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Nancy Weingardt

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Portugal's Accession and Integration Into the European Economic Community

NANCY WEINGARDT*

I. INTRODUCTION

March 29, 1985 marked the end of eight years of arduous negotiations over the terms of Portugal's admission into the European Economic Community (E.E.C.)[1] The accession treaty culminating from these negotiations was signed by Portugal on July 11, 1985, and ratified by the E.E.C. member countries later that same year. On January 1, 1986 Portugal finally became a full member of the Community.

For the Community, Portugal's admission symbolizes significant support of the new Portuguese democracy which will ultimately further the E.E.C.'s goal to strengthen peace and liberty throughout Western Europe. For the Portuguese, admission signifies not only support for their democracy, but also the official end of centuries of economic, political, and social isolation from the rest of Europe. According to former Portuguese Prime Minister Mario Soares (1976-1978), "everything will change."[2]

This paper focuses on the problems and benefits that Portugal's membership will pose to both the Community and Portugal. Special consideration is given to Portugal's unique political and economic history and its place in a unified European system. A review is also given of future developments in Portugal's industry, Portugal's wine trade with the United States, and the E.E.C.'s textile trade with third-world countries.

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* Nancy Weingardt was the recipient of the Leonard v.B. Sutton award for 1986. Ms. Weingardt received her J.D. from the University of Denver College of Law in 1986.

1. What is known today as the E.E.C. began in 1951 with the creation of the first of the three communities, comprising the E.E.C., the European Coal and Steel Community (ECSC). Member nations were West Germany, France, Italy, Luxembourg, Belgium, and the Netherlands. Its success encouraged the original six to apply the same approach to the entire European economy. Two treaties creating the remaining communities, the European Economic Community and the European Atomic Energy Community (Euratom) were signed in Rome in 1957. In 1973, Denmark, Ireland and the United Kingdom joined. In 1981, Greece was admitted. With the addition of Portugal and Spain in 1986, the Community of Twelve encompasses most of Western Europe. *See generally The European Community*, EUR. 27-30 (July-Aug. 1985) *(hereinafter cited as The European Community)*. In this paper the acronyms: the E.E.C., the Community, and the Common Market all refer to the European Economic Community in its entirety.

2. Schumacher, *For Spain and Portugal, Isolation is About to End*, N.Y. Times, July 8, 1985, at 12, col. 3 (*hereinafter cited as* Schumacher).

II. PRESERVATION OF DEMOCRACY AND UNIFICATION OF WESTERN EUROPE

A. *Portugal's Isolation from the Rest of Western Europe*

Portugal is by far the poorest and least developed country in Western Europe. The country's gross domestic product is only about one-fourth of that of the E.E.C. average.[3] It is classified as semi-industrialized, as compared with the majority of Western European countries which are fully industrialized.[4] It also trails Western Europe in literacy and education, as well as a higher infant mortality rate.[5] Some sixty-eight percent of the populace still lives in rural villages.[6] Wooden-wheeled carts are common in the countryside, and appropriately so, considering the fact that the country has very few roads suitable for automobiles.[7] Basically, Portugal's development is comparable to that of France and Italy in the 1950's, and Spain in the 1960's.[8]

This lapse is due largely to Portugal's isolation from the rest of Europe. The Portuguese have historically searched out their fortunes from the sea. They were the first white men to follow the African coast around the Cape of Good Hope and then to cross the Indian Ocean to China and Japan. They established colonies in the Far East, Africa, and South America. At the beginning of the sixteenth century, Portugal was Europe's richest nation.[9]

Although the colonies brought the Portuguese fantastic wealth, they also brought dangerous illusions. Portugal's kings squandered fortunes on extravagances and disabling wars.[10] They refused to join the Enlightenment of other European political and social movements.[11]

Portugal's dictator from 1928 through 1968, Antonio de Oliviera Salazar, made every attempt to freeze what remained of Portugal's empire. Opposed to all forms of internationalism, Salazar kept the Portuguese economy almost entirely dependent on the colonies until the mid-

3. In 1981, Portugal's gross domestic product was 24.4 percent of the Community average.

4. *See* R. MORRISON, PORTUGAL: A REVOLUTIONARY CHANGE IN AN OPEN ECONOMY 168 (1981)(*hereinafter cited as* R. MORRISON); THE SECOND ENLARGEMENT OF THE EEC: THE INTEGRATION OF UNEQUAL PARTNERS 246, 254 (D. Seers and C. Vaitos ed. 1982)(*hereinafter cited as* THE SECOND ENLARGEMENT OF THE E.E.C.); Redston, *The Impact of E.C. Membership on Portugal and Spain*, INTERECONOMICS, Sept.-Oct. 1983 at 207-208 (*hereinafter cited as* Redston).

5. Bruneau, *Discovering Democracy*, WILSON Q. 67, 68 (Jan. 1985)(*hereinafter cited as* Bruneau).

6. *Id.* at 78.

7. *Id.*

8. *Id.* at 78; *Opinion on the Portuguese Applications for Membership*, BULL. EUR. COMM. 13 (Supp. May 1978)(*hereinafter cited as Opinion on the Portuguese Applications for Membership*).

9. For an historical account *see* Maxwell, *Prisoners of Glory*, WILSON Q. 49-66 (Jan. 1985)(*hereinafter cited as* Maxwell).

10. *Id.* at 55-62.

11. *Id.* at 58-59.

1960's. Raw materials were obtained only from the colonies and any products which were unable to be sold elsewhere were unloaded in Africa.[12]

In the 1950's, when West Germany, France, Italy, Luxembourg, Belgium, and the Netherlands were planning the creation of the E.E.C., Salazar and the Portuguese refused to acknowledge the grave social, political, and economic devastations of World War II that made development of new forms of European cooperation imperative.[13]

B. Demise of Portuguese Isolation

Not until the 1960's did it become apparent that Salazar's isolationist economy would not last forever. In 1961, India seized Goa from a 3,500-man Portuguese garrison that had been ordered to "conquer or die."[14] In Africa, as the French and British were "freeing" their colonies, uprisings led by black nationalist guerrillas broke out in Portugal's colonies, e.g. Angola, Mozambique, and Guinea. Portugal poured its treasury, as well as its military force, into its colonies in an attempt to stifle the uprisings.[15]

With half the governmental budget going to the military, Portugal's rate of fixed investment was the lowest in Western Europe.[16] The nation was hit extremely hard by the global recession and inflation that followed the 1973 Organization of Petroleum Exporting Countries (OPEC) oil embargo.[17] Consumer products' prices raced above wages and although both unions and strikes were illegal in Portugal, disgruntled workers staged some forty major walkouts.[18] Plants owned by ITT and others were forced to close down and resulting unrest grew in the military. On April 24, 1974, the successor government of Salazar Caetano was defeated in a bloodless coup led by the military.[19]

By March 1975, Portugal's colonies had been set free and ties with the E.E.C. became increasingly important. The new Portuguese revolutionary government expressed full acceptance of the 1972 agreements with the E.E.C.[20] The E.E.C. began to play a role in internal Portuguese politics by providing emergency assistance to Portugal, beginning in October of 1975, which included: emergency loans; long-term financial ar-

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12. *See generally id.* at 62-66.

13. *See* THE ENLARGEMENT OF THE EUROPEAN COMMUNITY 131 (J. Sampedro and J. Payno ed.; L. Gorman and M. Kiljunen english ed. 1983)(*hereinafter cited as* THE ENLARGEMENT OF THE EUROPEAN COMMUNITY).

14. Maxwell, *supra* note 9, at 64.

15. In 1968, Portugal had 130,000 troops deployed in Africa. *Id.* at 65.

16. Bruneau, *supra* note 5, at 68.

17. *Id.* at 69.

18. *Id.*

19. Independence was given to Guinea (Guinea-Bissau), Mozambique, and the islands off Africa—the Cape Verde Islands, and Sao Tome and Principe. Timor (later seized by Indonesia) declared its independence. China declined to take over Macao, the Portuguese enclave near Hong Kong, and it remains today in Lisbon's hands. Portuguese troops withdrew from Angola. Today all that remains of the Portuguese empire, besides Macao, are the island provinces of Madeira and the Azores. *Id.* at 73.

20. THE ENLARGEMENT OF THE EUROPEAN COMMUNITY, *supra* note 13, at 137.

rangements; and a Financial Protocol.[21] Such funds were conditioned on Portugal following "the path of pluralistic democracy.".[22] Portugal achieved this goal on April 25, 1975 when elections for a constituent assembly were held. Seventy-two percent of the vote went to pro-democratic parties.[23]

The Portuguese adopted a constitution in 1976, which divided power between a President, elected every five years, and an Assembly of the Republic. In 1976 General Antonio Ramalho Eanes, was elected president with 61.5 percent of the popular vote.[24] This election, and resolute governmental stability, led to application and admission into the E.E.C.

C. Application and Admission into the E.E.C.

On March 28, 1977, with their new democracy in place, the Portuguese formally applied for admission into the Community. Under the Preamble to the Treaty Establishing the European Economic Community, the signatory states proclaimed their resolution "to preserve and strengthen peace and liberty" and called "upon the other peoples of Europe who share their ideal to join in their efforts."[25] Article 237 of this treaty states that "[a]ny European State may apply to become a member."[26] Of course, this did not necessarily mean that all applicants would be admitted. The E.E.C.'s primary concern in considering Portugal's application was whether their admission would pose a threat to the preservation of democracy in Europe.[27]

In the ensuing nine years of negotiations, the Portuguese proved their commitment to democracy. Portugal had a succession of sixteen different coalition governments since 1974, which fully enjoyed Western freedoms such as universal suffrage, freedom of religion and freedom of the press.[28] Portugal's admission into the E.E.C. brought expectations of strength in democracy,[29] which would further the E.E.C.'s goal to promote peace and liberty throughout all of Europe.

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21. *Id.* at 138.
22. *See* R. MORRISON, *supra* note 4, at 144.
23. Bruneau, *supra* note 5, at 73.
24. *Id.* at 75.
25. The Treaty Establishing the European Economic Community, 1 Common Mkt. Rep. (CCH) paragraph 151 (March 25, 1957)(*hereinafter cited as* Treaty of Rome), included the countries of: West Germany, France, Italy, Luxembourg, Belgium, and The Netherlands.
26. *Id.*
27. *See Opinion on the Portuguese Application for Membership, supra* note 8, at 1.
28. Bruneau, *supra* note 5, at 75.
29. *See* SPECIAL ENLARGEMENT SUPPLEMENT, EUR. REP. (No. 1119) 1 (Mar. 30, 1985)(*hereinafter cited as* SPECIAL ENLARGEMENT SUPPLEMENT); *see also Problems of Enlargement: Taking Stock and Proposals*, BULL. EUR. COMM. (DE 46) 12 (Supp. Aug. 1982)(*hereinafter cited as Problems of Enlargement*); *Opinion on the Portuguese Application for Membership, supra* note 8, at 1; *see generally* Dagtoglou, *The Southern Enlargement of the European Community*, 21 COMMON MKT. L. REV. 149, 161 (1984)(*hereinafter cited as* Dagtoglou).

III. BASIC CONSIDERATIONS

Portugal's economy was a main barrier to admission into the E.E.C. The founders of the E.E.C. saw economic integration as a step to higher degrees of military and political cooperation, leading into a possible "United States of Europe", with the European Commission[30] becoming a transnational government, and permeating the emergence of the concept of European citizenship.[31] Today, however, the E.E.C. remains basically an economic union. The E.E.C. has been successful to the extent of eliminating tariffs and duties among member states, establishing a Common Agricultural Policy (CAP), and imposing a value-added tax (VAT). The E.E.C. claims that in addition to this, some E.E.C. policies are gradually replacing those of member states.[32] No common defense policy has yet emerged, although all of the member states, except Ireland and the two acceding states,[33] belong to the North Atlantic Treaty Organization (NATO). There is not yet a central "European government," nor do citizens of member states consider themselves first and foremost citizens of Europe.

The seven years of negotiations leading to admission of Portugal into the E.E.C. focused on the economic difficulties of integrating into the E.E.C. a poor, semi-industrialized country with high unemployment, producing products not generally favored by the E.E.C.[34] The main concerns of the E.E.C. were integrating Portugal into the Common Agricultural Policy (CAP), carrying forth the policy of free movement of workers, increasing the E.E.C. budget, and the need to change E.E.C. decision making processes.

A. *Agricultural Policy*

The E.E.C. Common Agricultural Policy (CAP) plays a central role in E.E.C. economic and social affairs. CAP accounts for two thirds of the E.E.C.'s twenty billion dollar budget.[35] Goals of the CAP have never been

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30. The Commission is made up of fourteen Commissioners appointed jointly by the national governments. Commissioners act in the E.E.C. interests, independently of the member-state governments, and are answerable only to the European Parliament. *See* Treaty of Rome, *supra* note 25.

31. *See generally* THE SECOND ENLARGEMENT OF THE E.E.C., *supra* note 4, at 1-21.

32. *The European Community, supra* note 1, at 27-30.

33. Spain, as well as Portugal, acceded on Jan. 1, 1986.

34. SPECIAL ENLARGEMENT SUPPLEMENT, *supra* note 29; *Problems of Enlargement, supra* note 29; *Opinion on the Portuguese Application for Membership, supra* note 8; *see generally* THE SECOND ENLARGEMENT OF THE E.E.C., *supra* note 4, at 1-21, 243-66; *The Enlargement of the European Community*, EUR. FILE 1-7 (March 1979); Redston, *supra* note 4, at 207-212.

35. The E.E.C.'s Common Agricultural Policy (CAP) was fundamental to the birth of the Community. The initial agreement sought to provide economic security for producers of industrial goods and agricultural products. The answer was the "Europeanization" of the support mechanisms being introduced in France—the guarantee of a price for what the farmer could grow, backed up by protection at the external frontiers of the E.E.C. It corresponded to the political need to give France a major vested interest in the creation of the

free trade in agriculture, but rather insuring a "fair standard of living for the agricultural population, particularly by increasing the individual earnings of persons engaged in agriculture."[36]

The CAP is a policy of high prices for producers through guaranteed prices and variable levees. Annual target prices are established by the E.E.C. Council of Ministers. Producers are guaranteed this price, because the E.E.C. will buy all the produce it is offered at slightly below the target price; that is, at an "intervention price". The cost of these subsidies is becoming increasingly prohibitive.[37] In order to maintain high prices, cheaper import goods are discouraged from entering the market place through a variable levy. This additional cost is set at levels insuring that import goods will not undersell E.E.C. goods.

E.E.C. farmers are able to offer surplus goods into world markets at competitive prices since the E.E.C. then refunds to the producer an amount insuring a greater return than the cost of production.[38]

The addition of Portugal will further burden the E.E.C.'s agricultural budget. The burden stems not so much from the fact that Portugal produces Mediterranean products, which are already posing surplus problems within the E.E.C., but from the fact that Portugal will require aid to modernize its agricultural sector.[39] Small farms in northern Portugal are neither competitive nor productive compared to other E.E.C. countries. Large farms in southern Portugal are still recovering from the nationalization after the revolution.[40] Agriculture comprises only 14.9 percent of the Portuguese gross domestic product.[41] The nation imports approximately half of its food, being self sufficient only in certain Mediterranean products.[42]

The cost of modernizing Portugal's agricultural sector may be offset by imposing the principles of Community preference which would allow the E.E.C.'s northern countries to sell more of their agricultural products to the Portuguese. Portugal will have to open its markets to other Mediterranean products, thus benefiting other southern countries. Portugal fears that this increased openness will threaten its own farmers.

The application of the CAP variable levy on imports from non-E.E.C.

Community of open markets, and the social requirement to make sure that the rapid industrial modernization of Europe did not create prosperity which passed the peasant by. *Farm Policy is Fundamental to E.E.C.*, EUR. 36-37 (July-Aug. 1985).

36. OFFICE FOR OFFICIAL PUBLICATIONS OF THE EUROPEAN COMMUNITIES, *Agricultural Policy*, EUR. ECON. COMM. 24 (1982).

37. *Id.* at 36.

38. E.E.C., AGRIC. POL'Y EUR. COMM. (1979).

39. *Problems of Enlargement*, *supra* note 29, at A1-A9.

40. Redston, *supra* note 4, at 208.

41. *Problems of Enlargement*, *supra* note 29, at A1.

42. Food imports constitute one fifth of Portugal's total import bill. The country is self-sufficient in the following products: 48 percent in wheat, 8 percent in sugar, 68 percent in beef and veal and 100 percent only in wine, oil, fruits, and vegetables. *See* R. MORRISON, *supra* note 4, at 153-54.

countries will raise food costs in Portugal. In partial response to these problems, the E.E.C. has agreed to allow the Portuguese to gradually reduce its import restrictions on E.E.C. agricultural products, and to "phase-in" a variable levy after accession.[43] Even with these concessions, the effect on Portuguese agriculture will be severe.[44]

B. Free Movement of Workers

Although not as important as the CAP, the policy of free movement of workers was fundamental to establishment of the E.E.C. Member states are obliged to admit nationals of other member states who wish to pursue specific economic activities and to treat them equally, giving them protections and benefits, which their own nationals would be given. Even though the Portuguese would certainly benefit if their workers were allowed to migrate freely throughout the E.E.C., the host countries, who already have enough trouble taking care of their own workers,[45] would suffer.

As a result, freedom of movement of workers will be phased in gradually. Portuguese workers who already have jobs in other member countries will be entitled to the equal treatment from the host country, even if they are unemployed at the time of accession. However, other Portuguese workers will not be able to emigrate and seek employment for seven more years.[46]

C. Community Budget

CAP, as well as other programs for increasing technological advancement[47], made it necessary to increase the Community budget before an enlargement could be accomplished.[48] Preliminarily, the Community estimates the addition of Spain as well as Portugal would result in a need to increase the E.E.C. budget by approximately 15 to 20 percent.[49] Remittances from the two countries were only expected to total 4 to 6 percent of the increase.[50] To make up the additional funds, the European Council

43. *See generally* SPECIAL ENLARGEMENT SUPPLEMENT, *supra* note 29, at 20-21 (This provides a product by product schedule).

44. *Id.* at 2.

45. Dagtoglou, *supra* note 29, at 151.

46. *See generally* SPECIAL ENLARGEMENT SUPPLEMENT, *supra* note 29, at 22-24.

47. E.S.P.R.I.T., a ten-year $1 billion European program for research and development in information technology is being implemented this year. *See, E.S.P.R.I.T. Program is Underway,* EUR. 47 (March-April 1985).

48. *Problems of Enlargement, supra* note 29, at 6; The E.E.C. revenue sources comprise agricultural levies, customs duties, and 1 percent (up to 1.4 percent in 1986) of the VAT, the consumer's tax, the consumer tax on goods and services collected in each of the member states. The 1985 budget amounts to 30.556 ECU ($22.32 bill). *See The European Community, supra* note 1, at 30.

49. *Problems of Enlargement, supra* note 29, at 6.

50. Portugal will pay its share of its own resources in full but will be reimbursed on a sliding scale until 1995. Portugal will receive some 1200 million ECO for 6 years. *Id.* at 7. For details *see* SPECIAL ENLARGEMENT SUPPLEMENT, *supra* note 29, at 15.

of the E.E.C.[51] adopted a proposal to increase the VAT to 1.4 percent, 0.4 percent over its 1 percent ceiling, which is now before the member states for ratification.[52] If this new tax is not adopted, E.E.C. experts predict that harmonious economic development and access of all members to the New Industrial Revolution will be impossible.[53]

D. Decision Making

A semi-paralysis which has plagued the Community over the past five years with respect to such projects as reform of the CAP, development of internal markets, and instigation of common transport and environmental policies is expected to be further complicated by the admission of Portugal and Spain.[54] The unanimity of voting presently required by the Community on this type of matter is expected to further paralyze the Community's decision-making when the two developing countries which manufacture products not favored by the Community become entitled to vote.[55]

Proposals have been made to remedy the conflict between the existing E.E.C. members and Portugal and Spain if they were to be admitted. These include: use by the European Council of Article 155 of the E.E.C. Treaty for developing executive powers in the Commission;[56] a more systematic use of the vote by a qualified majority an extension of majority voting in areas which now require unanimity; and reconstruction of the entire institutional framework of the Community through a new European Treaty of the Union which would encompass and supersede the other Treaties. Under the Treaty of the Union, decision-making would rest with the Parliament[57] and the Council of the Union.[58] Deadlines would then prevent decision-making from being delayed indefinitely in either body.[59]

Thus far, none of these proposals has been adopted, nor is it likely

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51. The heads of government of member states and the President of the E.E.C. Commission comprise the European Council which provides the main political guidance for the Community. *See generally The European Community*, *supra* note 1, at 29-30.

52. SPECIAL ENLARGEMENT SUPPLEMENT, *supra* note 29, at 2.

53. *Id.*

54. *See generally Problems of Enlargement*, *supra* note 29, at 7 (Enlargement will compound deadlock); Dagtoglou, *supra* note 29 (Community's operational ability will be diminished and it will no longer be able to speak with one voice); Wyles, *Debate Heats Up on the Community*, EUR. 24 (Jan.-Feb. 1985)(*hereinafter cited as* Wyles)(Paralysis may become total).

55. *Id.*

56. *Problems of Enlargement*, *supra* note 29, at 8.

57. At present, the European Parliament scrutinizes proposed Community laws through its 15 specialized committees and acts as the E.E.C.'s public forum, debating issues of public importance and questioning the Commission and Council. It also supervises the Commission and has the power—never yet exercised—to dismiss it by a vote of censure. *See generally The European Community*, *supra* note 1, at 29.

58. This is made up of representatives of the member countries' governments. *Id.*

59. *See* Dastoli, *Parliament Has New Plan for European Union*, EUR. 30-31 (Sept.-Oct. 1984).

that any of them will be. Seven nations, excluding the United Kingdom, Denmark, and Greece favor such a move. These nations would also like to see greater power extended to the European Parliament. The minority three, while not directly opposed to such measure, are skeptical about the desirability of abandoning the right of national veto in favor of majority voting and of sharing legislative powers with the Parliament.[60] The "Dodge Committee", which is comprised of the personal representatives of the Heads of Government working to reshape the E.E.C., suggests that all issues covered by the Treaty of Rome be decided by majority voting.[61]

For Portugal, adoption of these proposals would mean that it would not have as much power in Community affairs. First, it would not have a national veto, and second, Portugal would inevitably share a large share of its national interests with other less-developed Mediterranean countries, which do not constitute a majority.[62]

IV. PORTUGUESE INDUSTRY: WINDOW TO WESTERN EUROPE

A. *Present State of Industry in Relation to that of the Community*

The earnings, skill of workers, size of operations, diversification, international competitiveness, and state of technology are lower in Portugal than in any of the other E.E.C. countries.[63] Even large, efficient firms capable of competing in the Common Market have lower average productivity rates than other E.E.C. industries. This is true in most sectors of industry, excepting textiles and clothing, footwear, port wine, tomato paste, and sardines.[64] Without modernization, it is very unlikely that most of the Portuguese industry will be able to withstand the increased competition from Community products.

As a member of the E.E.C., Portugal will have to dismantle all tariff and non-tariff protections from Community industrial goods. To some concerned, particularly the small businesses, increased competition from the Community signifies the "holocaust and destruction of Portuguese industry," which has not yet completed the transition from a "supplier" to its own colonies to an "independent competitor" in the world market.[65]

60. *See* Wyles, *supra* note 54, at 24.

61. *Id.*

62. *Id.*

63. THE SECOND ENLARGEMENT OF THE E.E.C., *supra* note 4, at 254.

64. *Foreign Economic Trends and Their Implications for the United States: Portugal*, FET 85-32 at 12 (Dep't Comm. April 1985).*(hereinafter cited as Foreign Economic Trends: Portugal)*

65. Opposition comes mainly from small businessmen and owners of firms which rely on protectionism for their survival and are too small to reap the benefits of economies of scale. Statement by Pedro Ferraz da Costa, head of the Confederation of Portuguese Industry. Schumacher, *supra* note 2, at 12, col. 6. *See generally* R. MORRISON, *supra* note 4, at 145-150

B. Prospects for Investments: Window to Western Europe

Portugal is almost entirely dependent on the E.E.C. for technology.[66] Portuguese growth in 1984 took place only in low-tech, labor intensive industries such as footwear, machinery, metal products, wood and cork products, textiles and clothing, and parts for electronic equipment.[67]

While the Community recognizes Portugal's need to become technologically self-sufficient and to move out of traditional labor intensive industries,[68] financial restrictions prevent the Community from helping Portugal with the achievement of these goals.[69] For the moment, it appears that Portugal's success in restructuring and modernizing its industry will be highly dependent on their ability to attract non-E.E.C. investment and technology. Accession is expected to attract foreign investment from non-E.E.C. countries who wish to establish a foothold in Community Markets.[70] However, these expectations are unfounded. With the exception of textiles and clothing, Portugal's basic industrial goods enter the Community without restriction. Accession of Portugal into the E.E.C. will not avail a non-E.E.C. company investing in Portugal any avenue into Community markets which was not present prior to accession.[71]

Portugal is in a relatively accessible location to the E.E.C. market. Although the Portuguese public is a relatively small market in which a foreign firm may sell its products, any foreign investor will and has had the entire E.E.C. market at its disposal. Additionally, Portugal has continued to strengthen its ties to its ex-colonies in Africa.[72] This may serve as an added incentive to investors who wish to establish a foothold in both the Community and in Africa.

Portugal does provide a relatively accessible market, however, the willingness of non-E.E.C. firms to invest in Portugal will ultimately depend on Portugal's: (1) foreign investment incentives; and (2) wage level and adaptability of the work force.

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66. With the exception of approximately twenty percent imported from the United States, Sweden, and Switzerland, Portugal imports all of its technology from E.E.C. countries and Spain. *See* THE ENLARGEMENT OF THE EUROPEAN COMMUNITY, *supra* note 13, at 173-75.

67. *Foreign Economic Trends: Portugal, supra* note 64, at 10-11.

68. *See Problems of Enlargement, supra* note 29, at 6,9-11; SPECIAL ENLARGEMENT SUPPLEMENT, *supra* note 29, at 24.

69. One author has suggested that a strategy of "leap-frogging" into high-tech areas be applied to Portuguese industry. Under this approach the E.E.C. would avail Portugal much needed technology under a common industrial policy. THE SECOND ENLARGEMENT OF THE E.E.C., *supra* note 4, at 265. *Problems of Enlargement, supra* note 29, at A-12; *see generally The Enlargement of the European Community, supra* note 34, at 173. (The companies with foreign participation are more productive and employ more workers than domestic firms); Artisien & Buckley, *Investment Legislation in Greece, Portugal, and Spain* 7 J.W.T.L. 513, 517 (1983)(*hereinafter cited as* Artisien & Buckley).

70. Artisien & Buckley, *supra* note 69, at 517.

71. *Id.* at 514.

72. 1977 law (348/177); *Id.* at 518.

1. Foreign Investment Legislation

Although Portugal's foreign investment legislation provides generous tax exemptions and subsidies to foreign investors, it is highly complex and lends itself to conflicting interpretations. Basically, under Portugal's "general regime"[73] foreign firms are entitled to all the incentives available in Portuguese legislation without discrimination regarding the origin of foreign capital. Foreign direct investment is permitted in all sectors except those which are closed to private capital, foreign or domestic, and these include: post and telecommunication, scheduled air and rail service, and electricity.[74] Banking, insurance, cement, and fertilizers formerly confined to the public sector, were opened to private investment in 1983.[75] Steel making, petroleum refining, basic chemicals, and the arms industry are open to private joint ventures.[76]

The state guarantees the transfer of dividends after deductions are made for legal amortization and taxes. No restrictions exist on transfers of capital arising from a sale or liquidation of a foreign investment, unless there is a significant deterioration in the country's balance of payments due to the withdrawal. In that case, capital repatriation may be spread out over a period of up to five years.[77] Additional incentives including tax holidays,[78] interest rate subsidies, and grants are available to certain investors under the "contractual regime."[79] These incentives are distributed under a point system derived from the following criteria: economic performance, sectorial priority, and regional priority.

Portugal's three ultimate goals in such an investment scheme are: first, to encourage foreign investment in heavy industry which draws on domestic supplies of raw materials, particularly iron ore, copper, lead and zinc; second, to develop international competitiveness in traditional industries such as textiles; and third, to attract foreign investment in industries where Portugal already has a technological or other comparative advantage such as light electrical equipment, electronics and telecommunication equipment.[80]

The Foreign Investment Institute operating under the authority of the Minister of State for Finance and Planning, is entrusted with foreign investment and technology transfer applications and is responsible for issuing authorization to foreign investors. According to the Foreign Invest-

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73. *Foreign Economic Trends: Portugal, supra* note 64, at 12.

74. *Id.*

75. *See id.* at 9.

76. *See* Artisien & Buckley, *supra* note 69, at 513-523.

77. These include a fifty percent reduction on the following: conveyance tax on property purchases, manufacturing and complementary taxes for up to nine years, value added tax on gains from capital increases, capital gains tax on loan interest, and speedy write-offs of property assets. *Id.*

78. This was provided under the 1980 System of Integrated Investment Incentives (SIIC). *Id.*

79. *Id.*

80. *Foreign Economic Trends: Portugal, supra* note 64, at 13.

ment Institute, approvals for foreign investment reached $191 million dollars in 1984, an increase of thirty-one percent over 1983.[81] Although these figures appear promising, a closer look reveals that, of the total inflow, only twenty percent went to new enterprises, the type of investment Portugal needs in order to restructure and diversify its technological market. The remaining eighty percent went to increases in capital or expansion of already existing facilities.[82] Portugal's bureaucratic controls which seem to scare off the new investors and favor the investors who are already present in the country are largely to blame.

In response to this problem Portuguese foreign investment legislation is being extensively revised to facilitate investment procedures and to make new investment more attractive.[83] Proposals include legislation similar to that of Spain which contains fewer bureaucratic controls and greater grants and loans to foreign investors. In Spain, foreign participation accounts for less than fifty percent of total investment and does not require government authorization. Such a scheme has resulted in great inflows of foreign capital into Spain over the past twenty years.[84]

Even though Portugal does not have the transport advantages, technologically sophisticated work force, and large domestic buying market of Spain, legislation adopting the "fifty percent rule" would certainly be beneficial to Portugal's foreign investment potential.[85]

2. *Wage Levels and Adaptability of the Work Force*

Portugal's wages are lower than any in the Community and resemble more closely those of Mexico and Southwest Asia than those of other Western European countries.[86] Because much of Portugal's policy for industrialization is so linked with its low wages, the government has kept salary levels low through a devaluation trend of the Portuguese escudo by one-percent per month.[87] Although this has worked to promote foreign investment, it has also caused a steady increase in inflation. Real income declined by four percent in 1982, seven percent in 1982, and ten percent

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81. Investment from the E.E.C., led by France with twelve percent and the United Kingdom with ten percent, accounted for thirty-six percent of total inflows in 1984. The United States was the total largest investor, with thirty-five percent of total. Broken up by sector, banking and finance received fifteen percent, tourism and commerce received eleven percent, industry received twenty-nine percent, while agriculture, fisheries, and mining combined accounted for only nine percent. *Id.* at 14.

82. *Id.*

83. For a more detailed discussion of Spain's investment legislation *see* Artisien & Buckley, *supra* note 69, at 519-523.

84. Echickson, *Portugal—Seeking a Path to Modernization*, Christian Science Monitor, Feb. 7, 1985 at 13, col. 4.

85. R. MORRISON, *supra* note 4, at 151.

86. *Foreign Economic Trends: Portugal*, *supra* note 64, at 8.

87. Portugal will have to apply the variable levy to products imported from outside the Community or the higher Community price for products imported from within the Community. The policy will gradually be phased in so that the effects will not be felt all at once. For details *see* SPECIAL ENLARGEMENT SUPPLEMENT, *supra* note 29, at 20-21.

in 1984.

Portugal's admission to the E.E.C. will further complicate this problem in the form of an increase in food prices, caused by the imposition of CAP.[88] Even though wage increases have been promised, it is doubtful that they will be forthcoming due to the dismal state of the Portuguese economy.[89]

Unfortunately, as might be expected with such low wages, most of the Portuguese work force is either unskilled or semi-skilled, which poses a problem in attracting the high-tech investment that the country needs. A new massive training center, financed through the World Bank, is presently being organized and should help to alleviate this problem.[90]

V. PORTUGUESE WINE INDUSTRY: E.E.C. AND U.S. AGRICULTURAL TRADE WAR

Presently, Portugal, as a poor, small country playing a relatively insignificant role in total world trade, is not directly involved in the E.E.C.—United States—Japan trade wars. Membership in the Community would change this. Portugal will be a member of one of the world's largest exporting entities and as such will be subject to all the sanctions imposed against that entity by Japan and the U.S. Of particular importance to Portugal will be the sanctions that the U.S. imposes against the Community's wines.

A. *Potential U.S. Sanctions Against the Imports of Community Wines*

The U.S. and the E.E.C. have been engaged for the past decade in a trade war over agricultural subsidies. Both sides claim that the subsidies of the other constitute an unfair practice of world trade and therefore must be discontinued. Each side has imposed sanctions ranging from quotas to increased duties on certain agricultural products, such as sugar and wheat.[91] The E.E.C. fears a move by the U.S. towards the wine industry, as permitted by the United States Wine Equity and Export Expansion Act of 1984.[92]

1. *Community Subsidies for Wine*

The Community supports the wine industries of member countries in five significant ways. First, it provides distillation subsidies which enable producers of wine to sell their lowest utility, surplus bulk wines and by-

88. *Foreign Economic Trends: Portugal, supra* note 64, at 8.

89. *Id.*

90. *See* Boger, *The United States—European Community Agricultural Export Subsidies Dispute*, 16 LAW & POL'Y INT'L BUS. 173-238; Dunne, *Shall They Beat Their Plowshares Into Swords*, EUR. 10 (Sept-Oct. 1983); Renshaw, *Farm Trade: Tensions Escalate*, EUR. 39 (July-Aug. 1985).

91. Wine Equity and Export Expansion Act of 1984, Pub. L. No. 98-573, §10, 98 Stat. 3048, 19 U.S.C. 2801 et. seq.(1984)(*hereinafter cited as* Wine Equity Act).

92. American Grape Growers Alliance for Trade v. France and Italy, Inv. Nos. 701-TA-210 and 731-TA-167, USITC Pub. 1502 (1984).

products to distillers at artificially high prices for conversion to alcohol. Second, its "intervention program" compensates producers of table wines for conversion to alcohol. Third, its "export fund" provides subsidies to exporters to enable them to sell E.E.C wines at a competitive price in foreign markets; Fourth, it provides grants to grower cooperatives for the replanting or converting of vineyards to other uses, and for the abandonment of vineyards in locations which are ill-suited for wine production. Finally, the community provides wine industries with grants for buildings, equipment and marketing purposes.[93]

2. *Protest by American Grape Growers*

In a recent case before the United States International Trade Commission (ITC), the American Grape Growers Alliance (the Alliance) attacked E.E.C.'s subsidies, when applied in conjunction with French and Italian wine subsidies, as a violation of the anti-dumping provisions of the Trade and Tariff Act of 1930.[94] The Alliance maintained that these subsidies allowed French and Italian wines to sell below the market price in the United States. In turn, the lower price enabled France and Italy to sell more wine to American consumers, which displaced sales of domestic wines. The result was an injury to American grape growers.[95]

The ITC dismissed the claim for lack of standing, holding that the Alliance had not shown injury, and in the event injury could have been proved, there was no causal connection between the injury of the Alliance and E.E.C.'s wine subsidies.[96]

3. *Wine Equity and Export Act of 1984*

In response to this decision, the United States Congress enacted the Wine Equity and Export Act of 1984.[97] Section 904(b)(3) of the Act specifically allows producers of "grape products" to initiate complaints against "each country, or group of foreign countries represented as an economic union. . .[that]. . .is a potential significant market for United States wine, and maintains tariff or non-tariff barriers to trade in United States wine."[98] Thus, under the Act, the Alliance may reintroduce its complaint against France and Italy, or, as feared by the E.E.C., against the entire Community.

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93. Tariff Act of 1930, Public L. No. 361, 46 Stat. 590, 19 U.S.C. 1001 *et. seq.* (June 17, 1930)

94. *Id.*

95. Wine Equity Act, *supra* note 92.

96. *Id.* at §904(b)(3).

97. General Agreement on Trade & Tariff Act (GATT), Oct. 30, 1947, part 5, 61 Stat. A3, T.I.A.S. No. 1700.

98. Grape growers are more likely to lodge a complaint than are wine producers. This is so because, as a group, grape growers are much more cohesive than wine producers and thus in a better position to launch a complaint. Moreover, the grape growers, unlike the wine producers, have not invested in the Community wine industry to any significant degree. *See* 9 BULL. EUR. COMM. 54-55 (1984); 10 BULL. EUR. COMM. 46 (1984); *E.E.C. Asks G.A.T.T. to Examine U.S. Trade Act*, EUR. 46 (Mar.-April 1985).

The Community's response was that Section 904(b)(3) was in clear violation of the General Agreement on Trade and Tariffs (GATT)[99] rules which require that the complaint for an industry alleging injury from unfair trade practices be lodged by the producer of the product.[100] Whether or not this section is in violation of GATT rules is beyond the scope of this paper; however, if the U.S.—E.E.C. disputes over wheat and sugar are any example, it is likely that the U.S., acting on the successful complaint of grape growers, will impose anti-dumping and countervailing duties on E.E.C. wines at least until the dispute is resolved.

B. Potential for Attack on the Portuguese Wine Industry

1. As a Wine Exporting Country or as a Member of the E.E.C.

The Wine Equity and Export Act permits petitions against countries, standing on their own, and against "any group of countries compromising an economic union."[101] It is doubtful that Portugal will be attacked as a country standing on its own, even after it becomes the recipient of EAGGF funds.[102] This is because Portugal produces a relatively small share, four percent, of total United States wine imports.[103] It is unlikely that the Alliance would launch a petition against Portugal when it did not launch a similar petition against West Germany, also a recipient of EAGGF funds and producer of a much greater quantity- seventeen percent-of all United States wine imports.[104] The two countries which were attacked, France and Italy, accounted for forty and thirty-four percent of imports, respectively.[105]

It is more likely that a petition will be launched against the entire Community and this in turn will effect Portugal as a member. The Wine Equity and Export Act invites this type of petition. When Congress said "any group of countries compromising an economic union"[106] they probably meant the E.E.C., which is the largest producer of wine in the world. Three E.E.C. countries, Italy, France, and West Germany, account for ninety-one percent of all United States wine imports.[107] With the addition of Portugal and Spain, this figure will increase to ninety-six percent.[108] If the Alliance does reintroduce petitions against foreign wines, it is difficult to believe that they would not include the Community as at least one of the defendants, especially in light of the wording of the Act.

99. Wine Equity Act, *supra* note 92.

100. *Id.*

101. American Grape Growers Alliance v. France and Italy, *supra* note 93, at A-8.

102. *Id.*

103. *Id.*

104. Wine Equity Act, *supra* note 92.

105. *Id.*

106. *Id.*

107. *See* Macleod, *Portugal's Wine-Makers: Coping with Competition, cited in* Bruneau, *supra* note 5, at 76.

108. Bruneau, *supra* note 5, at 84.

2. *Effect on Portuguese Economy*

Wine is Portugal's leading export. In 1983 the wine industry employed fifteen percent of the country's work force and earned the country $200 million dollars in foreign exchange.[109] United States imports accounted for fourteen percent of this figure.[110] If petitions are successfully introduced against the Community or against Portugal, the price of Portuguese wine sold in the U.S. will increase and the demand in Portugal will lessen. This could severely damage Portugal's economy.

It is possible that the potential decrease in exports to the United States will be off-set by the amount Portugal receives in subsidies from the EAGGF. It is also possible that such a petition will not be successful against Portugal or the Community.

If sanctions are not introduced, the price of Portuguese wine and port wine sold in the United States would go down, due to the E.E.C. subsidies for wine, particularly those which allow E.E.C. exports to sell at competitive world prices. The demand and sale of Portuguese wine, which is currently higher priced than most European wines sold in the U.S., should increase. This would ultimately benefit the Portuguese economy.

VI. EFFECT OF E.E.C.'S GLOBAL MEDITERRANEAN POLICY ON PORTUGAL'S TEXTILES

A. *Textiles and the Global Mediterranean Policy*

The concept of a Global Mediterranean Policy was begun by the E.E.C. in 1971 in an effort to aid the industrial and social development of non-E.E.C. Mediterranean countries as well as to provide a way for improving mutual relations between the E.E.C. and these countries.[111] An essential element of the global approach was to grant the less developed Mediterranean countries free access to E.E.C.'s markets. Textiles and clothing, the most important group of industrial exports of these Mediterranean countries, were allowed into the Common Market at reduced or zero duties, but subject to certain quantitative restrictions.[112]

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109. At this time there already existed association agreements between the E.E.C. and Greece (1961), Turkey (1963), Morocco (1967), Tunisia (1967), Malta (1970), and Cyprus (1972) as well as free trade agreements with Spain (1970), and Portugal (1972). The object of the "global approach" was to include the remaining countries in the contractual system of preferential economic relations. As an outcome the E.E.C. concluded a free trade agreement with Israel (1975) and cooperation agreements with the Maghreb countries (Algeria, Morocco, Tunisia 1976), the Mashrik countries (Egypt, Jordan, Lebanon, Syria in 1977) and Yugoslavia (1980).

110. These concessions were not completely new but had been granted by the E.E.C.'s Generalized System of Preferences (GSP), which applied to all developing countries and came into force on January 1, 1971. *See generally* Ashoff, *The Textile Policy of the European Community Towards the Mediterranean Countries: Effects and Future Options*, 22 J. COMMON MKT. STUD. 17 (1983)(*hereinafter cited as* Ashoff).

111. PROBLEMS OF ENLARGEMENT, *supra* note 29, at A-16.

112. There is the potential for trade diversion resulting in other sectors as well as clothing and textiles. Portugal's exports to countries outside the E.E.C. closely resemble the

B. Potential Effects on Portugal's Accession

As a developing Mediterranean country, Portugal was granted concessions and subject to quantitative restrictions for exports of its textiles and clothing into the Community under the Global Mediterranean Policy. In view of the upcoming accession, in 1982 the E.E.C. and Portugal negotiated an agreement whereby the quantitative restrictions would gradually be phased out until four years after the accession date; thus, by 1990 all Portuguese textiles will enter the Community without restriction.[113] Other Mediterranean countries fear that a gradual reduction in quotas will further increase the over-supply within the Community and therefore lessen the demand for outside products.[114] Additionally, they expect the role Portugal will play in the decision-making process to have a detrimental effect on imports from other developing countries.[115] These fears could become reality.

Portugal's textile and clothing industry has consistently held an important place in the Portuguese economy. In 1980, the industry employed 200,000 workers and accounted for one-tenth of Portugal's gross domestic product and one-third of the country's entire exports.[116] The Portuguese have regularly petitioned and received increased quotas from the E.E.C. due to its special needs. It is reasonable to assume that once a member of the E.E.C., Portugal will attempt to shape the textile policy according to its own interests which encompass not only the defense of its own domestic market from cheaper imports, but also protection and expansion of the market for Portuguese goods within the Community. When the quotas are finally reduced, it is more than probable that the Portuguese products sold to the Community will work to displace exports from other Mediterranean countries.

In 1980, total E.E.C. textile and clothing imports from the Mediterranean countries, including Portugal, Spain, and Greece, totaled twenty-five percent of all textile imports of the E.E.C. Portugal accounted for one-sixth of this figure, even though only sixty-one percent of Portuguese textiles and clothing were permitted to enter the Common Market.[117] If all other factors were equal and the only drawback to the sale of Portuguese clothing and textiles in the Community were the quotas, Portugal would have been responsible for one-fourth of the total exports from the sixteen countries.[118] Under this estimate alone, assuming that the E.E.C. will only import a fixed percentage from various regions, Portugal, without any quotas, could possibly displace one-fourth of all sales by the

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E.E.C. imports from low cost non-E.E.C. suppliers. Ashoff, *supra* note 110, at 34-40; *see generally* R. MORRISON, *supra* note 4, at 147.

113. Ashoff, *supra* note 112, at 34-40.

114. R. MORRISON, *supra* note 4, at 149-50.

115. *See* Ashoff, *supra* note 112, at 35-36.

116. *Id.* at 37.

117. *Id.*

118. *See id. generally*, at 37.

Mediterranean countries, including the one-sixth share which it already accounts for.

However, this estimate is dependent on several variables. Whether or not Portuguese exports to the E.E.C will increase as quotas are gradually reduced is basically dependent on the competitiveness in relation to other Mediterranean countries. Although future competitiveness is difficult to measure, three factors are highly indicative of competitiveness in the textile and clothing industry: (1) wage levels; (2) productivity; and (3) standards of quality and degree of specialization.[119]

1. Wages

In the textile and clothing industry, lower wages are the single most important variable giving the less developed countries a comparative advantage. Portugal's wages have been kept competitive with those of other Mediterranean countries through the devaluation of the escudo and the decline in real income of workers.[120] Once Portugal joins the E.E.C., wages are expected to rise in response to higher food costs.[121] An increase in wages without a corresponding increase in productivity or quality, will most likely decrease Portugal's comparative advantage, thus decreasing its share of exports to the E.E.C.

2. Productivity

Another very important factor in international competitiveness is productivity. In Portugal, there are approximately thirty firms which are the sources of all textile and clothing exports. These firms are run with modern equipment and efficient management and the productivity of such firms is comparable to similar firms in other textile-exporting countries.[122] There is no reason to believe that the productivity of these firms will decline due to accession. If productivity changes at all upon accession, it will probably improve. Portugal's investment legislation, as well as eventual free access to the Common Market, may attract new manufacturers which are internationally competitive, thus increasing the total productivity of the industry.

3. Standards of Quality and Degree of Specialization

Comparable information with regard to standards of quality and degree of specialization are difficult to obtain. Because many E.E.C.-based firms have established major exporting firms in Portugal, these firms usually meet E.E.C. standards. The exporting national firms generally keep their standards up to those of the E.E.C.-based firms.[123] However, it should be noted that the main attraction of the Portuguese and other Mediterranean firms is not their quality or innovation, but rather their inexpensive products. However, an increase in Portugal's quality or spe-

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119. *See generally supra* notes 75-78 and accompanying text.
120. *See* Ashoff, *supra* note 110, at 37.
121. *Id.* at 38.
122. *See* PROBLEMS OF ENLARGEMENT, *supra* note 29, at A-16.
123. Ashoff, *supra* note 112, at 42.

cialization,would probably not damage Mediterranean markets, since Portugal would be supplying a new kind of product to a different group of buyers.

Overall, accession opens possibilities for increased exports of Portuguese products to the E.E.C., yet the extent of utilization is dependent upon the effect of the CAP on Portugal's wages, and the effect of accession on productivity. Generally, any favorable developments for Portugal will work to the detriment of third countries. (Cyprus having the greatest potential damage as both Portugal and Cyprus have concentrated on the British market.) However, if there is a trade diversion, the impact will be mitigated by a gradual reduction in tariffs.

VII. CONCLUSIONS

A. *Economic Detriments to Portugal*

Overall, neither Portugal nor the E.E.C. will benefit economically from the Portuguese membership. Basically both parties will suffer, and in that respect, Portugal more than the E.E.C. Without steps by the Portuguese government to increase foreign investment, the country's entire industry will either face the possibility of failing under increased competition from the Community or will be forced to specialize in peripheral products. Portugal's exports, such as wine, will be subject to all sanctions against the E.E.C., even though Portugal poses no threat to international trade. And the imposition of CAP will cause food costs to rise in the country, possibly threatening Portugal's comparative wage advantage and definitely harming the Portuguese consumer. The aid that Portugal will receive to modernize its farm sector and its industry, as well the gradual decrease in quotas for textiles, the eventual free movement of workers, and the entitlement of farmers to the benefits of CAP, will off-set the cost to Portugal. Nevertheless, this off-set will not be enough to paint a rosy economic forecast for the Portuguese.

B. *Economic Detriments to the Community*

Economic consequences to the E.E.C., however do not look as bleak. It will have to pump funds into Portugal in order to modernize the nation's agricultural sector, and the already burdened Community budget will need to be further increased. Additionally, member states will gradually be forced to extend employment benefits to Portuguese workers rapidly migrating into the Community. These costs will be off-set by the opening up of the Portuguese markets to Community's agricultural and industrial goods, yet overall, the E.E.C. will not benefit economically from Portugal's membership.

C. *Unification of Europe*

Without economics as a motivating factor, it can truly be said that Portugal's membership is a move towards a unified Europe. It demonstrates the E.E.C.'s willingness to incorporate a small, poor nation into the Community's union of relatively rich nations merely because that nation is European and shares in the E.E.C.'s ideals to strengthen peace and liberty throughout Europe by cooperation among member states.

Portugal's accession also demonstrates that the E.E.C. is still a union worth joining. Portugal could have survived alone but instead, despite severe effects, it chose to be part of the E.E.C.'s union; a union which carries significant weight in world trade and has the potential of becoming a formidable political power.