPOWERMENT AT THE OUTSKIRTS OF EUROPE

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I. INTRODUCTION

After the collapse of the Soviet Union, the United States came to Eastern Europe spreading the gospel of democracy and the American Rule of Law.¹ In addition to encouraging Western ideology, the United States was there to forge new economic relationships and, following the terrorist attacks of September 11, 2001, to accelerate the creation of military alliances through membership in the North Atlantic Treaty Organization (NATO) and the newly-formed “coalition of the willing.”² Romania and Bulgaria, among other former Soviet satellites, welcomed the invitation.³

Romania and Bulgaria are small countries which share similar economic pressures as they attempt to emerge from troubled

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1. American Bar Association, *Central European and Eurasian Law Initiative* (“CEELI is a public service project of the American Bar Association that advances the rule of law in the world by supporting the legal reform process in Central and Eastern Europe and the New Independent States of the former Soviet Union.”), at <http://www.abanet.org/ceeli/> (last visited Oct. 18, 2004).

2. NATO, *Responding to New Security Threats*, NATO IN THE 21ST CENTURY, at 4-5, available at http://www.nato.int/docu/21-cent/21st_eng.pdf (last visited Oct. 18, 2004).

3. Harvey Waterman, Dessie Zagorcheva & Dan Reiter, *Correspondence: NATO and Democracy*, 26 INT’L SECURITY 221, 225 (2001/2002).

political histories.⁴ When the United States, with its military budget of \$399 billion,⁵ approached Romania and Bulgaria seeking support for its global war against terror, both countries experienced a major transformation on a local and international level. In what seems like a perfect example of Andy Warhol's notoriety allotment, for fifteen minutes the West gazed at them in disbelief.⁶

Bulgaria and Romania, often intertwined by the West due to their geographic proximity and common past,⁷ hope that the new spotlight will lead to an enhanced international status as they embark on a two-pronged strategy to achieve European *rapprochement* via membership in NATO and the European Union (EU). This Article argues, first, that Romania and Bulgaria would never have achieved the Western recognition they enjoy today without shifts in U.S. foreign policy following the September 11th attacks. Both NATO and the EU ignored Romania and Bulgaria during prior enlargement waves, which relegated them to "the other Europe."⁸ When Romania and Bulgaria pledged allegiance to U.S. war interests, however, an invitation to join NATO by 2004 followed.⁹

This Article also suggests that if Bulgarian and Romanian NATO membership proves sufficient to ensure the kind of political stability on Europe's eastern border that both the United States and the EU desire, Romania and Bulgaria may witness a setback in their second strategic prong of EU accession. Furthermore, given the current tension over the war in Iraq be-

4. C.I.A. THE WORLD FACTBOOK (2004) (one million people live below the poverty line in Bulgaria and ten million people, half of the population, live below the poverty line in Romania, at <http://www.cia.gov/cia/publications/factbook> (last visited Aug. 5, 2004)).

5. *Id.*

6. Glenn McNatt, *Here, the "Setting" is More Worthy Than the "Stone,"* BALTIMORE SUN, Sept. 4, 2004, at 1D ("In the 1960s, Pop artist Andy Warhol famously predicted that in the future 'everyone will be famous for 15 minutes.'").

7. F. Stephen Larrabee, *Long Memories and Short Fuses: Change and Instability in the Balkans*, 15 INT'L SECURITY 58, 61-62 (1990/1991).

8. Iulia Voinea-Motoc, *L'Europe Unie et l'Europe d'après le communisme: rationalité et éthique de l'élargissement*, in LES FRONTIÈRES DE L'EUROPE 172 (Elie Barnavi & Paul Goossens eds., 2001) (describing the cultural fertility of the other Europe).

9. Zoltan Barany, *NATO's Peaceful Advance*, 15 J. DEMOCRACY 63, 70-72 (2004).

tween the United States and some European countries, the EU may be hesitant to add two pro-American, former Soviet satellites to its membership.¹⁰

Part II of this Article provides some background for Romania's and Bulgaria's geopolitical positions in broader Europe. Part III looks at NATO enlargement, the impact of U.S. foreign policy following September 11th, and Romania's and Bulgaria's positions in both of these movements. Part IV examines the EU and Romania's and Bulgaria's accession processes in light of their past Soviet alliances and current U.S. involvement. The Article concludes by considering the impact of NATO involvement on EU membership for Romania and Bulgaria.

II. ROMANIA AND BULGARIA: IN THE WESTERN SPOTLIGHT

When the United States returned to a "pre-Watergate imperial presidency"¹¹ and arrived in the forgotten Balkan area of Europe¹² (where country names change as quickly as Parisian fashion), Romania and Bulgaria welcomed the nation. Until then, both countries wrestled with the negative Western perception that they were unsuitable for foreign investment.¹³ Although Romania and Bulgaria offered foreign investors cheap labor, currently fewer than two Euros per hour, most Western companies steered clear because of their endemic corruption.¹⁴ As a result, Romania and Bulgaria were left out of the post-Cold War capitalist prosperity witnessed by Hungary, the Czech Republic, Poland, and Slovakia.¹⁵

The two countries are frequently paired together because they share major cultural characteristics; their majority religion

10. John Darnton, *Union, but Not Unanimity, As Europe's East Joins West*, N.Y. TIMES, Mar. 11, 2004, at A1.

11. Melissa K. Matthews, *Restoring the Imperial Presidency: An Examination of President Bush's New Emergency Powers*, 23 HAMLINE J. PUB. L. & POL'Y 455, 473 n.131 (2002).

12. Barany, *supra* note 9, at 72. See also Charles Gati, *The Forgotten Region*, 19 FOREIGN POL'Y 135, 136 (1975).

13. See generally MARIA TODOROVA, *IMAGINING THE BALKANS* (1997); Voina-Motoc, *supra* note 8, at 170–83.

14. *Crime and Corruption Keep Investors Away from Bulgaria, Warns Verheugen*, EurActiv, at <http://www.euractiv.com/cgi-bin/cgint.exe/2689903-175?14&1015=7&1004=1507820> (June 9, 2004).

15. Jacques Rupnik, *Eastern Europe: The International Context*, 11 J. DEMOCRACY 115, 123–25 (2000).

is Orthodox Christianity and “they combine an old tradition of rural underdeveloped societies with a recent tradition of high communist socioeconomic interventionism.”¹⁶ As a result of these characteristics, many in the West regard Romania and Bulgaria as non-European, located, as the scholar Samuel P. Harrington describes, behind a cultural “Velvet Curtain” which buffers Western Europe from undesired Eastern cultural influences.¹⁷

Until the end of the nineteenth century, Bulgaria and Romania spent a few centuries of their history under Ottoman rule.¹⁸ Upon gaining independence from the Ottoman Empire in the latter part of the nineteenth century, Romania and Bulgaria attempted to redefine their national identities by merging their previously fragmented territories.¹⁹ From those enhanced national positions, both countries began the long and complex process of promoting their European identities.²⁰ During the interwar period, Romania and Bulgaria were mainly under authoritarian rule and, by the end of World War II, were formally allied with the Union of Soviet Socialist Republics (USSR).²¹ As during their isolation under Ottoman rule, Romania and Bulgaria again found themselves outside Europe, this time behind the Iron Curtain.²² The non-Western label stayed with Romania and Bulgaria until they renounced Soviet rule at the end of the

16. Alina Mungiu-Pippidi & Denisa Mindruta, *Was Huntington Right? Testing Cultural Legacies and the Civilization Border*, 39 INT'L POL. 193, 196 (2002).

17. Samuel P. Huntington, *The Clash of Civilizations?*, 72 FOREIGN AFFAIRS 30, 30–31 (1993) (arguing that since the end of the Cold War, cultural divisions (between Western Christianity, on the one hand, and Orthodox Christianity and Islam, on the other) have replaced ideological and political boundaries). *But see* Mungiu-Pippidi & Mindruta, *supra* note 16, at 195.

18. Huntington, *supra* note 17, at 30–31 (1993).

19. Larrabee, *supra* note 7, at 74, 81.

20. NICOLAE IORGA, LE ROLE DES ROUMAINS DANS LA LATINITE : CONFERENCE FAITE A L'ACADEMIE ROUMAINE [THE ROLE OF ROMANIANS IN LATIN CULTURE] 5–6 (1919) (Iorga defined the location of Romania as “South Eastern Europe”).

21. Larrabee, *supra* note 7, at 60. *See also* TODOROVA, *supra* note 13, at 140 (Romania and Bulgaria were perceived as “a homogenous appendix of the USSR”).

22. Huntington, *supra* note 17, at 30–31.

twentieth century,²³ at which time both countries expected to join Europe and become successful capitalist societies.²⁴ Western Europe did not, however, lay down a welcome mat, and Romania and Bulgaria found themselves still in “Europe’s own near abroad.”²⁵

Whether as a matter of national pride, economic need, or both, Romania and Bulgaria see promise in aligning themselves with the West, in particular Western Europe.²⁶ To achieve this goal, both countries are vying for membership in the EU and NATO — two regional and, sometimes, adversarial organizations.²⁷ Membership in the EU seems a rational desire from both a symbolic and an economic perspective as it can bring European identity and prosperity.²⁸ NATO membership, on the other hand, is a more problematic choice. Undeniably, NATO membership can propel countries like Bulgaria and Romania to more visible positions in the Western world. However, while NATO membership establishes Romania’s and Bulgaria’s pro-Western positions, it may not ally them more closely with Europe.²⁹ Additionally, NATO’s military requirements will certainly strain the meager budgets of these incipient democracies and may even erode their social and political progress, both important in their own right and as criteria for EU accession.

23. Mark Kramer, *The Collapse of East European Communism and the Repercussions Within the Soviet Union (Part I)*, 5 J. COLD WAR STUD. 178, 190–91 (2003).

24. *Id.* at 179.

25. Charles King, *The Europe Question in Romania and Moldova*, in *AMBIVALENT NEIGHBORS: THE EU, NATO AND THE PRICE OF MEMBERSHIP* 267 (Anatol Lieven & Dmitri Trenin eds., 2003).

26. Rupnik, *supra* note 15, at 116 (“Imitation of existing Western models and reconnection with pre-communist past were seen as the quickest path to democracy and prosperity.”).

27. Barany, *supra* note 9, at 64.

28. Rupnik, *supra* note 15, at 116.

29. Eugen Tomiuc, *Romania, Bulgaria Seek Reassurances on 2007 Membership Bids*, EU BUSINESS, Apr. 16, 2003, available at <http://www.eubusiness.com/imported/2003/04/108262>.

III. NATO: THE POINT OF CONVERGENCE FOR THE UNITED STATES, EUROPE, AND THE OTHER EUROPE

A. NATO Enlargement and the Post-Cold War Era

NATO was formed as a military organization in 1949 in response to Cold War politics and U.S. President Truman's doctrine of Soviet containment.³⁰ The original members were ten European countries, the United States, and Canada.³¹ Greece and Turkey joined in 1952, the Federal Republic of Germany in 1955, and Spain in 1982.³² After the Cold War, NATO added the Czech Republic, Hungary, and Poland, all former members of the defunct Warsaw Pact.³³ Today, there are twenty-six NATO members, among them Romania and Bulgaria as well as several other former Soviet states.³⁴

This post-Cold War enlargement has been defined as promoting the neo-Wilsonian premise that "international organization, democracy, peace, and trade are all mutually reinforcing."³⁵ The official U.S. position is that NATO enlargement will influence and commit new members to adopt the values of Western democracy.³⁶ Similarly, NATO proponents believe that taking in new members from Central and Eastern Europe will revitalize NATO by "expanding the frontiers of a stable and democratic Europe."³⁷ Certainly, NATO members such as Poland, Hungary, and the Czech Republic perceive their membership as "an

30. NATO IN THE 21ST CENTURY, *supra* note 2, at 6.

31. *Id.*

32. *Id.* at 7.

33. Dan Reiter, *Why NATO Enlargement Does Not Spread Democracy*, 25 INT'L SECURITY 41, 41 (2001). See also Barany, *supra* note 9, at 64 (The Warsaw Pact had dissolved eight years earlier, in March 1991).

34. NATO, *Organisation*, available at <http://www.nato.int/structur/countries.htm> (last visited Oct. 18, 2004).

35. Reiter, *supra* note 33, at 44.

36. Barany, *supra* note 9, at 65 ("U.S. president Bill Clinton claimed that NATO could 'do for Europe's East what it did for Europe's West: prevent a return to local rivalries, strengthen democracy against future threats,' and create the conditions for prosperity.").

37. Charles Gati, *NATO Enlargement: Who, Why, and How?* 19 SAIS REVIEW 211, 212 (1992). This purpose is strikingly similar to the EU enlargement goal of "projecting political stability and strengthening Europe as an economic power." European Commission, *EU Enlargement Strategy Paper*, at 3, available at http://europa.eu.int/comm/enlargement/report_11_00/pdf/strat_en.pdf (last visited Oct. 18, 2004).

agreement to [adopt NATO's] rules and accede to its demands, to be put into regular contact with its officials and its military officers and its institutions and procedures, and to provide pervasive encouragement to reform and a ubiquitous presence of examples of how it is done if you are 'Western.'"³⁸

Despite the collapse of the Soviet Union, some scholars believe that support for Cold War alliances and the U.S. unilateral military approach to foreign relations remain intact.³⁹ From this perspective, the 2003 Iraq invasion is a logical continuation of these inclinations.⁴⁰ Paradoxically, however, the unilateral militarism directed against Iraq, a former Soviet protectorate, is at the same time empowering Romania and Bulgaria, two other former Soviet satellites.⁴¹

B. The United States and the Second Wave of NATO Enlargement

The U.S. war on terror following the September 11th attacks instigated a second wave of NATO enlargement. This effort was commenced in November, 2002, when President Bush formally invited seven former Soviet satellite countries (including Bulgaria and Romania) to join NATO.⁴² This was not the first instance of U.S. military involvement in Southeastern Europe: the disintegration of the former Yugoslavia forced the United States and NATO to establish a presence in the area.⁴³ In contrast to 1995, when the United States used NATO to conduct

38. Waterman et al., *supra* note 3, at 224–25.

39. See generally Gearóid Ó. Tuathail, *The Bush Administration and the 'End' of the Cold War: A Critical Geopolitics of U.S. Foreign Policy in 1989*, 23 GEOFORUM 437 (1992).

40. For an in-depth analysis of unilateralism as one of the salient elements of the current administration's security strategy, and its roots in U.S. history, see JOHN LEWIS GADDIS, SURPRISE, SECURITY, AND THE AMERICAN EXPERIENCE 22-26 (2004).

41. *Id.* at 22.

42. Kjell M. Torbiorn, DESTINATION EUROPE: THE POLITICAL AND ECONOMIC GROWTH OF A CONTINENT 178-79 (2003).

43. NATO IN THE 21ST CENTURY, *supra* note 2, at 16–17.

air strikes in Yugoslavia,⁴⁴ this time, the United States offered NATO membership as a reward for support of the war in Iraq.⁴⁵

In order to put together its “coalition of the willing,” the United States recruited Romania and Bulgaria, as well as other former Soviet satellites such as Albania and Georgia.⁴⁶ To the United States, these states “ha[d] the resolve and fortitude to act against [Iraq’s] threat to peace” where the “United Nations Security Council [had] not lived up to its responsibilities.”⁴⁷ Given Romania’s and Bulgaria’s economic positions and political histories, it appears unlikely that either Romania (considered by some to be “the region’s undisputed basket case”) or Bulgaria would have been invited to join NATO absent their participation in the U.S. coalition.⁴⁸

C. Romania and Bulgaria as Members of NATO and the “Coalition of the Willing”

Romania and Bulgaria embraced the invitation to join NATO and extended assistance to the United States more than either country ever had.⁴⁹ While Bulgaria only provided NATO with an air corridor during the war in Kosovo,⁵⁰ it currently has

44. Carlos L. Yordán, *Resolving the Bosnian Conflict: European Solutions*, 27 FLETCHER F. OF WORLD AFF. 147, 148 (2003) (“[T]he U.S. solution involved a mix of diplomacy and the use of NATO air strikes.”).

45. *The Future of NATO: Do Bulgaria and Romania Qualify?*, Hearing Before the U.S. Senate Committee on Foreign Relations, 108th Cong. (Apr. 3, 2003) (statement of Janusz Bugajski, Director of the East European Project at the Center for Strategic and International Studies), available at <http://foreign.senate.gov/hearing2003.html>.

46. See Press Release, the White House, Operation Iraqi Freedom (Mar. 20, 2003), available at <http://www.whitehouse.gov/news/releases/2003/03/20030320-11.html>.

47. President George W. Bush, Address to the Nation on Iraq (Mar. 17, 2003), available at <http://www.whitehouse.gov/news/releases/2003/03/20030317-7.html>.

48. Barany, *supra* note 9, at 71. See also *Bulgaria: NATO Member a Year After Iraqi War*, ANSA ENGLISH MEDIA SERVICE, Mar. 19, 2004, available at 2004 WL 64007654 (Bulgaria’s NATO membership “would have been impossible without a green light from the United States.”).

49. Barany, *supra* note 9, at 72.

50. *Id.*

troops in both Afghanistan and Iraq.⁵¹ Similarly, during the war in Yugoslavia, Romania limited its NATO contribution to the terms of the economic embargo. Now it, too, has troops in both Afghanistan and Iraq.⁵² This marks a dramatic shift for Romania and Bulgaria, from involuntary subservience to the former Soviet Union spawned by fear of Soviet occupation,⁵³ to voluntary acquiescence to the United States prior to the reward of NATO membership.⁵⁴

As many commentators have pointed out, economic prosperity, more than military capacity, is necessary to consolidate democracy.⁵⁵ However, it appears unlikely that Bulgaria and Romania will reap economic benefits from the presence of NATO troops in their territories. In the past, entire German villages built their futures around U.S. military bases; today, the United States plans to cut its NATO spending, in part by reducing the total number of soldiers it has stationed in Germany, rather than relocating them to cheaper places like Bulgaria and Romania.⁵⁶ Furthermore, NATO membership may play a nefarious role in helping Romania's and Bulgaria's military sectors achieve budgetary allocations at the expense of other sectors like public education and health care.⁵⁷

Moreover, it is likely that Romania and Bulgaria will endure more economic adversity as a result of their military involvement.⁵⁸ For example, the United States has asked Bulgaria to forgive Iraq's pre-1989 debt of two billion dollars, which repre-

51. J. Harrop, *Norms and Nannies: The Impact of International Organizations on the Central and East European States*, 81 *SLAVONIC & E. EUR. REV.* 789, 789–91 (2003) (book review).

52. *Powell Thanks Romania for Help in Afghanistan and Iraq* (Oct. 27, 2003), at <http://usinfo.state.gov/sa/Archive/2004/Jan/30-258852.html>.

53. Kramer, *supra* note 23, at 200.

54. See generally *NORMS AND NANNIES: THE IMPACT OF INTERNATIONAL ORGANIZATIONS ON THE CENTRAL AND EAST EUROPEAN STATES* (Ronald H. Linden ed., 2002) (discussing how Western leaders use membership in NATO and the EU to gain acceptance of their norms and standards).

55. Waterman et al., *supra* note 3, at 233.

56. Judy Dempsey, *US Plans to Cut Troops in Europe by a Third*, *FINANCIAL TIMES*, at 4 (Feb. 3, 2004).

57. See Reiter, *supra* note 33, at 51.

58. *Romania, A New and Close American Ally*, Talking Proud (Archives International), at <http://www.talkingproud.us> (last visited Oct. 20, 2004).

sents 10% of its Gross Domestic Product (GDP).⁵⁹ Iraq's debt to Romania is valued at \$1.7 billion,⁶⁰ and will likely remain unpaid so long as Romania is a close U.S. ally.⁶¹ In exchange for these sacrifices, neither Romania nor Bulgaria has received financial support for its involvement in the war or any Iraqi reconstruction contracts.⁶² Although there is quid pro quo with respect to Romania's and Bulgaria's NATO membership, and possibly some future economic relief as a result of their coalition involvement, NATO membership will not provide the economic and political stability these young democracies so desperately need.

Finally, successful NATO membership may have the unexpected impact of impeding Romania's and Bulgaria's accessions to the EU. The growing division between rich and poor at the outskirts of Europe clearly raises the risk of unrest and chaos for Western Europe.⁶³ This is one reason why the EU has increased its membership in the border regions.⁶⁴ NATO's involvement in Eastern Europe may provide enough stability to make EU expansion unnecessary.⁶⁵ At the same time, in light of the current tensions between the United States and Europe over the war on terror, Romania's and Bulgaria's increased involvement in NATO may make them too pro-United States for Europe.⁶⁶

Although Romania's and Bulgaria's involvement in the coalition has put both countries on the map, it has also exposed

59. Interview by Irina Grozdeva with Marc Grossman, Undersecretary for Political Affairs (July 22, 2004), available at <http://www.state.gov/p/34816pf.htm>.

60. *Romania, a New and Close American Ally*, *supra* note 58.

61. *Id.*

62. *Id.*

63. Tomiuc, *supra* note 29. The goal of EU enlargement (to "improve [the EU's] capacity to safeguard Europe's environment, to combat crime, to improve social conditions and to manage migratory pressures") is evidence that the EU is concerned with this risk. *Enlargement Strategy Paper*, *supra* note 37, at 4.

64. *Enlargement Strategy Paper*, *supra* note 37, at 3.

65. Rob de Wijk, *European Military Reform for a Global Partnership*, 27 WASH. Q. 197, 197-210 (2003) (arguing for NATO's historical and current role ensuring security on both sides of the Atlantic).

66. Jan Zielonka, *Challenges of EU Enlargement*, 15 J. DEMOCRACY 22, 25-26 (2004).

them to European scrutiny over the war in Iraq.⁶⁷ France and Germany, in particular, have voiced criticism of Romania's and Bulgaria's participation.⁶⁸

IV. THE EUROPEAN UNION AND THE OUTSKIRTS OF EUROPE

A. The Emergence of the European Union

The EU originated in the 1948 Hague Congress and the 1950 Schuman Declaration, which sought economic solutions to post-World War II problems in Germany and France.⁶⁹ Under Winston Churchill's leadership, it excluded both the Communist Left and the Far Right from participating.⁷⁰ These, however, were mostly symbolic beginnings. The real landmark institutions of the EU are the Treaty of Paris establishing the European Coal and Steel Community (ECSC),⁷¹ and the two Treaties of Rome establishing the European Economic Community (EEC) and the European Atomic Energy Community.⁷² The ECSC and the EEC share the same six original members: Belgium, France, Germany, Italy, Luxembourg, and the Netherlands.⁷³

The EEC Treaty included provisions for a customs union, a common commercial policy, a common transport policy, and a limited monetary policy.⁷⁴ In addition to these economic provi-

67. Doug Bereuter and John Lis, *Broadening the Transatlantic Relationship*, 27 WASH. Q. 147, 147 (2003) (the war in Iraq brought transatlantic tensions to center stage).

68. Ken Adelman, *Romania Knows - Been There; Ready to Help Iraq*, National Review Online (Nov. 4, 2003), at <http://www.nationalreview.com/comment/adelman200311040812.asp> ("While no great military might, and with gobs of domestic priorities grabbing its leaders, Romania posts 1,800 troops in the two newly liberated nations. Other Europeans — especially French and Germans — ask why Romanians divert scarce resources to aid these Islamic states.").

69. DESMOND DINAN, *EUROPE RECAST: A HISTORY OF EUROPEAN UNION* 37 (2004) (Robert Schuman, France's Foreign Minister, linked the consolidation of French and German coal markets to the goal of wider European integration).

70. *Id.* at 23.

71. Treaty of Paris, Apr. 18, 1951, 261 U.N.T.S. 140.

72. Treaty of Rome, Mar. 25, 1957, 298 U.N.T.S. 11; Treaty of Rome, Mar. 25, 1957, 298 U.N.T.S. 140; see generally DINAN, *supra* note 69, at 76–79.

73. DINAN, *supra* note 69, at 46–57.

74. *Id.* at 77.

sions, the EEC Treaty formulated political and judicial institutions: the European Commission, the European Parliament, and the European Court.⁷⁵ These new institutions, as well as the subsequent Single European Act,⁷⁶ further buttressed the supranational character of the EEC and opened the doors to European integration.⁷⁷

Though, officially, the EEC remained an economic organization until the 1990s, European integration commenced with its inception.⁷⁸ Given the EU's complex origins, it should come as no surprise that its accession process requires both a political and economic analysis of each candidate for membership.⁷⁹ Such scrutiny occurred even when Britain, Ireland, and Denmark acceded in the 1970s,⁸⁰ as well as during Greece's accession in 1981, and Spain's and Portugal's in 1986.⁸¹ For each of these countries, the accession process lasted six years.⁸²

During the 1990s, new challenges of globalization and short-lived, but propitious, economic times changed the official nature of the EEC.⁸³ As a result of the EEC's focus on the implementation of the single market program, a greater sense of political and economic integration ensued.⁸⁴ Finally, the EEC gave way to the EU in December 1991, and started to resemble a federation in many political and economic respects.⁸⁵ This shift concluded with the Treaty on European Union.⁸⁶ During this time, the EU was focused on regional economic and social issues, with mixed results: "the single market remained a work in progress; unemployment stayed stubbornly high; sustainable develop-

75. *Id.*

76. Single European Act, Feb. 17, 1986, O.J. (L 169) 1, 25 I.L.M. 503 (1986).

77. DINAN, *supra* note 69, at 205.

78. *Id.* at 206.

79. See, e.g., *Enlargement Strategy Paper*, *supra* note 37, at 15–24.

80. DINAN, *supra* note 69, at 135–47.

81. *Id.* at 169–71.

82. *Id.* at 190.

83. *Id.* at 205.

84. *Id.* at 216–19.

85. See generally Youri Devuyt, *The European Union's Constitutional Order? Between Community Method and Ad Hoc Compromise*, 18 BERKELEY J. INT'L L. 1 (2000).

86. The Maastricht Treaty on European Union, Feb. 7, 1992, O.J. (C 224) 1, 31 I.L.M. 247 (1992). See also DINAN, *supra* note 69, at 233.

ment [...] was easier to proclaim than to achieve; and agriculture and cohesion seemed impervious to reform."⁸⁷

Despite these challenges, or perhaps in response to them, the EU took on the task of enlargement towards the East. The first wave brought in Austria, Sweden, and Finland in the mid-1990s,⁸⁸ the next was intended to address Cold War remnants in Central and Eastern Europe.⁸⁹ The former Soviet satellites which, after achieving independence, dreamed of rejoining capitalist Europe, welcomed this move.⁹⁰ The first such entrée occurred in 1990, when the EU presented Europe Agreements to some former Soviet satellites.⁹¹ These agreements were part of a pre-accession strategy⁹² and provided a bilateral legal and political framework tailored to support the state's political and economic transition towards capitalism.⁹³

The first Europe Agreements were signed in 1991 with Hungary, Poland, the Czech Republic, and the Slovak Republic.⁹⁴ In 1993, agreements were signed with Romania and Bulgaria, and in 1995 and 1996 similar agreements were signed with other Central and Eastern European countries.⁹⁵ This network established a free trade area for industrial goods. By the beginning of the twenty-first century, this block of former Soviet satellites represented the EU's second largest trading partner after the United States.⁹⁶

Although the EU signed Europe Agreements with its Eastern neighbors, it did not seriously consider them potential candidates for accession until the Copenhagen European Council in 1993.⁹⁷ For the first time, the Copenhagen Conclusions identi-

87. DINAN, *supra* note 69, at 266.

88. *Id.* at 268–70.

89. *Id.* at 265.

90. Rupnik, *supra* note 15, at 116.

91. Marc Maresceau, *From Europe Agreements to Accession Negotiations*, in *L'EUROPA DI DOMANI: VERSO L'ALLARGAMENTO DELL'UNIONE. EUROPE TOMORROW/TOWARD THE ENLARGEMENT OF THE UNION 15* (Mario Ganino & Gabriella Venturini eds., 2002).

92. *See generally* Marc Maresceau, *Pre-Accession*, in *THE ENLARGEMENT OF THE EUROPEAN UNION 9* (Marise Cremona ed., 2003).

93. *Id.* at 15–17.

94. *Id.* at 17.

95. *Id.*

96. *Id.* at 19.

97. *Id.* at 23.

fied the political and economic conditions an applicant had to satisfy to become a member.⁹⁸

Documents of accession particularized the economic and political conditions each state must achieve. States achieve membership when existing EU members sign the Accession Treaty and the candidate ratifies it.⁹⁹ Between 1994 and 1996, ten countries closer to the West, including Poland and the Czech Republic, ended their pre-accession phases and concluded applications for EU membership.¹⁰⁰

The process of accession, as described in the 1995 EU Commission's White Paper,¹⁰¹ is based on a "structured dialogue" aimed at integrating candidates into the EU single market.¹⁰² Guided by that document, in 1997 the Commission recommended commencing accession negotiations with five former Soviet satellites: the Czech Republic, Hungary, Poland, Estonia, and Slovenia.¹⁰³

In 2000, the EU opened accession negotiations with Latvia, Lithuania, Slovakia, Bulgaria, and Romania.¹⁰⁴ Romania and Bulgaria, however, were omitted from the Commission's 2002 recommendations for accession, due to their poor economic and political performance.¹⁰⁵ Eventually, all of the above, except

98. *Id.* at 25.

[The] candidate countries must have achieved "stability of institutions guaranteeing protection of minorities." They must also be able to guarantee "the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union." Membership assumes "the candidate's ability to take on obligations of membership including adherence to the aims of political, economic, and monetary union."

Id.

99. European Union, *Enlargement of the European Union and Accession Negotiations*, at http://europa.eu.int/comm/tfan/enl_en.html (last visited Oct. 16, 2004).

100. DINAN, *supra* note 69, at 274.

101. See generally WHITE PAPER: PREPARATION OF THE ASSOCIATED COUNTRIES OF CENTRAL AND EASTERN EUROPE FOR INTEGRATION INTO THE INTERNAL MARKET OF THE UNION (COM 95) 163, May 10, 1995, available at http://aei.pitt.edu/archive/00001120/01/east_enlarg_wp_COM_95_163.pdf.

102. *Id.* at 3.

103. DINAN, *supra* note 69, at 276.

104. *Id.* at 277.

105. *Id.* at 279.

Romania and Bulgaria, became EU members on May 1, 2004.¹⁰⁶ The new members, however, cannot fully participate in the EU but, instead, benefit from limited transitional arrangements known as derogations from the *acquis communautaire* (the laws and rules of the EU).¹⁰⁷

B. Romania and Bulgaria: The Accession Process

In 2000, the EU's political assessment of Romania and Bulgaria was moderately positive.¹⁰⁸ Despite poor treatment of Roma minorities, the two candidates were cited for free and fair elections.¹⁰⁹ The 2000 Report describes Bulgaria's economic record in more encouraging terms than Romania's, noting that Bulgaria "has clearly made further progress towards becoming a functioning market economy."¹¹⁰

Since Romania made its bid for EU membership, it has consistently occupied last place among negotiating countries.¹¹¹ Commentators describe its economic and political record as dismal.¹¹² In fact, despite a Latin heritage which could link it to France, Spain, and Italy, the EU views Romania's political, social, and cultural heritage as an obstacle to its integration into EU institutions.¹¹³ This is quite a damaging perception for the

106. Zielonka, *supra* note 66, at 22.

107. Kirstyn Inglis, *The Accession Treaty and its Transitional Arrangements: A Twilight Zone for the New Members of the Union*, in EU ENLARGEMENT: A LEGAL APPROACH 77 (Christophe Hillion ed., 2004). See also Michael Dougan, *A Spectre is Haunting Europe...Free Movement of Persons and the Eastern Enlargement*, in EU ENLARGEMENT: A LEGAL APPROACH 111 (Christophe Hillion ed., 2004) (free movement of workers is one area of the *acquis* for which the EU has negotiated transitional derogations).

108. European Commission, Romania 2000: 2000 Regular Report from the Commission on Romania's Progress Towards Accession 87 (Nov. 8, 2000), available at http://europa.eu.int/comm/enlargement/report_11_00/pdf/en/ro_en.pdf; European Commission, Bulgaria 2000: 2000 Regular Report from the Commission on Bulgaria's Progress Towards Accession 87 (Nov. 8, 2000), available at http://europa.eu.int/comm/enlargement/report_11_00/pdf/en/bg_en.pdf.

109. Romania 2000, *supra* note 108, at 14, 24; Bulgaria 2000, *supra* note 108, at 13, 22.

110. Bulgaria 2000, *supra* note 108, at 34.

111. King, *supra* note 25, at 257.

112. *Id.* at 256.

113. *Id.*

Romanian bid considering the EU's historical emphasis on a regional cultural identity.¹¹⁴

Despite Romanian and Bulgarian commonalities, Geoffrey Van Orden, Vice Chairman of the EU Foreign Affairs Committee, has made an effort to distinguish Bulgaria, insisting that its accession date should not be tied to that of any other state.¹¹⁵ Even while the European Parliament debated whether to call for a reorientation of the EU's accession strategy with Romania,¹¹⁶ Commissioner Franz Fischler was giving hope to Bulgaria that its accession treaty could be signed in 2005.¹¹⁷ In June 2004, however, Günther Verheugen, the EU Commissioner responsible for EU enlargement, contradicted that statement and reaffirmed the 2007 accession date for Bulgaria.¹¹⁸ Verheugen warned that Bulgaria's economic development was being impeded by problems with corruption and organized crime.¹¹⁹

Romania's main problem has been its inability to establish a market economy. Since the regime change in 1989, the standard of living for ordinary people has been steadily declining: in 1999, more than one-third of Romanians lived in poverty.¹²⁰ Internally, some saw this decline as evidence of a functioning market economy.¹²¹ Unlike the previous regime's corruption,

114. George A. Bermann, Editorial, *The European Union as a Constitutional Experiment*, 10 EUR. L.J. 363, 364 (2004).

115. News Report, European Parliament, *Bulgaria Well on the Way to EU Membership* (Feb. 20, 2004), available at <http://www2.europarl.eu.int/omk/sipade2?PUBREF=-//EP//TEXT+PRESS+NR-20040220-1+0+DOC+XML+V0//EN&LEVEL=2&NAV=S>.

116. *Parliament Raises Doubts over Romania's Accession*, EurActiv, at <http://www.euractiv.com/cgi-bin/cgint.exe/234952-2?714&1015=7&1014=p20024e> (Feb. 20, 2004).

117. Press Release, European Commission, "Bulgaria's EU Accession Within Reach," says EU Farm Commissioner Fischler, Mar. 16, 2004, available at <http://europa.eu.int/rapid/pressReleasesAction.do?reference=IP/04/356&format=HTML&aged=language=EN&guiLanguage=en>.

118. *Crime and Corruption Keep Investors Away from Bulgaria, Warns Verheugen*, supra note 14 (Verheugen stated: "Everyone can be assured Bulgaria will be a full, equal, and responsible member of the EU by January 2007.").

119. *Id.*

120. UNITED NATIONS DEVELOPMENT PROGRAMME, A DECADE LATER: UNDERSTANDING THE TRANSITION PROCESS IN ROMANIA 8 (2001/2002), available at <http://www.undp.ro/publications/pdf/NHDR.pdf>.

121. Ioana Speteanu, *Grabbe: 'Cartea aderarii se joaca la masa politicului'*, 48 CAPITAL, Nov. 27, 2003, at 7 (Romanian journalists debate whether the EU

which allowed wealth stratification, the current regime makes it legal for few to prosper at the expense of many.¹²² However, Romanians see the sacrifice of half of the Romanian population¹²³ supporting a free market economy with their poverty and unemployment, where EU officials see Romanian socioeconomic collapse.¹²⁴

Although Bulgaria closed its accession negotiation chapters by the summer of 2004 while Romania has closed only twenty-seven chapters, the EU has not officially decided to split the two countries' accession processes.¹²⁵ As recently as October 2004 the Commission has stated that it "expects Romania to assume the obligations of membership in accordance with the envisaged time frame."¹²⁶ Thus, it appears that the Commission's vision for a 2007 accession date for both states may come to fruition.¹²⁷ Furthermore, the differences between Romania's and Bulgaria's accession progress will likely remain inconsequential against the backdrop of interplay between the EU and the United States, which will dictate the changes in that part of the world.

As a result of economic need and their desire to belong to Western Europe,¹²⁸ Romania and Bulgaria were willing to endure seven years of pre-accession negotiations over economic and political criteria.¹²⁹ Their prospects, even if all goes well, appear to be "a sort of twilight zone, somewhere between the

terms of economic criteria (functioning market economy) are properly defined).

122. UNITED NATIONS DEVELOPMENT PROGRAMME, *supra* note 120, at 6.

123. *See* WORLD FACTBOOK, *supra* note 4.

124. *Enlargement Strategy Paper*, *supra* note 37, at 53.

125. *EU May Split Bulgaria, Romania Applications*, EurActiv, available at <http://www.euractiv.com/Article?tcmuri=tcm:29-130181-16&type=News> (Sept. 3, 2004).

126. European Commission, 2004 Regular Report on Romania's Progress Towards Accession 146 (2004), available at http://europa.eu.int/comm/enlargement/report_2004/pdf/rr_ro_2004_en.pdf.

127. *Commission Confirms Jan 2007 Entry Date for Romania*, EurActiv, available at <http://www.euractiv.com/Article?tcmuri=tcm:29-130564-16&type=News> (Oct. 7, 2004).

128. Bulgaria and Romania are poorer than the newly-admitted EU members, which themselves are strikingly poor by comparison to Western Europe. *See* Alina Mungiu-Pippidi, *Beyond the New Borders*, 15 J. DEMOCRACY 48, 50 (2004).

129. *See* Darnton, *supra* note 10, at A1.

pre-accession strategy and membership on a par" with existing member states.¹³⁰

V. CONCLUSION: THE IMPACT OF NATO INVOLVEMENT ON EU ACCESSION

While Romania and Bulgaria see EU membership as the ticket to economic prosperity, for the EU such enlargement only makes sense as a measure to ensure political stability within European borders and to increase the EU's role as a counterweight to U.S. supremacy.¹³¹ In this sense, Romania's and Bulgaria's chances and timelines for accession depend not only on meeting internal requirements, but also on the nature of the interplay among the EU, NATO, and the United States.

The addition of ten new members in May 2004 has already prompted concerns about the EU's future and whether it should take an intergovernmental or supranational form.¹³² Some observers characterize the 2004 enlargement as an act of "West European charity toward neighbors in the continent's East," but recognize that the EU is also acting in its own self-interest.¹³³

The issue is further complicated by inconsistencies between popular opinion demonstrated by polling data and the official EU position on enlargement. In a 2003 survey conducted among 1,453 executives at major European companies, 57% considered the EU to have achieved its critical mass at twenty-five states and only 6% supported the candidacies of Bulgaria and Romania.¹³⁴ Nevertheless, the official position is that the EU is centrally concerned with "moving from division to unity, from a propensity for conflict to stability, and from economic inequality to better life-chances in the different parts of Europe."¹³⁵

130. Inglis, *supra* note 107, at 108.

131. See generally ROBERT KAGAN, OF PARADISE AND POWER: AMERICA AND EUROPE IN THE NEW WORLD ORDER (2003) (Rationalizing Europe's aspiration to balance the United States' world power).

132. KJELL M. TORBIÖRN, DESTINATION EUROPE: THE POLITICAL AND ECONOMIC GROWTH OF A CONTINENT 140-41 (2003).

133. Zielonka, *supra* note 66, at 22.

134. UPS EUROPE BUSINESS MONITOR, EXECUTIVE SUMMARY XIII 20 (2003), available at http://www.ebm.ups.com/europe/ebmxiii/img/EBMXIII_UK.pdf.

135. *Enlargement Strategy Paper*, *supra* note 37, at 3.

Even if the official position promotes enlargement, the future direction of the EU is difficult to ascertain, with possible results ranging from a “United States of Europe” to a conglomerate of states with few institutions in common, a “kind of neomedieval empire.”¹³⁶ It is also possible that some of the problems the EU faces may already be determinative of its future. For example, there is increasing hostility towards the work forces of new members; borders are, therefore, likely to remain hard and well-fixed. Furthermore, there is currently little consensus about unified EU political bodies, such as its Parliament, suggesting that the EU will never become a federation reminiscent of the United States.¹³⁷

On the other hand, if the EU gives way to more institutional supranationalism by building on its existing supranational monetary policy, integrating countries with different cultural and religious backgrounds may affect the EU’s capacity to function through compromise rather than majority rule.¹³⁸ The prospect of such a shift may result in a preemptive halt to accession of “Velvet Curtain” countries such as Romania and Bulgaria.

Also at play is the impression among Western European countries that the EU must provide a counterbalance to the United States. As such, the EU may be wary of bringing in too many pro-U.S. states.¹³⁹ New EU members, and candidates such as Romania and Bulgaria, run the risk of being perceived as “American Trojan horse[s]” due to their NATO and coalition involvement.¹⁴⁰ Compounding the problem for Romania and Bulgaria is the fact that the EU is also nervous about former Soviet values, such as “paternalism, populism, and corruption” entering the EU through the 2004 and later enlargements.¹⁴¹ Thus, their pro-Soviet past and pro-American present leave Romania and Bulgaria stuck between the proverbial rock and hard place.

136. Zielonka, *supra* note 66, at 27–30.

137. *Id.* at 33.

138. TORBIÖRN, *supra* note 132, at 140–59.

139. Zielonka, *supra* note 66, at 25.

140. *Id.*

141. *Id.* at 31.

