



HM Government

# Review of the Balance of Competences between the United Kingdom and the European Union EU Enlargement

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EU Enlargement

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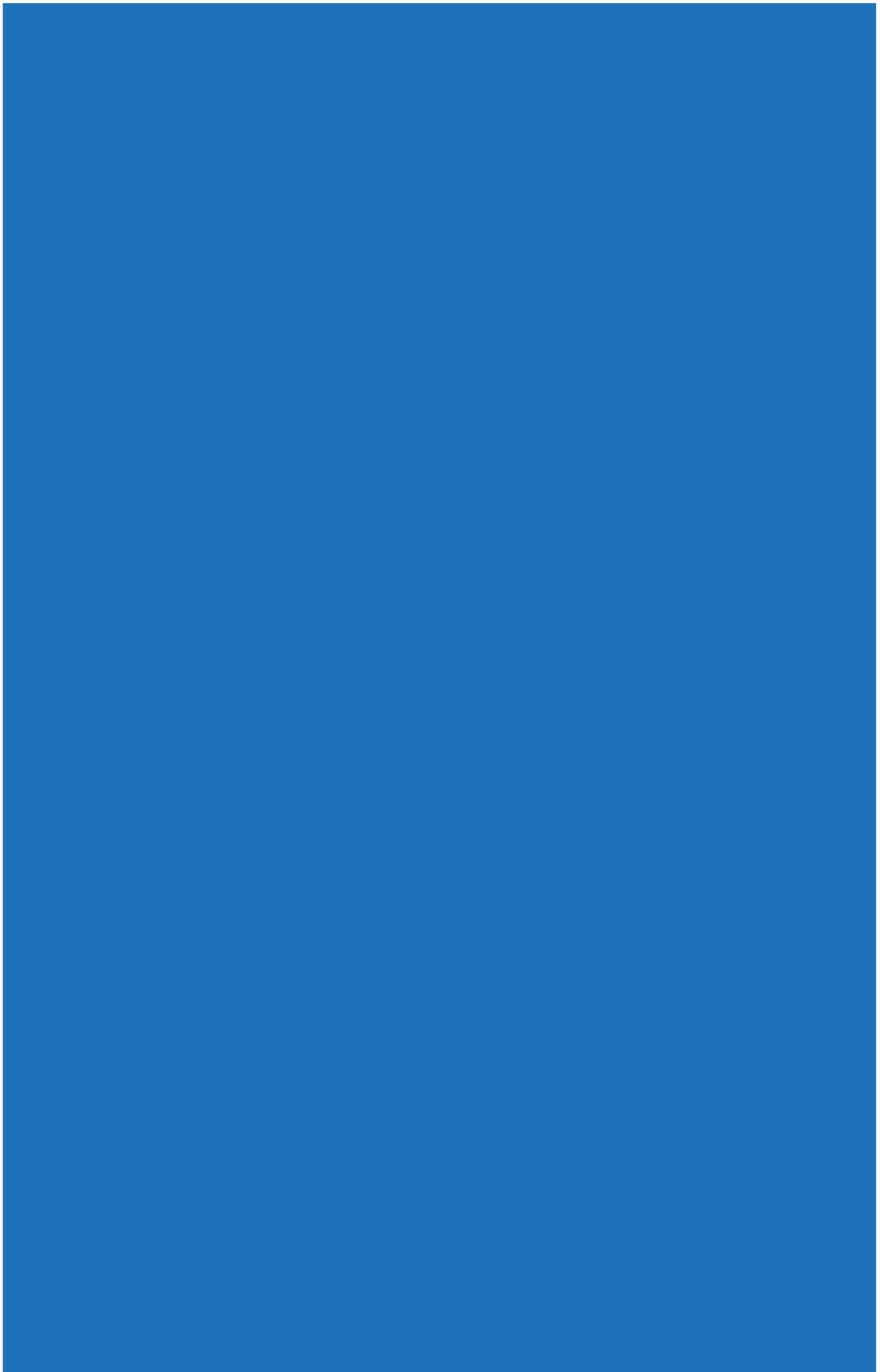
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# Executive Summary

This report examines the balance of competences between the European Union (EU) and the United Kingdom (UK) in the area of EU enlargement. It is a reflection and analysis of the evidence submitted by experts, non-governmental organisations, businesspeople, Members of Parliament and other interested parties, either in writing or orally, as well as a literature review of relevant material. Where appropriate, the report sets out the current position agreed within the Coalition Government for handling this policy area in the EU. It does not predetermine or prejudge proposals that either Coalition party may make in the future for changes to the EU or about the appropriate balance of competences.

EU enlargement is, by its very nature, an issue that cuts across multiple policy areas. Further evidence on the issue of enlargement can consequently also be found in a number of previous Balance of Competences reports. Migration issues related to enlargement, for example, were examined by a separate Balance of Competences report on Free Movement of Persons led by the Home Office.<sup>1</sup>

## Introduction

The UK has been a long-standing, strong supporter of EU enlargement under successive Governments. The Government reconfirmed this position in its 2010 Coalition Agreement and is an advocate of the future accession of all the western Balkans countries and Turkey, subject to their meeting the accession requirements.

Since its foundation, contributors observed how the EU has been transformed from a six-country, regional grouping with a population of less than 170m in the 1950s into a global actor of 28 Member States with over 500m citizens today.

While the accession process has often been extremely challenging for the countries concerned, the evidence received suggested that Member States and their citizens who have joined the EU have benefited greatly. In the 1980s, enlargement helped entrench democracy in post-authoritarian Greece, Portugal and Spain. Following the end of the Cold War, contributors believed it reunited much of the continent and helped extend stability and democracy to the former Communist Bloc. More recently, contributors argued that the process is helping the western Balkans countries overcome the legacies of the wars of the 1990s and is supporting

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<sup>1</sup> HMG, *Review of the Balance of Competences between the United Kingdom and the European Union: Free Movement of Persons* (2014).

democratic reform in Turkey. In economic terms, the evidence highlighted how enlargement has increased prosperity across Europe through the growth of the Single Market – the Eurozone crisis notwithstanding. Poland’s Gross Domestic Product, for example, grew by over 40% between 2004-13.<sup>2</sup>

## Impact on UK Interests

There was general agreement among contributors that enlargement has been a historic success for the EU, which has had a positive transformational impact on incoming Member States and on the EU itself.

Overall the evidence suggested that, while there have been disadvantageous impacts in some areas, EU enlargement has been generally beneficial to UK interests and looks likely to continue to be so. Contributors argued that the UK has historically been highly influential in driving the enlargement process and has enjoyed significant influence among new and aspirant Member States as a result.

The evidence suggested that, despite its growth to 28 members, the EU’s institutional arrangements have coped well with enlargement. There has been no gridlock in decision-making – though some believed that the pace of EU decision-making may have slowed and that an over-sized Commission remains unfinished business. Many contributors believed that Brussels has generally become more comfortable for the UK, where it has gained many like-minded allies who share its outward-looking, free-market and Atlanticist outlook. English, they noted, is increasingly the *lingua franca*.

However, contributors also underlined that, in a larger EU, the UK has to work harder to build coalitions and defend its interests. Some claimed that building long-term alliances with newer Member States has at times proved a challenge for the UK, and they suggested that there is increased risk of decisions going against UK interests in some areas.

The EU budget has inevitably grown due to enlargement, though the evidence suggested that the budgetary costs of enlargement have been reasonable. Since 2004, with the accession of more net recipient countries, some argued that the UK has faced a more difficult task securing support for budget restraint and for reform of spending policies such as the Common Agricultural Policy (CAP) (though EU agreement in February 2013 to the first-ever cut to the EU’s long-term budget counters this assertion). Looking forward, the evidence suggested that enlargement is unlikely to create further significant EU budgetary pressures in the medium-term.

Some evidence also pointed to the benefits for UK organisations and businesses from EU spending in new Member States and aspirant countries. The evidence suggested that, alongside Member State programmes such as the UK’s ‘*Reuniting Europe Programme*,’ EU assistance programmes to help aspirant countries prepare for EU membership such as the Instrument for Pre-Accession (IPA) and Twinning have generally been effective. Where UK organisations have participated, they have reported commercial and partnership benefits.

The evidence suggested that enlargement, and the prospect of enlargement, has made a major contribution to European stability to the benefit of the UK and the wider international community. Following the wars of the 1990s, which necessitated UK military intervention, most contributors believed that enlargement has been the most effective vehicle for bringing long-term peace and stability to the western Balkans region.

<sup>2</sup> Eurostat, *Gross Domestic Product at Market Prices* (no date). Available at: [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=nama\\_10\\_gdp&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=nama_10_gdp&lang=en), accessed on 21 November 2014.

Many contributors argued that the UK has benefitted from a larger EU, more able to negotiate on equal terms with the likes of the US, China and India, notably on trade. A larger EU, they argued, has acted as an influence-multiplier for UK foreign policy priorities in many areas. Enlargement has also, contributors noted, progressively turned a western European organisation into one with borders with Russia and close to the Middle East. The evidence suggested that this has brought new strategic challenges, for example handling Russia, and a larger EU has increased the risk of dissenting voices preventing agreement.

In defence, the evidence suggested that enlargement has increased the pro-North Atlantic Treaty Organisation (NATO) majority in the EU to the benefit of the UK. However, there was also evidence that the accession of Cyprus in particular has hampered EU/NATO defence co-ordination due to its dispute with Turkey.

Contributors suggested that new Member States have generally been supportive of the UK's Single Market and free-trade priorities in the EU, and opposed increased regulation and a social agenda that would be bad for business. Nearly all agreed that British business has benefitted from access to an enlarged Single Market of over 500m consumers (the world's largest economic area), in which trade with newer Member States has grown much faster than that with the old Member States.

Yet, while there are many examples of UK export success, some evidence suggested that British business (and especially small and medium size enterprises – SMEs) has not yet fully exploited these opportunities in the new Member States. Some British businesses raised concerns about the business environment in new Member States, and the level of implementation of, and compliance with, EU trade rules.

Some contributors suggested that enlargement, by lowering barriers, may have made it easier for international crime threats to reach the UK. Other contributors, however, believed that enlargement had in fact extended the reach of law enforcement and judicial cooperation across Europe, thus strengthening the UK's outer defences against organised crime and terrorism.

In other areas, some contributors suggested that EU action against climate change may have been hampered by the accession of countries with more carbon-intensive economies. Others believed that persuading these countries to join global action would likely have been even harder outside the EU. Further evidence suggested that enlargement had successfully helped extend broader environmental protection across the continent, as well as greater respect for human rights and fundamental freedoms.

## Management of the Process

Many contributors noted how the process of enlargement has developed considerably over time as the EU has learned lessons, particularly from the enlargements of 2004 and 2007.

The enlargement process, contributors highlighted, has developed and changed considerably over the decades, reflecting the differing situations and needs of the applicants and the growth of the EU's accumulated policies and laws (the *acquis*). Thus, the evidence set out, future enlargement to the new states of the western Balkans emerging from conflict and transition will, for example, be a very different proposition to the first enlargement to the established democracies of the UK, Ireland and Denmark in the 1970s.

Contributors generally believed that Member States and the EU institutions have been effective in managing the enlargement process, and in learning and implementing lessons from previous enlargements. They noted how the UK has been at the forefront in driving these reforms.

The evidence set out how there has been a clear move away from ‘big bang’ enlargements of multiple countries at once, in favour of one-by-one enlargements by individual countries on their own merits. Target dates are now avoided.

Much evidence noted an ever increasing focus on conditionality in the process, especially since the Copenhagen Criteria were first agreed in 1993. It suggested that conditionality has been the EU’s most powerful tool for driving transformative change in aspirant countries. The Commission’s most recent 2014 progress reports on enlargement, for example, focussed on public administration reform; economic governance and competitiveness; upholding rights; the rule of law (including tackling organised crime and corruption); and good neighbourly relations, overcoming bilateral disputes and improving regional co-operation as the most important areas where aspirant countries must reach EU standards prior to accession.

Many contributors welcomed, in addition to aspirant countries passing the necessary legislation, the increased emphasis now placed by the EU upon ensuring the practical and embedded implementation of reforms before accession. Enlargement, as one contributor put it, ‘used to be based on a credit card, it is now based on cash’.<sup>3</sup>

Following concerns in the wake of recent enlargement rounds, contributors generally supported the much greater emphasis in the enlargement process under the so-called New Approach now placed on embedding the rule of law and driving efforts to tackle organised crime and corruption. These are now prioritised from the very beginning of the accession process.

Contributors also noted an increased focus on avoiding the importation of bilateral disputes, given – for example – ongoing difficulties caused by disputes between Cyprus and Turkey, and Greece and Macedonia.<sup>4</sup> Several contributors pointed in particular to the successful role of enlargement conditionality in driving the normalisation of relations between Serbia and Kosovo.

Some evidence highlighted the importance of enhanced economic conditionality prior to accession, following lessons learned from the global economic and Euro crises, and the experience of Croatia which entered the EU’s Excessive Deficit Procedure shortly after accession.

Most contributors believed the enlargement process has generally been very effective at ensuring applicant states transpose in full the EU’s *acquis*. Some believed, however, that EU conditionality has been less effective in ensuring that aspirant countries also live up to the EU’s political norms and its values, especially after accession. They pointed to alleged shortcomings in previous enlargement rounds, when – they argued – some countries were permitted to join the EU before they had reached the required standards in terms of upholding the rule of law. Nor, some noted, had the enlargement process yet been able to overcome wider political obstacles, as in the cases of Bosnia and Herzegovina (BiH), Macedonia and Turkey.

The evidence received highlighted how conditionality becomes much less effective once a country has joined the EU, reinforcing the importance of its strict enforcement prior to accession. A post-accession rule of law monitoring mechanism for Bulgaria and Romania was felt by many to have been ineffective and was not continued for Croatia. The evidence also suggested that Member States are unlikely to agree to the introduction of a new post-accession

<sup>3</sup> Dr Tim Haughton, *submission of evidence*.

<sup>4</sup> The UK recognises the Republic of Macedonia under its constitutional name. This is without prejudice to practice in the EU and certain other multilateral institutions, where the country is known under the designation ‘the former Yugoslav Republic of Macedonia’.

monitoring mechanism for all EU members, which would be seen by many as intrusive and could require an increase in EU competence in this area.

## The Balance of Competences

There was very little support among contributors for a change in the balance of competences in the field of enlargement given the strong leading role of Member States in the process.

The evidence underlined that enlargement remains an intergovernmental process clearly led by the Member States. The relevant Article of the Treaty on European Union (Article 49) states clearly that enlargement ‘shall be the subject of an agreement between the Member States and the applicant State’.<sup>5</sup> As such, it is not an area where competence can be said to be shared by Member States with the EU.

The evidence emphasised that it is national governments represented in the Council of Ministers and in the European Council who clearly direct enlargement throughout the process. Contributors noted how Member States have final control over the large number of decisions required throughout the process, almost exclusively by unanimity. There is thus, contributors highlighted, in practice a unanimity lock at each stage of the process, and national parliaments also have a final say through the requirement that they ratify all Accession Treaties.

While the Member States are in the lead, some noted the crucial role played by the Commission in the day-to-day running of the process, whereas the roles of the European Parliament and European External Action Service (EEAS) are in comparison more limited.

Some contributors also asserted that unanimity had at times worked against UK interests, by allowing other Member States to block or hold up the accession of aspirant countries.

## Future Options and Challenges

Much evidence highlighted significant challenges that enlargement will need to address in coming years.

Contributors believed the EU aspirant countries of the western Balkans and Turkey face a longer, tougher journey towards EU membership than their predecessors. The evidence suggested that many have much further to travel in both governance and economic terms. Many, relatively newly-independent, are still engaged in nation-building and state-building and lack capacity and know-how.

Given firm conditionality, contributors believed that the EU accession process will thus take longer and greater EU support will be required. Some concluded that it will consequently also be important for aspirant countries and their citizens to be able to see progress along the way more visibly, to ensure support for EU accession is maintained during difficult reforms. Some contributors proposed new tangible milestones and rewards for aspirant countries during the process. It was also suggested that there could be scope to reform the enlargement process to make it more objective, more consistent, and more transparent.

Another future challenge highlighted by contributors is where the EU’s borders should lie. EU accession, it was noted, is potentially open to any ‘European state’ and there was general consensus among contributors that the EU should continue to enlarge, in line with the UK’s vision of an open, outward-looking, flexible Europe.

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<sup>5</sup> Treaty On The European Union (1992) Article 49. Hereinafter referred to as Article 49 TEU.

For the western Balkans, the evidence suggested that, although the economic benefits to the UK and EU of further enlargement will probably be modest, the benefits in terms of Europe's security and stability are compelling. In that sense, some contributors believed it will cost less to bring these countries into the EU than to keep them out.

Contributors generally believed that accession by the European Free Trade Association (EFTA) countries (notably Norway, Iceland and Switzerland) would, if they chose to reactivate their applications, also benefit the UK and EU. However, it was thought that – with the possible exception of Iceland – this looked unlikely in the medium term. Some suggested that these countries are, to differing extents, sufficiently comfortable in economic and security terms to feel that the benefits of EU membership are presently outweighed by the disadvantages.

There was disagreement among contributors, however, over the future of Turkey and the Eastern Partnership countries in the EU.

Many contributors believed that Turkey's accession would bring significant benefits for UK and EU interests. However others believed that Turkey's accession faced major obstacles – including the possibility of referendums in some Member States. Nonetheless, some contributors argued that going back on the EU's promise of membership to Turkey would be a major step with geo-strategic implications.

Some contributors argued that, as with the western Balkans countries previously, an offer of EU membership to the Eastern Partnership countries (notably Georgia, Moldova and Ukraine) would be a potentially stabilising factor. Others thought such an offer would be premature. In any case, contributors generally agreed that the EU future of the Eastern Partnership countries, if they chose to apply, would be a long-term prospect only.

There was no consensus among contributors around possible alternative models of EU enlargement. Many believed that a 'privileged partnership' outside the EU or membership of the European Economic Area (EEA) may not be sufficiently attractive to aspirant countries. Some thought that a more graduated journey to full membership, with clear progress and benefits at each stage, could be a more workable alternative.

Post-accession, some contributors saw the development of the Eurozone as creating a new two-stage accession process. However others thought this neglected the reality that, in practice, not all Member States may join the Euro.

The evidence suggested that the politics of enlargement are getting more difficult across Europe. Many contributors believed that enlargement is becoming increasingly a domestic political issue rather than a foreign policy one. A key theme to emerge from the evidence was that, unless public confidence can be maintained, enlargement is at risk of grinding to a halt.

Contributors put forward various proposals to bolster public confidence. Some suggested that more effective communication by governments and EU institutions on enlargement, its benefits and its costs, might help – both in existing members and in aspirant countries. Some thought that national parliaments (and possibly Members of the European Parliament – MEPs) might be given a greater role to increase democratic oversight of the process, and that civil society and Non-Governmental Organisations (NGOs) might also be invited to input more to the process.

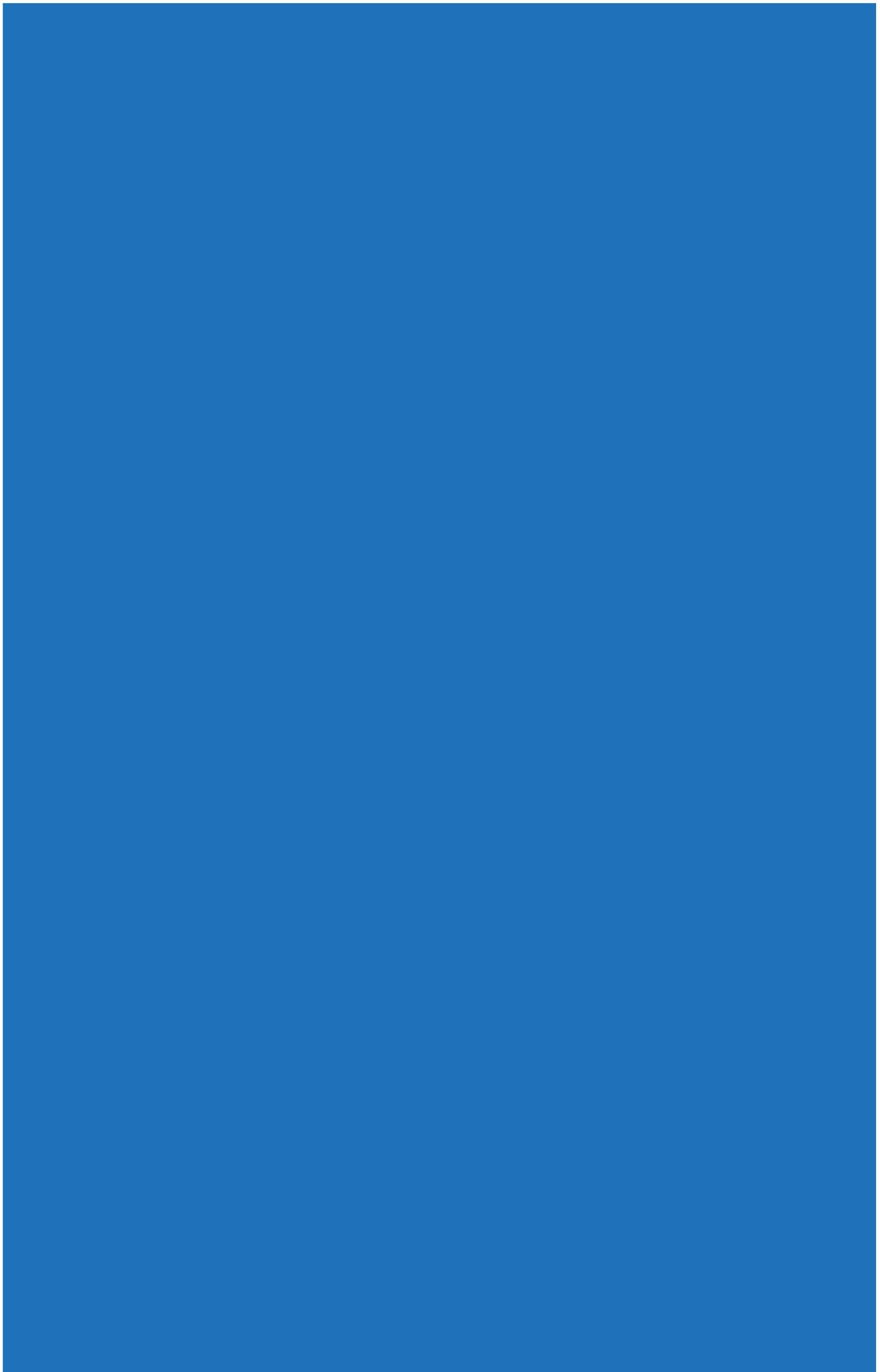
Contributors noted that the next rounds of EU enlargement are unlikely before the early 2020s and are likely to involve small countries only. Turkey is a major exception in terms of size but, many believed, its accession looks unlikely to make swift progress in coming years.

Nonetheless, if enlargement is to continue, many contributors agreed that it is especially important that public concern on the issue of migration is addressed – for example through reform of transitional controls on free movement for future enlargements. Significant evidence was received on this issue, building on that submitted to the previous Balance of Competences report on Free Movement of Persons led by the Home Office.<sup>6</sup>

The UK Government has recognised that enlargement can bring disadvantageous impacts in some areas, and there is growing cross-party agreement that the issue of migration must be addressed in order to ensure continued public confidence in and support for enlargement – both in the UK and across the EU. It therefore believes this issue needs to be addressed before any more members can accede. The Government welcomed the Commission's most recent 2014 Progress Reports on enlargement, which recognised the need to examine transitional measures and/or a safeguard mechanism on the free movement of workers in the course of accession negotiations for future enlargement rounds.

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<sup>6</sup> HMG, *Review of the Balance of Competences: Free Movement of Persons*.



# Introduction

This report is one of 32 reports being produced as part of the Balance of Competences Review. The Foreign Secretary launched the Review in Parliament on 12 July 2012, taking forward the Coalition commitment to examine the balance of competences between the UK and the EU. It will provide an analysis of what the UK's membership of the EU means for the UK national interest. It aims to deepen public and Parliamentary understanding of the nature of our EU membership and provide a constructive and serious contribution to the national and wider European debate about modernising, reforming and improving the EU in the face of collective challenges. It has not been tasked with producing specific recommendations or looking at alternative models for Britain's overall relationship with the EU.

The review is broken down into a series of reports on specific areas of EU competence, spread over four semesters between 2012 and 2014. More information can be found on the review at [www.gov.uk/review-of-the-balance-of-competences](http://www.gov.uk/review-of-the-balance-of-competences).

For the purposes of this review, we are using a broad definition of competence. Put simply, competence in this context is about everything deriving from EU law that affects what happens in the UK. That means examining all the areas where the Treaties give the EU competence to act, including the provisions in the Treaties giving the EU institutions the power to legislate, to adopt non-legislative acts, or to take any other sort of action. But it also means examining areas where the Treaties apply directly to the Member States without needing any further action by the EU institutions.

The analysis in this report is based on evidence gathered following a Call for Evidence inviting contributions between 27 March 2014 and 30 June 2014. It draws on written evidence submitted, notes of seminars or discussions held during the Call for Evidence period, and existing material which has been brought to our attention by interested parties, such as past Parliamentary Committee reports. The evidence itself, as well as a literature review of the relevant material, can be found at [www.gov.uk/government/consultations/eu-enlargement-review-of-the-balance-of-competences](http://www.gov.uk/government/consultations/eu-enlargement-review-of-the-balance-of-competences).

The Call for Evidence was circulated widely within the UK, to other EU Member States and to non-EU third countries. Efforts were made to invite contributions from all those who might be interested in this issue, with views from across the political spectrum. Academics, think tanks, NGOs, business and trade bodies, and members of the public were all encouraged to respond. The governments of Scotland, Wales and Northern Ireland, the Crown Dependencies, and UK MPs, MEPs and Parliamentary Committees were also invited to respond. A full list of those who contributed evidence to the report can be found in Annex A. A list of participants who attended workshops and meetings can be found in Annex B.

## Structure of the report

This report is divided into four Chapters:

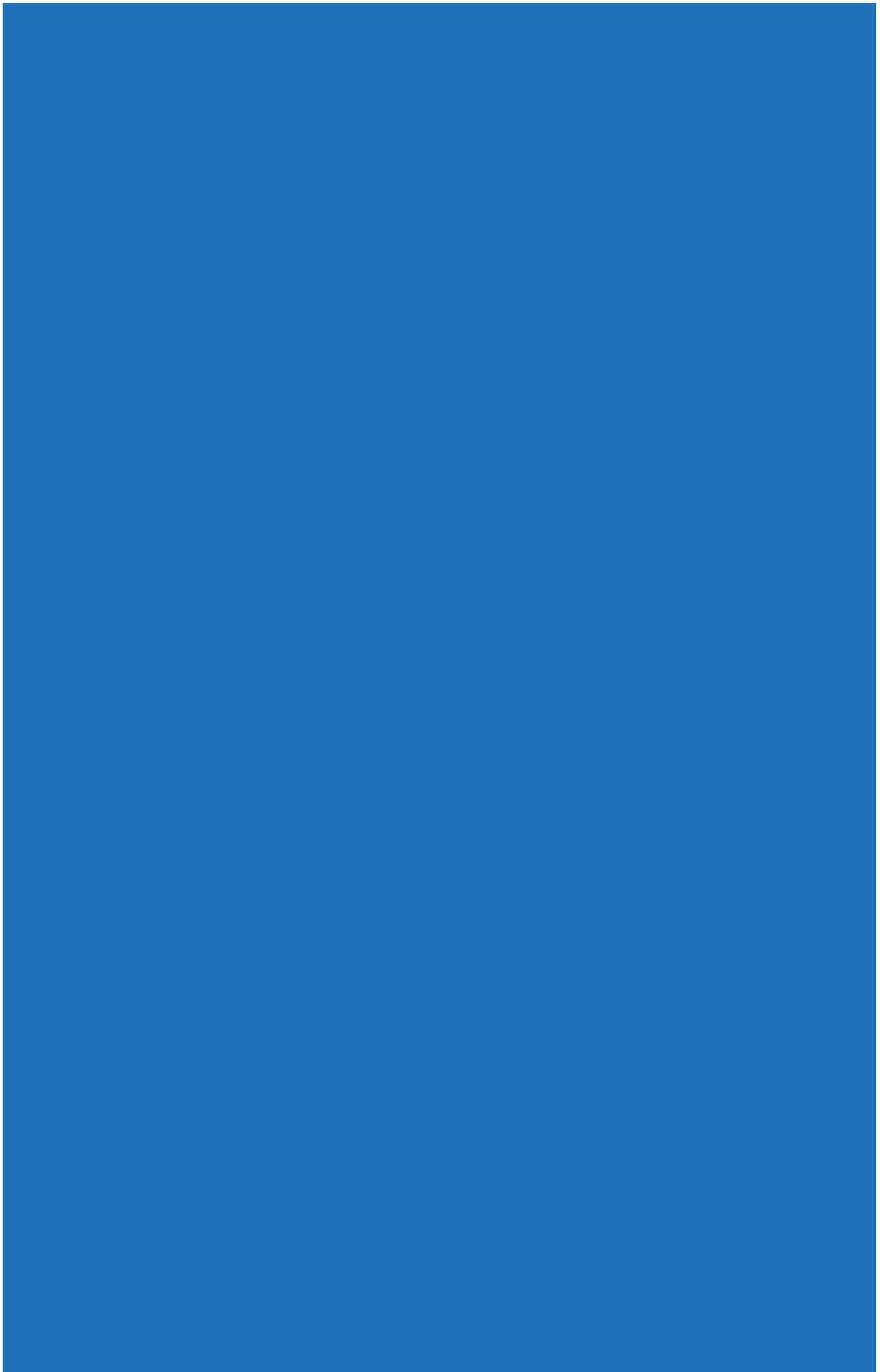
**Chapter One:** sets out briefly the history of EU enlargement and the UK's overall approach.

**Chapter Two:** examines the enlargement process and its impact on UK interests.

**Chapter Three:** examines the impact of enlargement on UK interests in wider policy areas.

**Chapter Four:** considers the balance of competences, and other future options and challenges for enlargement.

This report considers enlargement-related issues that were identified by other Balance of Competences Review reports. Further detail can be found in the relevant reports, for example on Free Movement of Persons, on the Single Market and on Foreign Policy.



# Chapter 1: A Brief History of EU Enlargement

- 1.1 The issue of enlargement was raised early in the EU's history as countries quickly began to apply to join. The EU has never actively sought to expand but has instead responded to applications for membership. The EU has enlarged seven times since its origins in the 1950s as the European Coal & Steel Community (ECSC), from six to now 28 Member States (see graphic at Figure One). Its population has grown approximately threefold from less than 170m then to over 500m today (see graphic at Figure Four).

## Figure 1: EU enlargement to date

- 1951 – Belgium, France, Germany, Italy, Luxembourg, Netherlands (founding members of the ECSC, which preceded the EEC founded in 1957)
- 1973 – Denmark, Ireland, United Kingdom
- 1981 – Greece
- 1986 – Portugal, Spain
- 1995 – Austria, Finland, Sweden
- 2004 – Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, Slovenia
- 2007 – Bulgaria, Romania
- 2013 – Croatia

Source: Foreign and Commonwealth Office (FCO), (2014)

- 1.2 The EU's next enlargement is expected sometime in the early 2020s. Eight countries are recognised by the EU as having the potential to become members (see Figure Two). Turkey has been in accession negotiations since 2005. Montenegro opened its accession negotiations in 2012. Serbia commenced accession negotiations in 2014. Macedonia and Albania have both attained Candidate Status, Macedonia in 2005 and Albania in 2014, but neither country has yet opened accession negotiations. With the exception of Turkey, all these countries are small in terms of population. If all current candidate and potential candidate countries joined the EU, it would comprise 36 Member States with a total population of around 590m. Its combined annual Gross Domestic Product (GDP) would grow from US\$16.7 trillion to US\$17.6 trillion<sup>1</sup> (see Figure Five).

<sup>1</sup> International Monetary Fund (IMF) *World Economic Outlook 2014* (2014).

- 1.3 Turkey's path to accession negotiations has been particularly long. It signed an Association Agreement (the Ankara Agreement) with the European Economic Community (EEC) in 1963, which allowed for the possibility of Turkey's eventual accession to the EEC. However not until 1999 did the European Council award Turkey Candidate Status.

### Figure 2: Current status of enlargement countries

#### Countries awarded Candidate Status

- Montenegro, Serbia, Turkey – in accession negotiations
- Albania, Macedonia – not yet in accession negotiations
- Iceland – accession negotiations suspended

#### Potential Candidate Countries

- Bosnia and Herzegovina, and Kosovo

Source: FCO (2014)

- 1.4 Some countries decided not to join. Iceland's accession negotiations opened in 2010 but it chose to suspend them in 2013 following the election of a new government. Norway withdrew its applications for EU membership in 1972 and in 1994. Following a referendum, Switzerland suspended its EU application in 1992.
- 1.5 The UK Government also supports the Eastern Partnership countries (Armenia, Azerbaijan, Belarus, Georgia, Moldova, Ukraine) as possible EU members in future, providing they meet the necessary criteria. However, there is no consensus on their potential candidacy among EU Member States.
- 1.6 EU accession should also be considered in the context of wider Euro-Atlantic integration. In many cases, progress towards EU membership has proceeded in parallel with progress towards accession to NATO. Albania in 2009 joined long-standing NATO members Iceland and Turkey. Bosnia and Herzegovina (BiH), Macedonia and Montenegro are – with Georgia – also working towards membership. Serbia and Kosovo have not applied to join.

## EU Policy Objectives

- 1.7 The enlargement process has undergone significant evolution over time. In general terms, it can be said that, through enlargement, the EU has consistently sought to pursue two key policy objectives.

### Peace, stability and democracy

- 1.8 Through enlargement, the EU has sought to extend peace, stability and democracy across the continent. Born in the aftermath of successive European conflicts culminating in World War Two, the ECSC and subsequently the EEC sought to bring reconciliation between its members. In the 1970s, the EEC agreed to enter accession negotiations with post-authoritarian Greece, Portugal and Spain as one of the most effective ways to help entrench democracy. Following the end of the Cold War, the EU – in its largest ever enlargement – took what it considered to be a historic opportunity and responsibility to reunite much of the European continent, and extend stability and democracy to the former Communist Bloc countries of central and eastern Europe. The EU's focus on supporting Europe's democracy and stability continues today through its efforts to bring in Turkey and, following the post-Yugoslav wars of the 1990s, the countries of the western

Balkans. This focus on stability also encompasses the increasing importance attached to ensuring that the rule of law and fundamental rights are guaranteed, and governance threats such as organised crime and corruption are tackled.

### Prosperity and the market economy

- 1.9 The EU has also sought, through enlargement, to extend prosperity and the market economy across Europe. After World War Two, it sought to rebuild Europe's post-war economy, integrate economies to make future conflict impossible, and promote cross-border trade. Following the fall of the Berlin Wall, the EU sought to help the centrally planned economies of central and eastern Europe. It offered them the prospect of joining the EU and developing as market-based economies in an extended Single Market. In the mid-1990s, the EU benefitted from enlarging to prosperous countries in the European Economic Area. As a result of successive enlargements, the Single Market is today the world's largest economic area, with a combined GDP larger than the United States or China and a major player in international trade negotiations. In the wake of the global economic and Euro zone crisis, the EU has recognised strengthening economic governance as a growing priority in the accession process.

## The UK's Approach to Enlargement

### Development of UK Government Policy

- 1.10 The UK Government has been historically a strong supporter of and driving force behind enlargement. Over decades, successive Governments have promoted enlargement on the basis of its strategic benefits for the UK in terms of security, prosperity and influence. The UK has traditionally worked closely with the Commission and led a sizeable pro-enlargement grouping of Member States who have shared its positive approach to enlargement.
- 1.11 Margaret Thatcher, for example, spoke of her broad vision of Europe encompassing central and eastern Europe before the fall of the Berlin Wall:
- 'We must never forget that east of the Iron Curtain, people who once enjoyed a full share of European culture, freedom and identity have been cut off from their roots. We shall always look on Warsaw, Prague and Budapest as great European cities.'<sup>2</sup>
- 1.12 John Major set out the (then) Government's approach in a speech in 1995:
- 'I believe we must spread stability and democracy across a wider Europe. Eastern and central Europe have been the cockpit of war through the centuries. But we now have a historic opportunity: to bind them into a Single Market and the democratic embrace of western Europe. That is why enlargement of the European Union remains a vital objective'.<sup>3</sup>
- 1.13 The Coalition Government reiterated this support for enlargement in the Coalition Agreement of May 2010, which confirmed 'we support the further enlargement of the EU'.<sup>4</sup>
- 1.14 UK support for enlargement has changed in emphasis over time. In the 1990s and 2000s, the UK could be described as having championed enlargement as a key objective of its EU policy. In more recent years, and drawing lessons from enlargements in 2004

<sup>2</sup> Margaret Thatcher, *Speech at the College of Europe, Bruges* (20 September 1988).

<sup>3</sup> John Major, *Speech at the Guildhall, London* (20 November 1995).

<sup>4</sup> HMG, *The Coalition: Our Programme for Government* (2010). Available at: [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/78977/coalition\\_programme\\_for\\_government.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/78977/coalition_programme_for_government.pdf), accessed on 21 November 2014.

and 2007, the UK Government has adopted a tougher, firm-but-fair, conditions-based approach. It has continued its strong support for enlargement but placed increasing emphasis on conditionality. Before accession, aspirant countries must be fully ready and demonstrably meet all the conditions – particularly with regard to the rule of law, and tackling organised crime and corruption.

- 1.15 In October 2014, the Government welcomed the Commission’s most recent Progress Reports on the aspirant countries. They espoused a ‘fundamentals first’ approach and focussed on the issues of public administration reform, economic governance and competitiveness, the rule of law (including tackling organised crime and corruption) and fundamental rights, and good neighbourly relations, overcoming bilateral disputes and improving regional co-operation as key priorities in the enlargement process. It also recognised the need to examine transitional measures and/or a safeguard mechanism on the free movement of workers in the course of accession negotiations on future enlargement.<sup>5</sup>

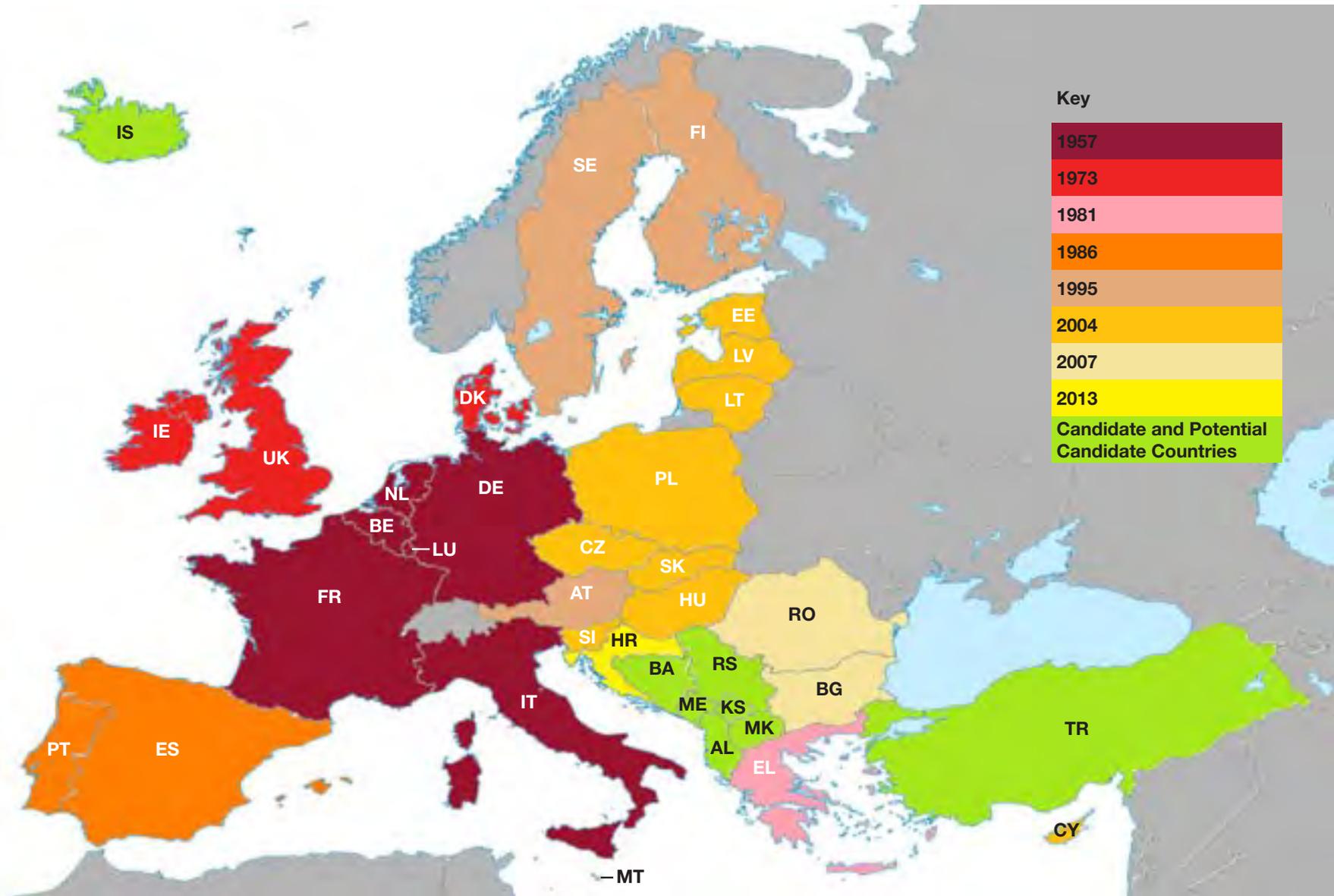
### Impact on UK Interests

- 1.16 EU enlargement has had and will continue to have a major impact on UK interests, both in Europe and globally.
- 1.17 In security terms, the Government believes enlargement has succeeded in helping entrench stability and democracy across Europe. In the western Balkans, EU enlargement is one proven route to finally resolve the enmities that drew UK forces into conflict there in the 1990s. For Turkey, the Government believes that its membership would play a crucial role in further anchoring to Europe a vital ally and NATO member in an unstable, strategically-important region.
- 1.18 In terms of prosperity and economic development, the Government believes that enlargement has brought clear benefits for the UK through the growth of the Single Market, and the increased trade and opportunities for UK business this offers.
- 1.19 The Government also believes that enlargement provides the UK with powerful levers to drive change in aspirant countries. On issues of concern to the UK, such as the rule of law and tackling organised crime, corruption and illegal migration, the enlargement process provides – through conditionality and assistance programmes – effective tools to encourage co-operation and progress.
- 1.20 More broadly, the Government believes that successive enlargements have benefitted UK influence in the EU. The more diverse, more outward-looking, more Anglophone EU of today is a more comfortable environment for the UK than previously. Newer Member States generally share the UK’s pro-Atlanticist/NATO, pro-Single Market, pro-competitiveness agenda. Support for enlargement is also a natural corollary to the Government’s vision of a reformed, twenty-first-century EU that is more competitive, more flexible and more democratically-accountable.
- 1.21 The Government recognises, however, that enlargement can bring disadvantageous impacts in some areas. There is growing cross-party agreement, for example, that public concern on the issue of its impact on migratory flows to the UK should be addressed. The Prime Minister has therefore called for reform of the temporary post-accession controls on free movement before future enlargements take place, in order to ensure continued public confidence in and support for the process.<sup>6</sup>

<sup>5</sup> European Commission, *Enlargement Strategy and Main Challenges 2014-15* (2014), p8.

<sup>6</sup> Prime Minister David Cameron, *Free Movement in Europe Needs To Be Less Free*, Financial Times (26 November 2013).

Figure 3 Member States and Aspirant Countries – Dates of Accession

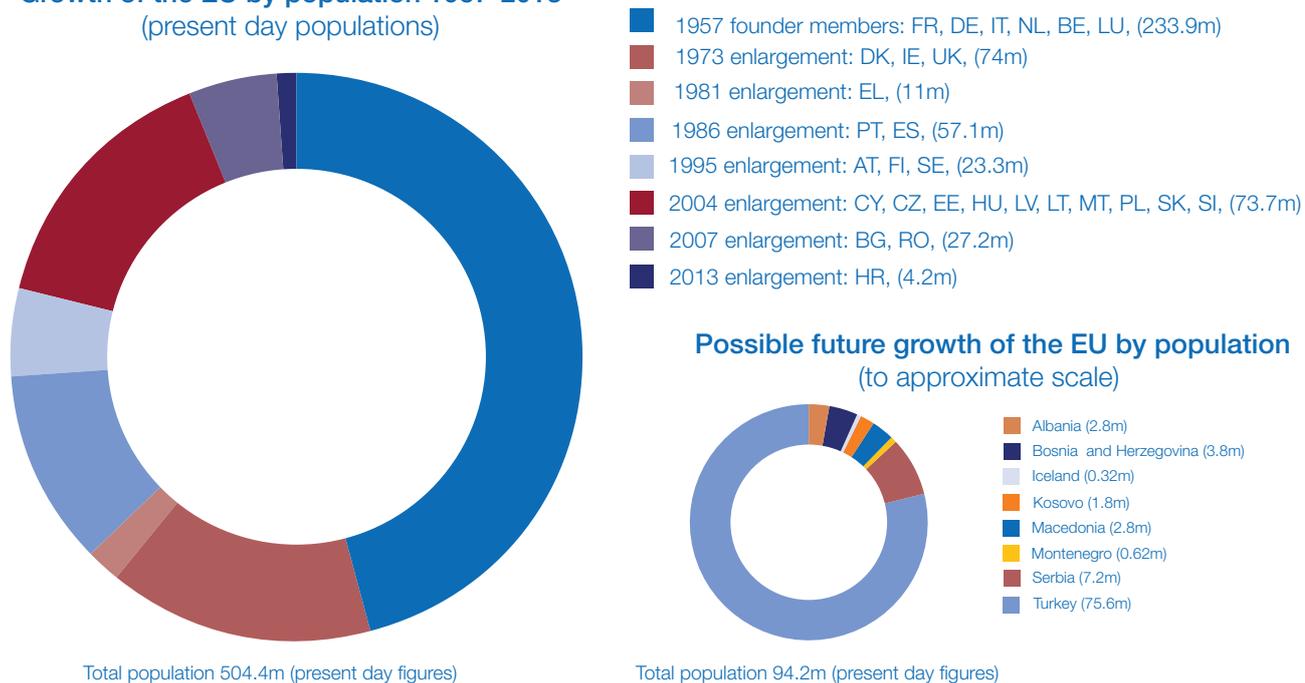


KEY: Albania (AL), Austria (AT), Belgium (BE), Bosnia and Herzegovina (BA), Bulgaria (BG), Croatia (HR), Cyprus (CY), Czech Republic (CZ), Denmark (DK), Estonia (EE), Finland (FI), France (FR), Germany (DE), Greece (EL), Hungary (HU), Iceland (IS), Ireland (IE), Italy (IT), Kosovo (KS), Latvia (LV), Lithuania (LT), Luxembourg (LU), Macedonia (MK), Malta (MT), Montenegro (ME), Netherlands (NL), Poland (PL), Portugal (PT), Romania (RO), Serbia (RS), Slovakia (SK), Slovenia (SI), Spain (ES), Sweden (SE), Turkey (TR).

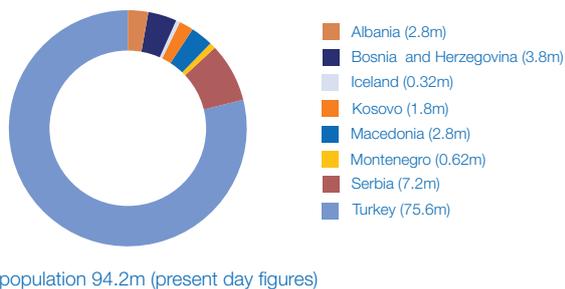
Source: FCO (2014)

**Figure 4: Past and possible future growth of the EU by population**

**Growth of the EU by population 1957-2013**  
(present day populations)

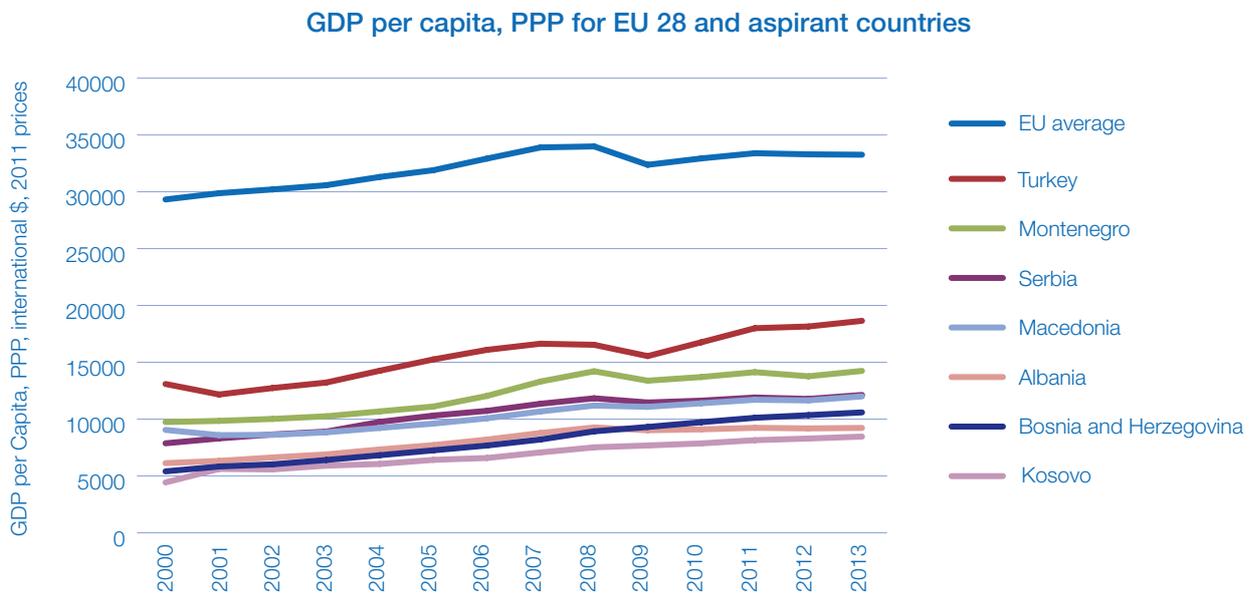
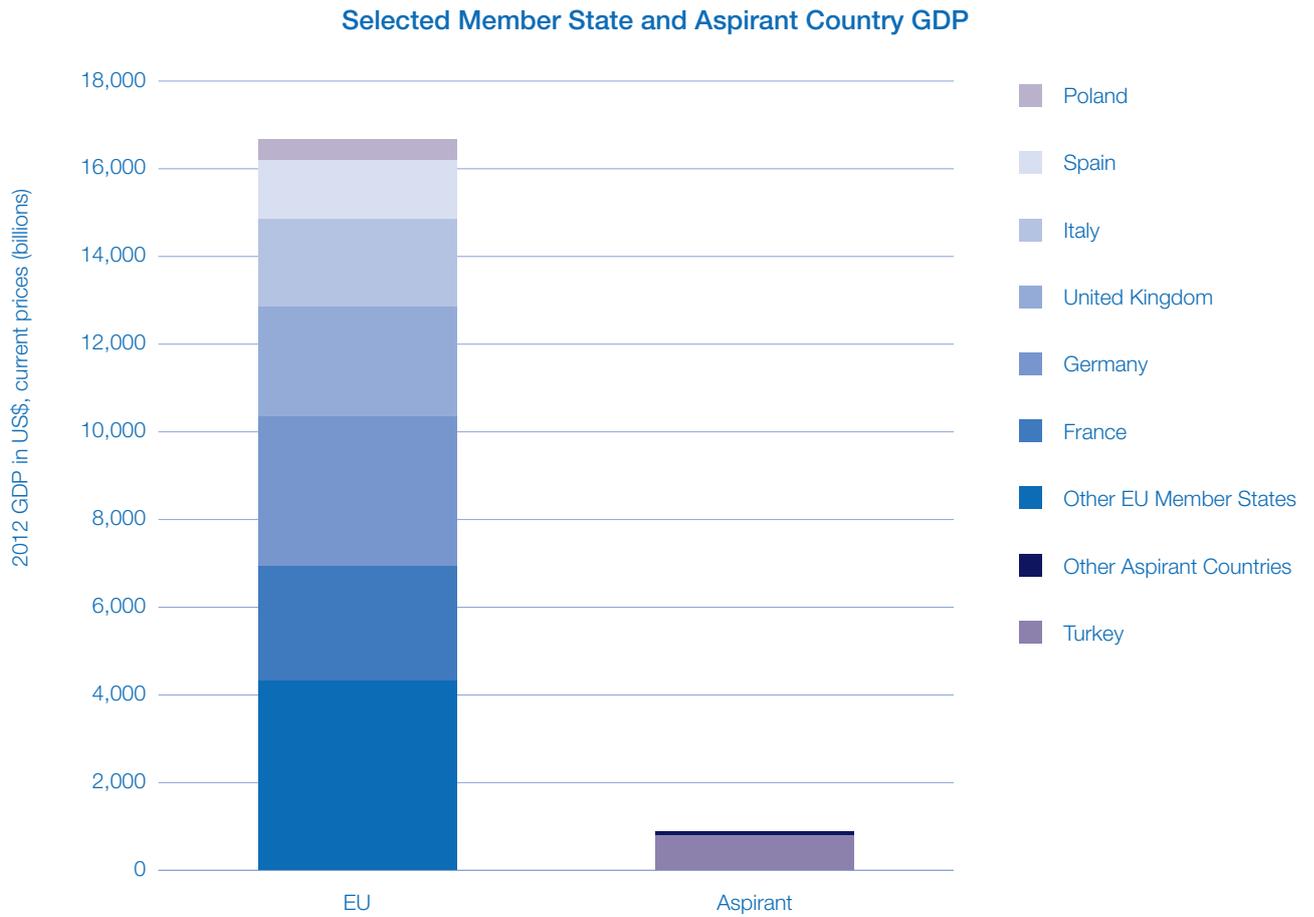


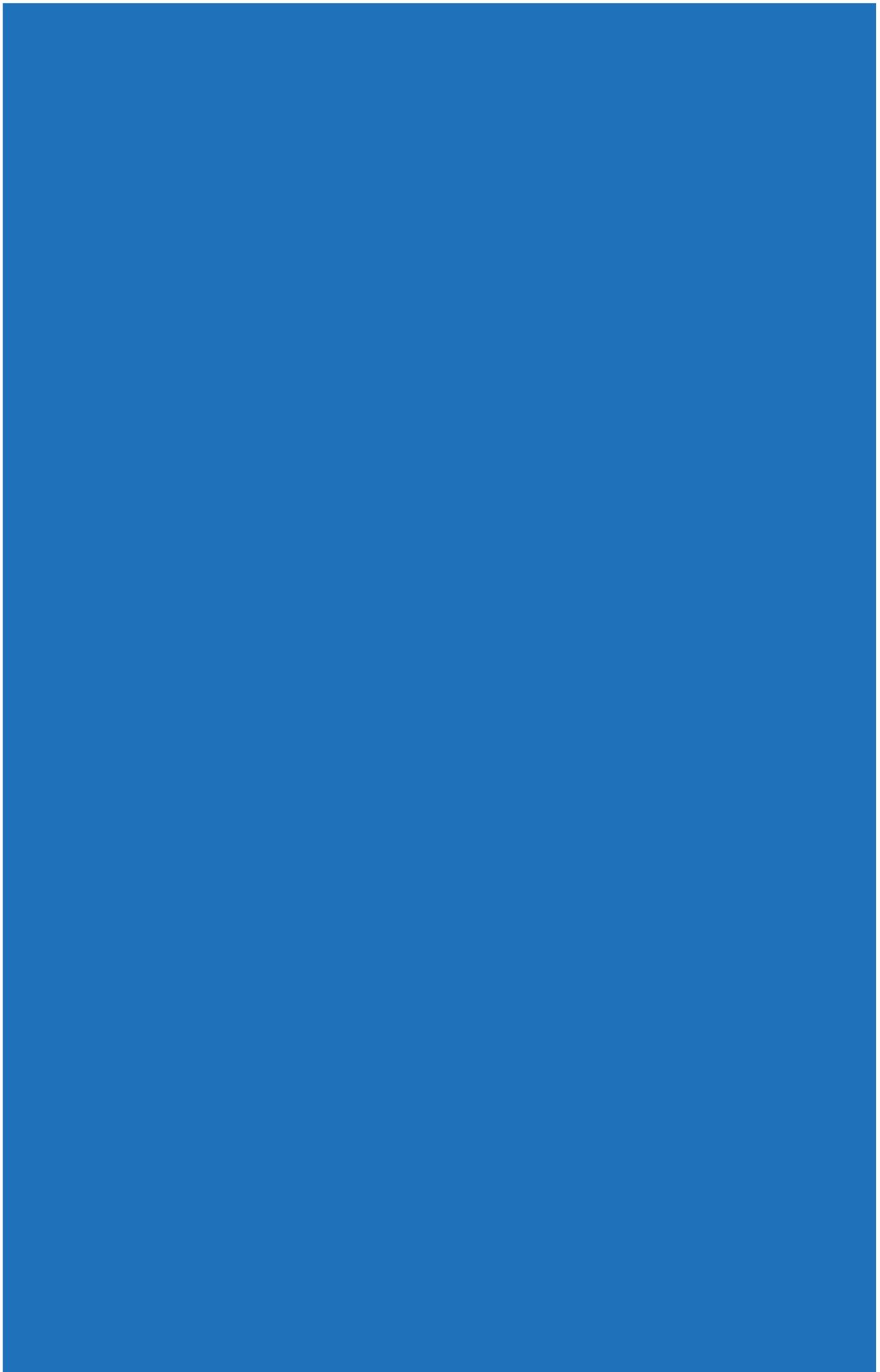
**Possible future growth of the EU by population**  
(to approximate scale)



Source: Produced by FCO using data from Eurostat (2014). Available at: [www.epp.eurostat.ec.europa.eu/tgm/table.do?tab=table&language=en&pcode=tps00001&tableselection=1&footnotes=yes&labelling=labels&plugin=1](http://www.epp.eurostat.ec.europa.eu/tgm/table.do?tab=table&language=en&pcode=tps00001&tableselection=1&footnotes=yes&labelling=labels&plugin=1), accessed on 25 November 2014.

Figure 5: Member State and aspirant countries – GDP data





## Chapter 2: The Enlargement Process

- 2.1 This chapter examines the enlargement process, the Treaty framework and the division of roles and responsibilities between the Member States and the EU institutions. Based upon the evidence received, it also examines the effectiveness of the enlargement process and its impact on UK interests.

### Competence

- 2.2 There are three different types of competence: exclusive, shared or supporting. In the context of enlargement, however, competence cannot be described as it is in other areas of EU action. The EU in itself does not have competence to determine who is to be a member. Equally, individual Member States cannot determine unilaterally who should join the EU. Rather accession is achieved by way of an inter-governmental treaty between all existing Member States and the applicant country after following the process set out in Article 49 of the Treaty on European Union (TEU) – the main Treaty provision dealing with enlargement.
- 2.3 Member States remain clearly in the lead (and are able to exercise a veto) at every stage of this process. The Commission plays a vital supporting role, running the day-to-day accession process on behalf of the Member States. The roles of the European Parliament and of the EEAS are in comparison more limited.

### The Treaty Framework

- 2.4 The legal base for EU enlargement is Article 49 TEU.

#### Article 49 of the Treaty on European Union (TEU)

Any European State which respects the values referred to in Article 2 and is committed to promoting them may apply to become a member of the Union. The European Parliament and national Parliaments shall be notified of this application. The applicant State shall address its application to the Council, which shall act unanimously after consulting the Commission and after receiving the consent of the European Parliament, which shall act by a majority of its component members. The conditions of eligibility agreed upon by the European Council shall be taken into account.

The conditions of admission and the adjustments to the Treaties on which the Union is founded, which such admission entails, shall be the subject of an agreement between the Member States and the applicant State. This agreement shall be submitted for ratification by all the contracting States in accordance with their respective constitutional requirements.

- 2.5 From the beginning of the European Communities, any European state has been able to apply for membership. Each of the three founding Treaties stipulated that a European state seeking membership could submit its application to the Council, which would act unanimously after obtaining the Opinion of either the High Authority (in the case of the ECSC) or the Commission (in the case of the EEC or the European Atomic Energy Community).<sup>1</sup> The terms and conditions of accession would then be negotiated and agreed between the Member States and the applicant country, and ratified by all contracting parties in accordance with their own constitutional rules before the agreement would enter into force.
- 2.6 There have been important changes to the process as new Treaties have been adopted. In 1986, the Single European Act made the assent of the European Parliament by an absolute majority compulsory before new countries accede. In 1992, the Maastricht Treaty consolidated the three separate provisions on accession into a single Article, eliminating the theoretical possibility of joining only one of the European Communities (ECSC, EEC or the European Atomic Energy Community). In 1997, the Amsterdam Treaty introduced the requirement for applicant countries to respect the EU's values as set out in what is now Article 2 TEU as a condition of membership.

### Article 2 of the Treaty on European Union (TEU)

The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.

The conditions of admission and the adjustments to the Treaties on which the Union is founded, which such admission entails, shall be the subject of an agreement between the Member States and the applicant State. This agreement shall be submitted for ratification by all the contracting States in accordance with their respective constitutional requirements.

- 2.7 The most recent legal changes were introduced by the Lisbon Treaty of 2007. It added to Article 2 TEU 'human dignity' and 'equality'. It stipulated that aspirant countries must not only respect these values but also be 'committed to promoting them'. The threshold for the European Parliament's consent fell from an absolute majority to a simple one. Other changes included a requirement to notify both the European Parliament and national parliaments once an application for EU membership is made. It also requires formally that the eligibility criteria for accession (for example the Copenhagen Criteria – see below), agreed by the European Council, must be taken into account.

### Association Agreements and Assistance

- 2.8 Prior to opening accession negotiations, the EU almost invariably enters into an agreement with the aspirant state to help bring the law and practice of the latter closer to that of the EU. This is usually in the form of an Association Agreement, as set out in Article 217 of the Treaty on the Functioning of the European Union (TFEU).<sup>2</sup> It may be entered into by the EU alone or together with its Member States. For the western Balkan countries, the

<sup>1</sup> Article 98 of the Treaty establishing the European Coal and Steel Community, Article 237 of the Treaty establishing the European Economic Community, and Article 205 of the Treaty establishing the European Atomic Energy Community (Euratom).

<sup>2</sup> Treaty on the Functioning of the European Union (TFEU), 1957, Article 217 – hereinafter Article 217.

Stabilisation and Association Process (SAP) was first established in 1999 with the aim of their eventual EU membership. The SAP sets out common political and economic goals, and places particular emphasis on regional cooperation and good neighbourly relations. Each country then negotiates its own Stabilisation and Association Agreement (SAA) with the EU.

- 2.9 The EU may also provide, on the basis of Article 212 TFEU,<sup>3</sup> funding and technical assistance to aspirant countries to help them meet the standards required to become a Member State. The Commission, tasked by Member States, delivered very substantial financial and technical support to aspirant countries through the Programme of Community Aid to the Countries of Central and Eastern Europe (PHARE) and Community Assistance for Reconstruction, Development and Stabilisation (CARDS) programmes between 1989 and 2006, and since 2007 through the Instrument for Pre-Accession (IPA I and II) programmes.<sup>4</sup> The budget was worth €14.65bn between 2000-06, and €11.5bn between 2007-13. IPA II, running between 2014-20, is expected to provide an additional €11.7bn of support to the western Balkan countries and Turkey.<sup>5</sup> The Commission plays an important role in the management and implementation of this financial and technical assistance.
- 2.10 This EU assistance is in addition to substantial pre-accession assistance provided by Member States. The UK, for example, provided pre-accession assistance worth approximately £300m between 1990-2003 through the Know How Fund.<sup>6</sup> Since 2003, between £1.5-£6m per year has been disbursed to EU aspirant countries, focussing on issues of particular interest to the UK such as projects supporting the rule of law and helping tackle organised crime and corruption. UK funding has also been used to leverage greater funding through IPA.<sup>7</sup>

## Conditionality

- 2.11 Enlargement conditionality (that is the standards, processes and criteria required for a new country to join) has evolved very considerably over decades and continues to do so. The nature and challenges of enlargement have changed greatly, for example, between the first enlargement to the established democracies of the UK, Ireland and Denmark in the 1970s and the expected future enlargement to the new states of the western Balkans still emerging from conflict and transition.
- 2.12 Conditionality underwent a major gear shift in the early 1990s when the EU found itself facing the prospect of enlarging to a large number of former Communist Bloc countries in the early stages of a highly-challenging transition. To square the circle, the EU reached agreement in 1993 on the 'Copenhagen Criteria'.

<sup>3</sup> TFEU, Article 212.

<sup>4</sup> European Union, *PHARE Programme (2007)*. Available at: [www.europa.eu/legislation\\_summaries/enlargement/2004\\_and\\_2007\\_enlargement/e50004\\_en.htm](http://www.europa.eu/legislation_summaries/enlargement/2004_and_2007_enlargement/e50004_en.htm), accessed on 25 November 2014; and European Union, *The CARDS Programme (2000 – 2006) (2007)*. Available at: [www.europa.eu/legislation\\_summaries/enlargement/western\\_balkans/r18002\\_en.htm](http://www.europa.eu/legislation_summaries/enlargement/western_balkans/r18002_en.htm), accessed on 25 November 2014.

<sup>5</sup> European Commission, *2013 Annual Report from the European Commission on Financial Assistance for Enlargement (2013)*. Available at: [www.ec.europa.eu/transparency/regdoc/rep/1/2014/EN/1-2014-610-EN-F1-1.Pdf](http://www.ec.europa.eu/transparency/regdoc/rep/1/2014/EN/1-2014-610-EN-F1-1.Pdf), accessed on 25 November 2014.

<sup>6</sup> Department for International Development (DFID) reporting, 2004.

<sup>7</sup> Figures based on FCO analysis of its own reporting, 2003-15.

## The Copenhagen Criteria

### The Copenhagen Criteria

- i. political: stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;
- ii. economic: existence of a functioning market economy and the capacity to cope with competitive pressure and market forces within the Union; and
- iii. acceptance of the Community ‘*acquis*’ (the EU’s accumulated policies and laws).

- 2.13 After the fall of the Berlin Wall, the decision by the former Communist Bloc countries to seek to join the EU caused existing Member States to revisit the question of conditionality. At the Copenhagen European Council in 1993, when Member States made a firm commitment to central and eastern European countries regarding their future EU membership, the Copenhagen Criteria were agreed with strong support from the UK. These have become the bedrock of the conditions necessary for EU membership. They require that all new members adhere to political and economic standards set by the EU, and comply with the accumulated EU *acquis*<sup>8</sup> to date. They also established the principle that the capacity of the EU to absorb new Member States is an important consideration.
- 2.14 The European Council further reinforced the need for compliance with the Copenhagen Criteria in 1997. Around the same time, the principle of ‘own merits’ was established, which stated that each aspirant country should make progress towards to EU accession based on its own efforts and at its own speed.
- 2.15 The Copenhagen Criteria have continued to be developed and innovations have been introduced to facilitate their application, such as the development of benchmarks that aspirant countries must meet in order to progress during negotiations of the 35 ‘Chapters’ of the EU’s *acquis* (see Figure Six).
- 2.16 Closing benchmarks (standards to be reached before Chapters can be provisionally closed) were introduced to strengthen the conditionality applying to Romania and Bulgaria’s accession negotiations. Opening benchmarks (standards to be achieved before Chapters can be provisionally opened) were introduced and first applied to Croatia and Turkey. Interim benchmarks (standards to be met before closing benchmarks are set) have been put in place for negotiations currently being undertaken by Montenegro and Serbia.

### The ‘New Approach’ and ‘Fundamentals First’

- 2.17 Following the 2004 enlargement and approaching the 2007 enlargement, there was a belief that further challenges remained for some new or prospective Member States with regard to the rule of law and action against organised crime and corruption. A ‘Renewed Consensus’ on enlargement was endorsed by the European Council in 2006, including more rigorous conditionality and greater emphasis on the EU’s ‘absorption capacity’ (the EU’s capacity to accept new members) in accession negotiations.

<sup>8</sup> The EU’s accumulated policies and laws, including *inter alia* all EU ‘primary law’ treaties, its secondary legislation; formal positions, declarations and resolutions; its international agreements; European Court of Justice judgements.

- 2.18 A clear conclusion drawn was that the political criteria, such as the rule of law, can take a very long time to achieve, let alone to embed. The EU therefore concluded that aspirant countries' reform efforts in these areas needed to be 'front-loaded' so they start making concrete progress in these areas from a very early stage. A number of Member States, led by the UK, consequently pressed successfully for the adoption of a 'New Approach' to enlargement.
- 2.19 Agreed in 2011, the New Approach stipulates that the rule of law conditionality set out in Chapter 23 (Judiciary and Fundamental Rights) and Chapter 24 (Justice, Freedom and Security) (see box at Figure Six) must be tackled by aspirant countries from the very start of the negotiation process. This aims to embed these reforms by maximising the time aspirant countries have to address them, both through legislation and by demonstrating a strong track record of implementation before negotiations close. Furthermore an 'equilibrium clause' permits progress across all negotiations to be halted if progress in Chapters 23 and 24 falls significantly behind. The New Approach marked a clear demonstration of how instrumental Member States are in shaping the enlargement process and acting on lessons learned from previous enlargements.
- 2.20 The Commission set out a further development of conditionality in its 2013 enlargement strategy. It outlined a 'fundamentals first' approach, which emphasised – as well as the rule of law – the importance of economic governance, democratic institutions, fundamental rights and the resolution of bilateral issues. The new focus on economic governance followed lessons learned from *inter alia* the Euro and global economic crises. The experience of Croatia, which entered the Excessive Deficit Procedure shortly after accession, was particularly important in this regard.
- 2.21 Occasional attempts at post-accession monitoring of compliance with EU conditionality (for example the Cooperation and Verification Mechanism (CVM) for Romania and Bulgaria) have not been judged to be a great success – largely because the leverage of enlargement conditionality is much weaker after accession.

### Figure 6: Chapters of the *Acquis*

- Chapter 1: Free movement of goods
- Chapter 2: Freedom of movement for workers
- Chapter 3: Right of establishment and freedom to provide services
- Chapter 4: Free movement of capital
- Chapter 5: Public procurement
- Chapter 6: Company law
- Chapter 7: Intellectual property law
- Chapter 8: Competition policy
- Chapter 9: Financial services
- Chapter 10: Information society and media
- Chapter 11: Agriculture and rural development
- Chapter 12: Food safety, veterinary and phytosanitary policy
- Chapter 13: Fisheries
- Chapter 14: Transport policy
- Chapter 15: Energy
- Chapter 16: Taxation
- Chapter 17: Economic and monetary policy
- Chapter 18: Statistics
- Chapter 19: Social policy and employment
- Chapter 20: Enterprise and industrial policy
- Chapter 21: Trans-European networks
- Chapter 22: Regional policy and co-ordination of structural instruments
- Chapter 23: Judiciary and fundamental rights
- Chapter 24: Justice, freedom and security
- Chapter 25: Science and research
- Chapter 26: Education and culture
- Chapter 27: Environment
- Chapter 28: Consumer and health protection
- Chapter 29: Customs union
- Chapter 30: External relations
- Chapter 31: Foreign, security and defence policy
- Chapter 32: Financial control
- Chapter 33: Financial and budgetary provisions
- Chapter 34: Institutions
- Chapter 35: Other issues

Source: European Commission, *European Neighbourhood and Enlargement Policy* (2013). Available at: [www.ec.europa.eu/enlargement/policy/conditions-membership/chapters-of-the-acquis/index\\_en.htm](http://www.ec.europa.eu/enlargement/policy/conditions-membership/chapters-of-the-acquis/index_en.htm), accessed on 21 November 2014.

### Figure 7: The Rule of Law Chapters of the *Acquis*

#### Chapter 23 (Judiciary and Fundamental Rights)

EU policies in the area of judiciary and fundamental rights aim to maintain and further develop the Union as an area of freedom, security and justice. The establishment of an independent and efficient judiciary is of paramount importance. Impartiality, integrity and a high standard of adjudication by the courts are essential for safeguarding the rule of law. This requires a firm commitment to eliminating external influences over the judiciary and to devoting adequate financial resources and training. Legal guarantees for fair trial procedures must be in place. Equally, Member States must fight corruption effectively, as it represents a threat to the stability of democratic institutions and the rule of law. A solid legal framework and reliable institutions are required to underpin a coherent policy of prevention and deterrence of corruption. Member States must ensure respect for fundamental rights and EU citizens' rights, as guaranteed by the *acquis* and by the Fundamental Rights Charter.

#### Chapter 24 (Justice, Freedom and Security)

EU policies aim to maintain and further develop the Union as an area of freedom, security and justice. On issues such as border control, visas, external migration, asylum, police cooperation, the fight against organised crime and against terrorism, cooperation in the field of drugs, customs cooperation and judicial cooperation in criminal and civil matters, Member States need to be properly equipped to adequately implement the growing framework of common rules. Above all, this requires a strong and well-integrated administrative capacity within the law enforcement agencies and other relevant bodies, which must attain the necessary standards. A professional, reliable and efficient police organisation is of paramount importance. The most detailed part of the EU's policies on justice, freedom and security is the Schengen *acquis*, which entails the lifting of internal border controls in the EU. However, for the new Member States substantial parts of the Schengen *acquis* are implemented following a separate Council Decision to be taken after accession.

Source: European Commission, *Rule of Law Chapters of the Acquis* (2013). Available at: [www.ec.europa.eu/enlargement/policy/conditions-membership/chapters-of-the-acquis/index\\_en.htm](http://www.ec.europa.eu/enlargement/policy/conditions-membership/chapters-of-the-acquis/index_en.htm), accessed on 21 November 2014.

- 2.22 Conditionality has had its critics. In the past, some have pointed to its mixed record in terms of delivering full compliance and implementation of EU standards, particularly with regard to upholding the rule of law following the 2004 and 2007 enlargements. Others have pointed to the experience of Turkey, Macedonia and BiH in terms of the alleged failure of conditionality and of the 'own merits' principle in overcoming wider political blockages to EU accession. Lessons have subsequently been drawn, notably the importance of reform being fully embedded and implemented in a country before it accedes to the EU (thus negating the need for post-accession monitoring). A further lesson has been the importance of resolving bilateral disputes prior to accession, so they are not imported into the EU.

### Turkey

- 2.23 Conditionality has become a particularly vexed issue with regard to Turkey's EU candidacy. Agreement for Turkey to open accession negotiations in 2005 followed its introduction of far-reaching legislative reforms in order to meet the Copenhagen political criteria. A further condition for opening negotiations was that Turkey had to sign a Protocol to the Ankara Agreement extending the EU/Turkey customs union to the newly-acceded Member States, including Cyprus.

2.24 Although Turkey did sign, it has not opened its ports and airports to Cyprus traffic. As a consequence, many negotiating Chapters are blocked and none may be closed. In areas covered by blocked Chapters, the EU's ability to drive reform through conditionality is limited. Indeed, the rate of EU-related legislative reforms in Turkey has slowed considerably since 2005. After the optimism of the early to mid-2000s, some commentators question whether Turkey can still be said to fulfil the Copenhagen political criteria.

## The Mechanics of Enlargement

### The Enlargement Process

2.25 This section examines the enlargement process, and the precise roles of the Member States and EU institutions, in detail. This is summarised in a timeline of Croatia's accession (see graphic at Figure Eight).

2.26 Enlargement is a long, complex, and highly technical process in which the Commission leads day-to-day implementation but the Member States retain clear overall control. It is largely a political process that is not set out in any binding Treaty provisions. As the Treaty framework has evolved over time, so too has the enlargement process. Any country that wishes to join the EU has to adopt approximately 120,000 pages of EU *acquis*, as well as other conditions set by the EU.

### Membership Application

2.27 An applicant country submits a membership application to the Council. National parliaments and the European Parliament are notified of the application. The Council (often the European Council) then decides whether and, if so, when to ask the Commission to submit an Opinion on the applicant's ability to meet the conditions of membership. The Council may or may not also set eligibility conditions that the applicant country would have to meet. The Commission's Opinion judges each applicant's performance against the Copenhagen Criteria.

### Candidate Status

2.28 If the Commission delivers a positive Opinion and recommendation, and the Council (or European Council) agrees unanimously, the EU formally awards the applicant 'Candidate Status'. The EU may set some 'key priority' conditions for the applicant country to meet before the EU grants it Candidate Status.

### Opening Accession Negotiations

2.29 The (now) candidate country must also meet sufficiently the Copenhagen political criteria before it can open accession negotiations with the EU. Once it has done so, and also complied with any other specific conditions set by the EU for opening negotiations, the Council (or European Council) agrees by unanimity that it will open accession negotiations. Before negotiations begin, the Council also agrees a 'Negotiating Framework' (which establishes the guidelines and principles for accession negotiations) by unanimity.

2.30 Under the direction of the Council, as set out in the Negotiating Framework, the Commission negotiates with the candidate country throughout the long process of opening, agreeing and closing all 35 Chapters of the *acquis* and its broader enlargement conditionality. The Commission reports back to the Member States regularly in Council Working Groups (for example COELA – the enlargement working group). For western Balkans countries, the political and economic criteria are also monitored as part of the Stabilisation and Association Process. Regular discussions on progress take place in so-called Association Councils at Ministerial level.

2.31 A key role of the Commission is the production every autumn of an updated enlargement strategy and annual progress reports on each of the candidate and potential candidate countries – together called the Annual Enlargement Package. These provide the basis for the Council's most important set-piece discussion on enlargement each year at the December General Affairs Council. These reports are highly influential among Member States, aspirant countries and wider interest groups in setting the enlargement policy agenda.

### Structure of Accession Negotiations

2.32 In accession negotiations, the EU acts as one side and the candidate country (led by a Chief Negotiator) on the other.

2.33 Mirroring the Copenhagen Criteria, the accession negotiations can be broadly divided into three categories: (i) political criteria; (ii) economic criteria; (iii) the *acquis*. Compliance with the political and economic criteria is evaluated through the Commission's annual progress report, through Council Working Groups, and in Association Committees and Councils. Much of the day-to-day negotiations focus on the third category – the ability to assume and implement the *acquis*. The candidate is required to adopt the EU *acquis* in full: while temporary transitional periods may be negotiated, permanent derogations are very rare.

### Opening Chapter Negotiations

2.34 The negotiations are divided into the 35 Chapters. Each Chapter is handled and negotiated individually on its own merits – they do not all open and close at the same time. Over the course of the negotiations, the candidate country must demonstrate that it can translate each Chapter into its national law, policy and practices.

2.35 In line with the New Approach, Chapters 23 and 24 on rule of law issues are opened early in negotiations and will only be closed at the end of the process. This front-loading of the rule of law is designed to allow candidate countries maximum time to establish the necessary legislation, institutions and solid track records of implementation, and to ensure that reforms are sustainable and irreversible.

### Screening and Benchmarks

2.36 Each Chapter must be 'screened' before it can be opened. This is a two-phase process. First, the Commission provides a detailed explanation to the candidate of EU legislation, the *acquis* and other requirements so the candidate fully understands what is needed. Second, the candidate outlines to the Commission its current level of compliance and its position on the Chapter. This enables the EU to judge how far the candidate already meets the criteria and what remains to be done. Once completed, the Commission presents a 'screening report' on the Chapter to Member States in the Council Working Group. This report evaluates the Candidate's alignment with the *acquis* and wider conditionality, identifies where further progress is required, and recommends whether to open the Chapter.

2.37 The report can propose, if necessary, the setting of opening benchmarks that must be met before negotiations on a Chapter can be opened (for example, implementing an action plan in a particular area of concern).

## Negotiating Positions

- 2.38 Once the candidate has met the opening benchmarks (or if no benchmarks were set in the first place), the candidate and the Commission draft negotiating positions. The candidate's negotiating position outlines the preparations they have made, their plans to remedy any deficiencies, and how it plans to adopt, implement and enforce EU law or other obligations. The EU can request further information.
- 2.39 The EU's negotiating position (its 'Common Position') is drafted by the Commission and must be agreed unanimously by Member States. It responds to the candidate's negotiating position, including an assessment of the candidate's preparations, and also sets closing benchmarks. These closing benchmarks specify the conditions that the candidate must meet before the Chapter can be provisionally closed.
- 2.40 Once the EU and the candidate have finalised their negotiating positions, the Chapter can be formally opened. This takes place at an Accession Conference, which normally takes place in the margins of a Council meeting.

## Closing Chapter Negotiations

- 2.41 Once the candidate has met the Chapter requirements, the Commission produces a report. If all Member States agree that the closing benchmarks have been met, then the Chapter is provisionally closed. However nothing is finally agreed until everything is agreed. No Chapter is definitively closed until the end of the negotiations. All Chapters can be reopened.
- 2.42 At this stage, any transitional periods that will apply to the candidate after accession must be considered and agreed. Transitional periods are specified periods (usually between two and seven years) during which a new Member State does not have to meet the *acquis* in full in a particular area, or not all areas of the *acquis* apply to a new Member State either to allow the acceding country a period of time to adjust or conversely to allow the existing Member States time to adjust to an enlarged EU (for example on free movement of workers).
- 2.43 The accession negotiations are closed once all 35 Chapters have been closed. The Commission recommends the closure of accession negotiations, the European Parliament must grant its consent, and the Member States in the Council (often the European Council) must agree unanimously to the closure of negotiations.

## Accession Treaty and Ratification

- 2.44 At the end of the negotiations, the global agreement is incorporated into a draft Accession Treaty and Act, to be agreed unanimously by the Member States and the candidate country. This Treaty and Act include the necessary adjustments to the existing Treaties to take account of the enlargement (for example, representational adjustments to accommodate the new Member State in the EU institutions).
- 2.45 Once the Treaty has been signed by all parties, all Member States and the candidate must ratify the Accession Treaty before it can enter into force.
- 2.46 In terms of UK ratification, under provisions laid down in the European Union Act 2011, an Accession Treaty must be approved and incorporated into domestic law through an Act of Parliament. The European Union (Croatian Accession and Irish Protocol) Act 2013 is a recent example.

2.47 All countries must comply with their own constitutional requirements. Candidates often (but not always) hold a referendum as part of the ratification process. Very rarely, existing Member States hold a referendum on an Accession Treaty (as did France in 1973 on the prospect of the first enlargement).

### Accession

2.48 Once the ratification process is concluded and the Treaty takes effect, the candidate becomes a Member State on the agreed date set out in the Treaty – subject to the necessary completion of all national ratification procedures.

2.49 Post-accession, while all new Member States are required to join the Euro, they do so only when they meet the necessary criteria – which can be many years later. The same applies to participation in the Schengen free-movement area.

### The Roles of the Member States and the EU Institutions

2.50 Article 49 TEU delineates the balance of competences between the Member States and the EU institutions in the enlargement process. However, while the leading role of Member States in the process is clear, the EU's detailed enlargement processes and procedures remain uncodified in EU law. For example, while Article 49 TEU requires eligibility conditions for aspirant countries to be taken into account, when or how they are agreed and what they should contain is not regulated by the Treaties. As a result, much in the way of policy and handling that flows from Article 49 TEU has developed along the way.

### The Commission

2.51 While the Member States are firmly in the lead, the Commission plays a vital and influential role in the enlargement process by virtue of its monitoring, evidence-collation, assessments, reporting and drafting. It effectively runs the day-to-day accession process on Member States' behalf. That said, many Member States (including the UK) continue to monitor developments closely and provide substantial information and analysis to the Commission through contacts in Brussels and in aspirant countries, including through the sharing of reporting from their own Embassies.

2.52 Before negotiations with aspirant countries begin, the Commission draws up the Negotiating Framework between Member States and the candidate country. A convention has emerged whereby the Commission leads on technical issues including the preparation of annual progress reports and impact assessments. It regularly produces recommendations, notably on how conditionality should evolve and on key decision points. Many Member States rely heavily on the Commission's analysis and recommendations, and often accept their recommendations in whole or in part. The Commission also plays an important role in running the administration of IPA programmes.

2.53 Overall, the scale of day-to-day engagement between the Commission and aspirant countries is very significant. To deliver Member State objectives, an effective and successful enlargement process therefore requires an active and capable Commission.

### Member States, the Council and European Council

2.54 Above all, it is the Member States – in Council Working Groups, the Council and the European Council – that have final control over the very many decisions required throughout the enlargement process, almost exclusively by unanimity. It is the conclusions of the General Affairs Council (and sometimes the European Council) each December that ultimately set the direction of enlargement strategy and policy each year.

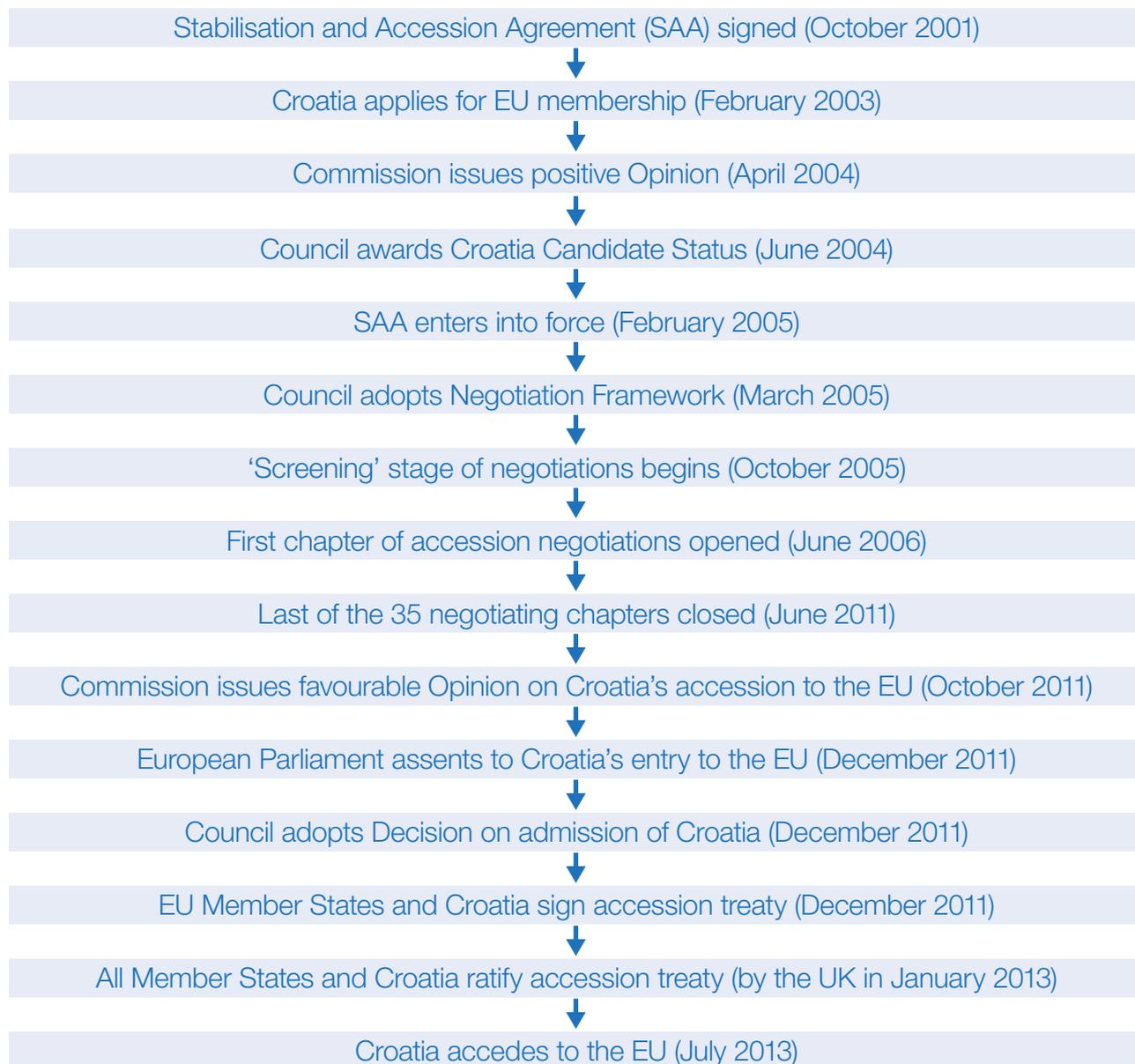
- 2.55 Taking into account decisions *inter alia* on what eligibility conditions to set, and whether to accept a membership application, to agree Candidate Status, to open accession negotiations, to open each negotiation Chapter, to agree screening reports, to set opening/interim/closing benchmarks, to agree Common Positions, and to close and ratify the final deal, individual Member States enjoy a very large number of decision points throughout the enlargement process at which they may exercise a veto over the accession of an aspirant country.
- 2.56 Furthermore, flexibility in the system enables Member States in the Council (or European Council) to add or adjust conditionality and set priorities for each aspirant country as needs arise. This further increases Member States' influence in the process.
- 2.57 The prevalence of unanimity throughout the process also means that any Member State can block enlargement at any number of points within it. Moreover, through their national ratification procedures for Accession Treaties, national parliaments also have an ultimate veto on new EU members. No candidate country can join the EU until every Member State (and the candidate) has completed its ratification procedures and deposited its instrument of ratification.

### **The European Parliament**

- 2.58 The role of the European Parliament in the enlargement process is relatively limited. It also follows the process closely, and produces regular assessments and recommendations. Crucially, it must also grant its final consent to accession.

### **The European External Action Service**

- 2.59 The EEAS plays a complementary role in supporting conditionality, especially in the areas of regional cooperation, good neighbourly relations and the resolution of bilateral issues.

**Figure 8: Case Study – Timeline of Croatia's EU accession**

Source: FCO, 2014

## Evidence on the enlargement process

- 2.60 This section will consider evidence received on how effectively the Member States and EU institutions have managed the enlargement process, and how lessons learned have been applied. It also sets out the Government's approach in key areas.
- 2.61 There was general consensus among contributors that the enlargement process has been well-managed historically and that lessons had been learned successfully over decades of experience – but with important caveats.
- 2.62 The London School of Economics (LSE) concluded that ‘in general, the EU institutions and Member States have run the process fairly effectively’.<sup>9</sup> Julie Smith agreed that ‘technically the enlargement process has been run well, and the lessons of previous enlargements have been learned’.<sup>10</sup>
- 2.63 Some noted the importance of the EU's experience of enlargement over the past decade in driving reform. Andrew Duff argued that ‘the EU has sought to learn lessons from previous enlargements – especially from 2007’.<sup>11</sup> David Phinnemore highlighted how ‘the experiences gained from the 2004 enlargement and especially the enlargement of 2007 revealed the mechanisms in place to promote reforms in candidate and potential candidate countries required refinement if not reform’.<sup>12</sup>
- 2.64 Andrew Glencross emphasised the influential role the UK had played in directing reforms of the enlargement process, noting how ‘since the end of the Cold War, the UK has played a decisive role in determining the scope and nature of EU enlargement’.<sup>13</sup>

### The Development of Conditionality

- 2.65 The evidence highlighted the increasing emphasis that has been placed on conditionality in the enlargement process, in particular since the early 1990s.

### Balance between Conditionality and Wider Factors

- 2.66 Following the 2004 and 2007 enlargements, contributors noted that there had been a shift in enlargement policy to focus increasingly tightly on individual-country conditionality rather than wider political factors. Illustrating this, several highlighted the shift from a ‘big bang’ approach to enlargement (multiple countries linked and accede together) pursued in 2004 and 2007 to one based solely on the principle of ‘own merits’ (countries join individually, based solely on their own preparedness) today. Others questioned, however, whether in future the EU should revert to a more political approach to the process.

<sup>9</sup> European Foreign Policy Unit; LSE, *submission of evidence*.

<sup>10</sup> Dr Julie Smith, *record of interview*, 2014.

<sup>11</sup> Andrew Duff, former MEP, *record of interview*, 2014.

<sup>12</sup> Prof David Phinnemore, *submission of evidence*.

<sup>13</sup> Dr Andrew Glencross, *submission of evidence*.

- 2.67 Referring to the ‘big bang’ approach, Sussex University believed the EU’s ‘political desire to enlarge to all of the new democracies of central and eastern Europe’ overcame objective decision-making country-by-country.<sup>14</sup> Since then, however, Andrew Taylor cited ‘no more “big bang” enlargements” as a key lesson of 2004 and 2007: ‘states would join the EU when the EU were convinced that they were ready to undertake the duties and obligations of membership’.<sup>15</sup> Thus ‘accession has become a more technically-refined and less politically-driven process, and consequently more demanding’.<sup>16</sup>
- 2.68 Tim Haughton argued that ‘one of the main mistakes associated with Bulgarian and Romanian accession was the decision to set a date for accession’. ‘Setting dates tends to diminish the power of conditionality’ and ‘any decision (or even attempt) then to put back the accession date becomes politically charged’.<sup>17</sup> The Senior European Experts Group agreed that ‘the linking together of applicants, or the announcement in advance of a date of accession, can greatly reduce the leverage’.<sup>18</sup>
- 2.69 The House of Lords ‘strongly supported enlargement being conducted under the ‘own merits’ principles as ‘the only way to conduct the process fairly and to avoid the risk of countries acceding before they are fully ready to take up the obligations of membership’.<sup>19</sup>
- 2.70 Nonetheless, looking to the future, several contributors asked whether the EU should revert to a more differentiated approach to individual aspirant countries, and place greater focus on wider political issues rather than a sole focus on ‘own merits’ and conditionality.
- 2.71 French academics called for the enlargement process ‘to be tailored with regards to a country’s individual circumstances – a one-size-fits-all process is not the most effective’. They believed that ‘conditionality could vary depending on the candidate country’.<sup>20</sup>
- 2.72 Alyson Bailes also urged consideration of ‘whether the Member States in the Council could introduce a stronger strategic element in their own thinking on enlargement to balance the Commission’s perhaps strategy-blind approach’. A more honest dialogue would allow Member States ‘to confront each others’ rationales openly’, help avoid future disagreements like Turkey and Macedonia and agree ‘a clear strategic narrative’ for future enlargements.<sup>21</sup>
- 2.73 The UK Government continues to support firmly the ‘own merits’ approach, with aspirant countries proceeding at their own pace and judged by their own progress. It believes set timetables should be avoided, and that consideration of wider issues would weaken conditionality and create an uneven playing field for aspirant countries.

### The Effectiveness of Conditionality

- 2.74 Many contributors considered the effectiveness of conditionality as a tool to drive reforms in aspirant countries. Most believed it had generally been highly effective. Others, however – citing the examples of BiH, Macedonia and Turkey – argued that conditionality cannot overcome wider political obstacles that lie outside the accession process. For conditionality to be effective, contributors argued that the EU needed to demonstrate

<sup>14</sup> Sussex European Institute, University of Sussex, *submission of evidence*.

<sup>15</sup> Prof Andrew Taylor, *submission of evidence*.

<sup>16</sup> Prof David Phinnemore, *submission of evidence*.

<sup>17</sup> Dr Tim Haughton, *submission of evidence*.

<sup>18</sup> Senior European Experts Group, *submission of evidence*.

<sup>19</sup> House of Lords European Union Committee, *The Future of EU Enlargement*.

<sup>20</sup> *Record of Paris Roundtable event, 2014*.

<sup>21</sup> Prof Alyson Bailes, *submission of evidence*.

consistency, clarity and credibility, while aspirant countries needed to demonstrate the necessary political will.

- 2.75 David Phinnemore recalled the UK's role in driving conditionality. 'Since the eastern enlargement in 2004 and, especially, 2007, the UK has been one of the Member States championing the development of more robust and effective conditionality and the most insistent in criteria being fully and demonstrably met'.<sup>22</sup>
- 2.76 The LSE maintained that enlargement's status 'as the EU's most successful foreign policy or foreign policy tool' can 'to a large extent [...] be attributed to the EU's use of conditionality'. 'Generally, conditionality has been successful bringing about domestic changes in the candidate countries'.<sup>23</sup>
- 2.77 The Senior European Experts Group also agreed that 'the EU has used [conditionality] as a lever in the enlargement process with a considerable degree of success'. It quoted a former Romanian Justice Minister, who said the accession process allows aspirant countries 'to carry out in 10 to 20 years transformations that would otherwise take a hundred years [...] there is permanent pressure, which is crucial. Without pressure from Brussels, you can't do difficult things like judicial reform'.<sup>24</sup>
- 2.78 Several contributors pointed to the examples of BiH and Macedonia as countries where, they argued, conditionality has failed.
- 2.79 The German Council on Foreign Relations warned that conditionality has created two tiers of EU applicants in the western Balkans. 'While conditionality can generally be judged effective in those countries that are moving towards EU accession (Montenegro, Serbia, to a certain extent Albania), this is less the case in countries that are still far away from membership (BiH and Kosovo, but also Macedonia that is stalled due to the name dispute)'. The latter group were 'so overwhelmed by the detailed conditionality and implementation requirement imposed upon them that reforms are stagnating in view of their high political costs and the rather distant incentive of membership'.<sup>25</sup> French academics agreed that BiH was 'a clear example of why the EU needs to rethink its enlargement conditions'.<sup>26</sup>
- 2.80 Heather Grabbe highlighted the importance of consistency. She believed that 'one of the key lessons of the past ten years is that EU conditionality works effectively when it is consistent and credible. When the EU has blown hot and cold about either the final goal of accession negotiations (as in the case of Turkey) or the conditions that need to be met, the motivation of the enlargement countries to undertake serious reforms weakens and the transformative effect of the accession process has been lost. For this reason, it is vital that the UK government maintains a consistent position on enlargement'.<sup>27</sup> Carnegie Europe added that 'conditionality is only fully effective when there is political will on the behalf of the candidate country to reform itself'.<sup>28</sup>
- 2.81 From the viewpoint of an aspirant country, Serbian contributors believed that 'in Serbia's case, tough conditionality worked'. 'The EU served as a catalyst for change and the enlargement process was of immense importance for reform'. Conditionality 'was most

<sup>22</sup> Prof David Phinnemore, *submission of evidence*.

<sup>23</sup> European Foreign Policy Unit, LSE, *submission of evidence*.

<sup>24</sup> Senior European Experts Group, *submission of evidence*.

<sup>25</sup> Natasha Wunsch, *submission of evidence*.

<sup>26</sup> *Record of Paris Roundtable event, 2014*.

<sup>27</sup> Dr Heather Grabbe, *submission of evidence*.

<sup>28</sup> Jan Techau, *record of interview, 2014*.

effective when linked to the *acquis* and to areas of sole EU competence' and when there were 'clear and measurable conditions'.<sup>29</sup> The European Movement in Serbia agreed that the 'conditionality approach [...] had been conducive for the advancement of many reforms in Serbia [...] and provided considerable incentive in defining basic democratic principles and advancing the rule of law'. 'Many now commonly accepted standards are introduced thanks to EU accession'. In particular it cited 'access to information of public importance, the institution of the ombudsman, [stronger] mandates to individual MPs not political parties [...] an anti-corruption agency, and the work of the state audit'.<sup>30</sup>

- 2.82 From the Turkish experience, Firat Cengiz agreed that 'conditionality is a powerful tool that provides legitimacy to political reforms that are considered contentious [...] such as improving minority rights, gender equality and human rights protection in general'. In Turkey, it had led to 'the abolition of the death penalty', greater rights for 'Kurdish and other minority languages' and 'reform of the criminal justice system'.<sup>31</sup>
- 2.83 The UK Government believes that conditionality has generally proved successful and continues to support firm-but-fair conditionality in the enlargement process. Countries should only accede once they have met in full all the conditions of membership. It believes that relative lack of progress by BiH, Macedonia and Turkey has wider political causes which a loosening of conditionality would not address.

### The Toughening of Conditionality

- 2.84 There was some debate among contributors about how far conditionality had been toughened. Most believed the EU had raised the bar but some argued the benchmarks were unchanged – the EU was just being more robust in ensuring they were met.
- 2.85 Many contributors pointed to a significant toughening of conditionality in recent years, especially – in the view of the Senior European Experts Group – following 'the accession of Bulgaria and Romania [...] with inadequate preparation'.<sup>32</sup> Allan Tatham believed 'the EU's hard-line conditionality regime is probably the most stringent and extensive of any international organisation'.<sup>33</sup> The House of Lords concluded that 'many of the aspirant countries have further to go in order to meet the Copenhagen Criteria than during previous enlargement rounds, and on a technical level more is being asked of them than any former enlargement country'.<sup>34</sup>
- 2.86 From an aspirant country viewpoint, the European Movement in Serbia did not believe the conditionality bar had risen: 'the standards set did not alter in essence', rather 'the technicality and complexity of the process have evolved'.<sup>35</sup> Other Serbian contributors however did feel that 'Serbia was being asked to comply with 'Copenhagen+++ criteria' and that 'new conditions seemed to be added every day' which 'damaged the predictability of the process'.<sup>36</sup>
- 2.87 Looking to the future, several contributors questioned whether the current enlargement process, which they argued was largely designed for the countries of central and eastern Europe in the 1990s, was still fit for purpose for the countries of the western Balkans and

<sup>29</sup> *Record of Belgrade Roundtable event*, 2014.

<sup>30</sup> European Movement in Serbia, *submission of evidence*.

<sup>31</sup> Dr Firat Cengiz, *submission of evidence*.

<sup>32</sup> Senior European Experts Group, *submission of evidence*.

<sup>33</sup> Dr Allan Tatham, *submission of evidence*.

<sup>34</sup> House of Lords European Union Committee, *The Future of EU Enlargement*.

<sup>35</sup> European Movement in Serbia, *submission of evidence*.

<sup>36</sup> *Record of Belgrade Roundtable event*, 2014.

Turkey in the 2010s. Many warned of ‘accession fatigue’ among aspirant countries, which they believed was caused by a long accession process over multiple electoral cycles with few tangible rewards along the way. Some proposed reforms to encourage more consistent messaging to aspirants and a more predictable roadmap to accession.

- 2.88 Among aspirant countries, experts attending a roundtable in Brussels agreed that the risk is growing that ‘enlargement slows down so much that conditionality has no function’. ‘It was designed for countries to become members after one or two electoral cycles at most. Once it goes beyond that timeframe, it loses the ability to influence things on the ground as the public loses interest’. ‘Fresh thinking’ and ‘a more visible approach’ were needed for aspirant countries and their publics, including ‘interim milestones that are attractive and desirable’.<sup>37</sup> Attendees at an academics seminar also lamented ‘the absence (beyond a small number related to the relaxation of visa control and trade barriers) of significant interim milestones that capture the public’s imagination’.<sup>38</sup>
- 2.89 The LSE called for ‘consistency in the treatment of candidate countries’, arguing that the Council and the Commission are often guilty of giving ‘mixed signals’ to aspirant countries. ‘Closer co-ordination in formal “messages” sent by the Council and the Commission to candidates’ could ‘lead to clearer and more realistic and realisable goals for both sides’.<sup>39</sup>
- 2.90 James Ker-Lindsay also called for better co-ordination between the Commission and the Member States and believed there was ‘room for Britain [and other Member States] to play a more active part in the process’. In the context of the Commission’s annual progress reports on the aspirant countries, he proposed ‘a new mechanism [...] at the drafting stage that would give Member States a better opportunity to question the Commission on its preliminary conclusions’ and give ‘the Member States a greater chance to shape the reports’.<sup>40</sup> Experts attending a Security and Stability Roundtable agreed that ‘one of the weaknesses in the system is an absence of pre-report input’ to the Commission and that ‘a more balanced and accurate assessment from Member States’ would be beneficial.<sup>41</sup>
- 2.91 Experts attending a Roundtable in Brussels thought there was a lack of clarity in communicating to aspirant countries exactly what the EU expected of them. Citing rule of law conditionality, they contended that ‘it is difficult to define what a sufficient degree of rule of law is. A quantifiable determination of progress on Chapters 23 and 24 is needed’.<sup>42</sup>
- 2.92 The Government of Macedonia agreed that ‘what we need from our European partners is a clearer horizon on enlargement’.<sup>43</sup> In a similar vein, Serbian contributors called for ‘a conditionality road map’ that set out more clearly what was required of candidate countries.<sup>44</sup>
- 2.93 The European Stability Initiative suggested what it assessed to be an entirely new, more objective, more consistent, more transparent approach to the enlargement process and conditionality. It put forward proposals for a new system that would ‘convince very different audiences at the same time: sceptical EU Member States and their publics, worried about the strictness of the process; and leaders and publics in accession countries who

<sup>37</sup> *Record of Brussels Roundtable event, 2014.*

<sup>38</sup> *Record of Birmingham University Roundtable event, 2014.*

<sup>39</sup> European Foreign Policy Unit, LSE, *submission of evidence.*

<sup>40</sup> James Ker-Lindsay, *submission of evidence.*

<sup>41</sup> *Record of Security and Stability Roundtable event, FCO London, 2014.*

<sup>42</sup> *Record of Brussels Roundtable event, 2014.*

<sup>43</sup> Government of Macedonia, *submission of evidence.*

<sup>44</sup> *Record of Belgrade Roundtable event, 2014.*

believe that the whole accession process has become arbitrary and unfair'. Inspired by the success of the Organisation for Economic Cooperation and Development's PISA reports comparing education internationally, it proposed: 'We could have precise roadmaps on every policy area where the EU has common rules, laws and standards, similar to the visa liberalisation roadmaps [used for the Schengen area]. We could give the same roadmaps to every country, whether it is a candidate or not, whether the Chapter is "open" or not. We could assess them all in the same way, every year, and thus turn reform into a credible regional race [...] The Commission would publish the results every year, in every policy field, in its annual progress reports'.<sup>45</sup>

### Focus on Implementation of Reforms

- 2.94 Substantial evidence was received on the importance of ensuring the implementation of accession-related reforms on the ground. Many contributors pointed to weaknesses in implementation that became apparent following previous enlargements. In response, the EU had beefed-up the process *inter alia* through stricter benchmarking and requiring evidence of track records of implementation.
- 2.95 Andrew Taylor highlighted implementation as one of the key lessons from the 2004 and 2007 enlargements, emphasising 'the difference between compliance (the degree to which states are able to transpose EU requirements) and implementation (the extent to which these requirements are put into operation [...])'. To date, 'many would argue the greatest gains have been in compliance rather than implementation'.<sup>46</sup> Allan Tatham also detected that 'in the 1990s-2000s, there emerged a growing and disconcerting gap between word and deed among candidates'.<sup>47</sup>
- 2.96 The Senior European Experts Group highlighted the danger of 'Potemkin' reforms<sup>48</sup> and of 'the reforms necessary for accession being simulated'.<sup>49</sup> Harking back to the 2007 enlargement, Joanna Hanson believed 'there is still a belief in some western Balkan states that Romanian and Bulgarian membership means they will also get away with issues related to rule-of-law'.<sup>50</sup> Sussex University agreed, also citing the example of Bulgaria and Romania. 'The enlargement process for Bulgaria and Romania did little for their effective fight against corruption, and these countries still face very serious corruption-related problems'.<sup>51</sup>
- 2.97 Other contributors, however, did see recent progress in terms of tightening up on implementation. Tim Haughton detected 'evidence that the desire to see delivery is now much stronger among the Council and in the Commission Regular Reports [...] While enlargement used to be based on a credit card, it is now based on cash'.<sup>52</sup> Adam Lazowski pointed to the recent Council decision in June 2014 to grant EU Candidate Status to Albania as evidence of strict implementation conditionality being applied. 'Albania [...] has been subject to tight scrutiny, benchmarking and conditionality [...] [candidate] status was granted only when the authorities in Tirana implemented several reforms and adopted a roadmap for the implementation of five priorities listed by the

<sup>45</sup> European Stability Initiative, *Vladimir and Estragon in Skopje* (2014).

<sup>46</sup> Prof Andrew Taylor, *submission of evidence*.

<sup>47</sup> Dr Allan Tatham, *submission of evidence*.

<sup>48</sup> An allusion to fake settlements, designed solely to impress, allegedly built in 18th Century Russia.

<sup>49</sup> Senior European Experts Group, *submission of evidence*.

<sup>50</sup> Dr Joanna Hanson, *submission of evidence*.

<sup>51</sup> Sussex European Institute, University of Sussex, *submission of evidence*.

<sup>52</sup> Dr Tim Haughton, *submission of evidence*.

European Commission'.<sup>53</sup> David Phinnemore highlighted how nowadays the 'emphasis is on establishing satisfactory track records on implementation and enforcement before a negotiating chapter can be closed'.<sup>54</sup>

- 2.98 Looking to the future, many contributors believed more needed to be done to ensure actual implementation and enforcement of reforms by aspirant countries. Some believed longer-term cultural change was needed, beyond the *acquis*. However others warned against raising conditionality so high as to be insurmountable.
- 2.99 Carnegie Europe argued that 'adoption of the *acquis* is not sufficient to Europeanise a country. Problems in aspirant countries often stem from social, political and generational issues'.<sup>55</sup> Derrick Wyatt agreed and proposed that that, rather than a narrow focus on the *acquis*, 'it is entirely feasible to investigate and report on the actual state of governance, political and business culture [...] and a high level of convergence should be required'.<sup>56</sup>
- 2.100 However the LSE warned against raising conditionality too high, arguing that the success of conditionality depended 'on specific conditions that are only partially under the EU's control. Most importantly, target governments must not consider the costs of compliance with the EU's demands as prohibitively high'.<sup>57</sup> The House of Lords agreed that 'the EU must ensure that only strictly necessary criteria are imposed upon candidate countries and that the criteria are applied fairly across the board'. 'The EU must ensure this does not place an insurmountable burden of work upon candidate countries'.<sup>58</sup>
- 2.101 Some contributors put forward ideas to strengthen implementation and enforcement. George Christou called for 'smarter conditionality', including for example 'longer (and more differentiated) safeguard clauses – pre- and post-accession – [that] would also help to cultivate a more effective application of conditionality'.<sup>59</sup> Allan Tatham saw scope for extending safeguard clauses and suggested 'the timescale for the use of such measures in the post-accession period could also be radically extended'.<sup>60</sup>
- 2.102 In terms of tackling corruption, Valentina Kostadinova believed the EU had 'insufficiently-used mechanisms to apply pressure' and recalled how 'soon after accession, some of the funding for programmes in Bulgaria were suspended because of Bulgaria's problems with corruption [...] The Bulgarian public was quite supportive of this EU move'.<sup>61</sup> Tim Haughton proposed 'a stronger role for the Commission (or Council) in naming, shaming and punishing [...] politicians, officials and institutions in those states found to have engaged in corrupt activities'.<sup>62</sup>
- 2.103 The UK Government continues to support the Commission's increasing focus on implementation as a key lesson learned from previous enlargements. Aspirant countries must demonstrate a strong track record of implementation of reforms before progressing.

<sup>53</sup> Prof Adam Lazowski, *submission of evidence*.

<sup>54</sup> Prof David Phinnemore, *submission of evidence*.

<sup>55</sup> Judy Dempsey, *record of interview*, 2014.

<sup>56</sup> Prof Derrick Wyatt QC, *submission of evidence*.

<sup>57</sup> European Foreign Policy Unit, LSE, *submission of evidence*.

<sup>58</sup> House of Lords European Union Committee, *The Future of EU Enlargement*.

<sup>59</sup> Prof George Christou, *submission of evidence*.

<sup>60</sup> Dr Allan Tatham, *submission of evidence*.

<sup>61</sup> Dr Valentina Kostadinova, *submission of evidence*.

<sup>62</sup> Dr Tim Haughton, *submission of evidence*.

## Laws Versus Values

- 2.104 Many contributors pointed to the distinction between the effectiveness of conditionality in ensuring (successfully) the full and proper transposition of EU law as set out on the *acquis*, and in ensuring (less successfully) full and proper adherence to the EU's values as set out in the Copenhagen Criteria. Most contributors believed that EU mechanisms to ensure compliance with its values, whether through previous attempts at post-accession monitoring or a new Treaty provision, had so far proved ineffective.
- 2.105 The LSE argued that 'conditionality has been highly effective in bringing about the candidate countries' alignment with EU legislation in the countries that joined since 2004'. However, there was a 'problem for the credibility [...] in areas of political conditionality that are not part of EU law'.<sup>63</sup> Dmitry Kochenov agreed that 'the Commission had been far more effective at getting accession countries to adhere to the *acquis* than securing these countries' buy-in to values'.<sup>64</sup>
- 2.106 The Centre for European Reform believed that 'the Copenhagen Criteria were broadly effective in ensuring the post-Communist states of central Europe [...] adhered to the principles of democracy, the rule of law, human rights and the protection of minorities [...] The EU had a problem, however, with countries which did not meet the Copenhagen Criteria in full, or were slow to implement changes'.<sup>65</sup>
- 2.107 The House of Lords agreed that 'the EU's failure to apply the Copenhagen Criteria rigorously led to the entry of Bulgaria and Romania before they were ready to meet the full obligations of membership. This has led to an unsatisfactory post-accession mechanism – the Cooperation and Verification Mechanism [CVM] – needing to be put in place for these countries'.<sup>66</sup>
- 2.108 Contributors also pointed to examples where new Member States had regressed on compliance with the EU's values after their accession. The Centre for European Reform highlighted Austria and Hungary as examples. 'This challenge first arose in 2000 when the far-right Freedom Party became part of a coalition government in Austria' which 'legitimised the extreme right in Europe'. More recently in Hungary, 'the Council of Europe and NGOs have accused the Fidesz government of Prime Minister Orban of taking steps which undermine democracy'.<sup>67</sup>
- 2.109 In response, the Centre for European Reform continued, the EU introduced Article 7 TEU, 'a complex procedure for suspending a Member State's voting rights if the Council determines 'the existence of a serious and persistent breach by a Member State of the [EU's] values'. However 'it is very much a last resort and it is not clear whether European leaders would be willing to take action' or 'whether the Commission is legally able or politically willing to use infringement procedures against Member States [...] for failure to abide by the Copenhagen Criteria [...] or the EU's values'.<sup>68</sup> Dmitry Kochenov believed that 'Article 7 was political and too difficult for Member States to invoke'.<sup>69</sup>

<sup>63</sup> European Foreign Policy Unit, LSE, *submission of evidence*.

<sup>64</sup> Prof Dmitry Kochenov, *record of interview*, 2014.

<sup>65</sup> Centre for European Reform, *submission of evidence*.

<sup>66</sup> House of Lords European Union Committee, *The Future of EU Enlargement*.

<sup>67</sup> Centre for European Reform, *submission of evidence*.

<sup>68</sup> Centre for European Reform, *submission of evidence*.

<sup>69</sup> Prof Dmitry Kochenov, *record of interview*, 2014.

- 2.110 From an aspirant country perspective, Firat Cengiz detected double standards. She argued that ‘the EU subjects candidate countries in many areas of democratic criteria [...] to higher standards that it subjects its existing Member States’ and this ‘double standard [...] jeopardises the legitimacy of conditionality’.<sup>70</sup>
- 2.111 Several contributors considered how the EU should address weaknesses in ensuring aspirants’ compliance with the EU’s values in future. There was some disagreement about whether a post-accession monitoring mechanism that applied to all Member States would be desirable or feasible. Such a mechanism, it was noted, could also require an increase in EU competence.
- 2.112 Andrew Duff, citing the case of Hungary, believed that the EU needed ‘a form of “reverse thrust” of membership momentum if a Member State is not respecting the EU’s values, principles and constitutional order’.<sup>71</sup> Sussex University also thought there should be ‘a tightening up of the procedures in the Treaty for tackling non-respect of [the EU’s] values [...] in current Member States’.<sup>72</sup> Julie Smith agreed that ‘more post-accession monitoring would be welcome’.<sup>73</sup>
- 2.113 The German Council on Foreign Relations believed that ‘a way to make the system fairer might be to apply a mechanism for the safeguard of democratic and rule-of-law standards on all Member States’. The German Foreign Minister had made a proposal for a new, light mechanism in 2012. However it noted that ‘a mechanism of this kind would probably lead to an increase in EU competence in this area’.<sup>74</sup>
- 2.114 The Senior European Experts Group rejected a CVM-type mechanism for all Member States and concluded that ‘since the Copenhagen Criteria are not applied to existing members, and post-accession monitoring is of limited use, it is all the more necessary to apply the criteria effectively to candidate countries in the pre-accession period; their reforms should, if possible, be embedded in their constitutions’.<sup>75</sup> The House of Lords agreed that ‘a permanent EU-wide monitoring mechanism resembling the CVM is not politically feasible’. For acceding Member States, ‘consideration should be given as to how best to ensure that the reforms are justiciable and, where applicable, are embedded in the constitution of the applicant country’.<sup>76</sup>
- 2.115 Dmitry Kochenov proposed ‘a greater role for the Council of Europe’s Venice Commission, a leading body on terms of assessment of the rule of law’, to help monitor and enforce values conditionality in the EU.<sup>77</sup>

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<sup>70</sup> Dr Firat Cengiz, *submission of evidence*.

<sup>71</sup> Andrew Duff, former MEP, *record of interview*, 2014.

<sup>72</sup> Sussex European Institute, University of Sussex, *submission of evidence*.

<sup>73</sup> Dr Julie Smith, *record of interview*, 2014.

<sup>74</sup> Theresia Toeglhofer, *record of interview*, 2014.

<sup>75</sup> Senior European Experts Group, *submission of evidence*.

<sup>76</sup> House of Lords European Union Committee, *The Future of EU Enlargement*.

<sup>77</sup> Prof Dmitry Kochenov, *record of interview*, 2014.

2.116 The UK Government believes it is vital for aspirant countries and new Member States to abide by the EU's values and democratic norms both pre- and post-accession. It also believes that the CVM has not proved a satisfactory mechanism, underlining the importance of addressing these issues prior to accession. However the Government does not accept the need for a new EU rule of law framework applying to all Member States. There are already mechanisms in place to protect EU common values and a further EU mechanism would risk undermining the clear roles for the Council and the European Council in this area.

### Rule of Law and the New Approach

2.117 Much evidence was received on the importance of rule of law conditionality in the accession process. There was general agreement among contributors that – for all countries after Croatia – the New Approach and front-loading of Chapters 23 (on judiciary and fundamental rights) and 24 (on justice, freedom and security) had been a welcome lesson learned and appeared to be being implemented successfully.

2.118 The House of Lords supported the New Approach, believing it to be ‘an important lesson learned after the most recent enlargements and will help to ensure that irreversible reforms are achieved’.<sup>78</sup> Andrew Duff agreed that ‘following Romania and Bulgaria, where endemic corruption has been the issue, the Commission is now correctly putting much greater emphasis on Chapters 23 and 24’.<sup>79</sup> Tim Haughton similarly believed that ‘the EU's shift post-2004 to start negotiations with these trickier chapters was a very sensible decision and will reap rewards in the longer terms’. This reflected a key lesson learned to ‘open the harder chapters near the beginning of accession negotiations’.<sup>80</sup>

2.119 The LSE believed that ‘front-loading these issues has the advantage that it reduces the pressure on the EU side to fudge compliance in this area at the end of the accession negotiations’. However they warned that, conversely, some aspirant countries ‘might find it difficult to carry out costly reforms at the very start of accession negotiations’.<sup>81</sup>

2.120 Derrick Wyatt warned that ‘achieving a prevailing culture in governance, politics and business which favours the rule of law and rejects corruption, takes time [...] and the EU and the Member States have not always been ready to allow the process enough time’.<sup>82</sup>

2.121 The UK Government strongly supports (and was a driving force behind) the introduction of the New Approach. It believes upholding the rule of law and tackling organised crime and corruption issues are crucial policy areas that aspirant countries must focus on from the very beginning of the accession process.

### Economic Governance

2.122 A few contributors noted the increasing importance now being attached to economic governance as an important development in conditionality. Following the experience of the global economic and Euro area crises, there have been calls for aspirant countries to face closer scrutiny of their economic and fiscal policies.

<sup>78</sup> House of Lords European Union Committee, *The Future of EU Enlargement*.

<sup>79</sup> Andrew Duff, former MEP, *record of interview*, 2014.

<sup>80</sup> Dr Tim Haughton, *submission of evidence*.

<sup>81</sup> European Foreign Policy Unit, LSE, *submission of evidence*.

<sup>82</sup> Prof Derrick Wyatt QC, *submission of evidence*.

- 2.123 George Christou highlighted how ‘the changing economic climate has meant that the conditions attached to economic governance have become much more important’.<sup>83</sup> Rinna Kullaa pointed to the experience of Croatia’s accession in particular, where ‘domestic economic structural challenges [...] were not completely solved during the accession process’ and ‘political constraints to economic reforms and the negative external economic environment’ limited the economic benefits of accession. ‘Croatia is experiencing in 2014 its sixth consecutive year in recession’.<sup>84</sup>
- 2.124 The UK Government believes sound economic and fiscal policies are a pre-requisite for growth and stability. It therefore supports exploring options and mechanisms for helping ensure aspirant countries’ policies are moving in the right direction, with technical support from the EU as appropriate.

## Bilateral Disputes

- 2.125 Many contributors highlighted the issue of bilateral disputes between countries, unrelated to the EU accession process, and the negative impact they were having on the credibility of the enlargement process. Some Member States, it was argued, were increasingly willing to veto progress by aspirant countries for bilateral reasons. The examples of Cyprus allegedly blocking Turkey, and of Greece allegedly blocking Macedonia were cited most frequently.
- 2.126 The LSE warned that the credibility of conditionality depends ‘whether a candidate country believes that it will obtain the promised reward – ultimately membership – if (and only if) it meets the EU’s conditions’. They warned that ‘more recently [...] some Member States have started to undermine the credibility of conditionality’.<sup>85</sup> The House of Lords agreed that ‘the EU must meet its obligations to allow candidates to progress if reforms have been made. Failure to do so diminishes the EU’s influence and damages the credibility of the enlargement process’.<sup>86</sup>
- 2.127 Many contributors noted how, as the enlargement process has developed, there are now many more decision points for Member States in the Council at which pressure could be placed upon aspirants. Witnesses to the House of Lords spoke of ‘increasing “nationalisation” and “politicisation” of the enlargement process through the introduction of benchmarks by the Council and increasingly politicised decisions being taken about whether a candidate had met the benchmarks set’.<sup>87</sup> Vit Benes spoke of ‘too many little steps in the accession process’ and ‘too much politics around the opening and closing of Chapters’.<sup>88</sup>
- 2.128 David Phinnemore criticised ‘the increasing willingness of Member States to wield their vetoes in the enlargement process’ and cited ‘failing to open negotiations with Macedonia despite repeated recommendations from the Commission [...], struggling to progress with the opening and closing of individual negotiating chapters, especially in the case of Turkey [...] and politicising and delaying the granting of “candidate status” as signs of weakening Member State commitment to enlargement’.<sup>89</sup>

<sup>83</sup> Prof George Christou, *submission of evidence*.

<sup>84</sup> Prof Rinna Kullaa, *submission of evidence*.

<sup>85</sup> European Foreign Policy Unit, LSE, *submission of evidence*.

<sup>86</sup> House of Lords European Union Committee, *The Future of EU Enlargement*.

<sup>87</sup> *Idem*.

<sup>88</sup> Vit Benes, *record of interview*, 2014.

<sup>89</sup> Prof David Phinnemore, *submission of evidence*.

- 2.129 The Senior European Experts Group agreed that ‘a recurrent problem in recent enlargements has been the disturbance of the accession process by bilateral issues between individual Member States and applicant states’ and there were ‘suspicions of blackmail’. This had ‘consequences for the EU’s credibility and ability to exercise leverage to promote reforms’.<sup>90</sup>
- 2.130 Contributions from aspirant countries suggested that they shared concern regarding what they saw to be increasing political barriers, and feared Member States were pulling back from their previous commitment to enlargement.
- 2.131 The Government of Macedonia argued that ‘considerable doubts have arisen on the level of preparedness of [...] the EU itself to receive new members’. It argued that the ‘words (and commitments) on the side of the EU have to be honoured’ and the EU should be ‘putting strategic interests first’. In its view, ‘an EU that is no longer expanding will have much less influence’ and ‘what Macedonia strongly advocates against is not conditions but the delays’. It believes that ‘outstanding bilateral issues continue to negatively affect the accession process’.<sup>91</sup>
- 2.132 Serbian contributors agreed that ‘making bilateral issues part of the accession conditionality was unhelpful’ and additional ‘political conditionality [...] from individual Member States [...] risked becoming impossible for future members’.<sup>92</sup>
- 2.133 From a Turkish viewpoint, Afif Demirkiran agreed that ‘the EU and some of its Member States had not made the accession process easy’ and ‘blockages in the process were exacerbated by bilateral disputes between Member States and aspirant Member States’.<sup>93</sup>
- 2.134 Several contributors considered how the handling of bilateral disputes could be improved during the accession process in future.
- 2.135 Czech experts noted the particular difficulty of resolving bilateral disputes between an existing Member State and an aspirant country, where the former was inevitably in a much stronger negotiating position than the latter. They feared that the current ‘regatta principle’, whereby western Balkans countries accede one-by-one, could encourage more of this’.<sup>94</sup>
- 2.136 The House of Lords concluded that ‘the EU needs to take much more effective action to avoid the importing any further bilateral disputes’. It believed that ‘bilateral issues should, wherever possible, be resolved through the internationally-recognised courts or resolution procedures’.<sup>95</sup> Florian Bieber proposed ‘an informal mechanism that operated outside of the EU to address these political disputes and resolve them’.<sup>96</sup>

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<sup>90</sup> Senior European Experts Group, *submission of evidence*.

<sup>91</sup> Government of Macedonia, *submission of evidence*.

<sup>92</sup> *Record of Brussels Roundtable event, 2014*.

<sup>93</sup> Afif Demirkiran MP, *record of interview, 2014*.

<sup>94</sup> *Record of Prague Roundtable event, 2014*.

<sup>95</sup> House of Lords European Union Committee, *The Future of EU Enlargement*.

<sup>96</sup> Prof Dr Florian Bieber, *record of interview, 2014*.

2.137 The UK Government opposes the raising of non-accession-related national issues during enlargement discussions. This undermines the effectiveness of firm-but-fair conditionality. It is important that the EU meets its obligations when aspirant countries meet theirs. The Government also believes that it is vital that bilateral disputes are not imported into the EU. The UK and Ireland acceded to the (then) EEC during the ‘Troubles’ and their shared experience of membership is often considered to have been a factor in the success of the Northern Ireland Peace Process. However there are other examples where unresolved bilateral disputes imported into the EU have not been resolved and have hampered the functioning of the EU.

### Good neighbourly relations

2.138 Many contributors highlighted the EU’s success, through the enlargement process, in promoting good neighbourly relations in the western Balkans. They pointed to conciliation between Serbia and Kosovo as a clear example of the EU learning lessons from previous enlargements and successfully using conditionality to drive forward dispute resolution (see Figure Nine).

2.139 Ana Juncos recalled the importance of additional conditionality as part of the Stabilisation and Association Process. This included ‘full cooperation with the International Criminal Tribunal for the former Yugoslavia, respect for minority rights, the creation of real opportunities for refugees and internally displaced persons to return, and a visible commitment to regional cooperation’.<sup>97</sup> The German Council on Foreign Relations concluded that these “‘Copenhagen plus” criteria [...] have undoubtedly helped bring about bilateral progress between countries which would otherwise still be in deadlock’.<sup>98</sup>

#### Figure 9: Case Study – Conciliation between Serbia and Kosovo

Kosovo separated from Serbia following a war in 1999. Kosovo’s subsequent declaration of independence in 2008 was not recognised by Serbia and a number of other countries. Continuing tension between the ethnic Serb minority and the ethnic Albanian majority were heightened by parallel state structures for Serbs in the north of Kosovo.

A major step towards normalisation of relations between Serbia and Kosovo was reached in the 19 April 2013 Brussels Agreement. Serbia accepted the *de facto* authority of the government of Kosovo over the whole territory by agreeing to dismantle parallel security structures and Kosovo granted a degree of autonomy to Serbian minorities within Kosovo. Both sides agreed not to block each other in their paths towards the EU.

The Agreement would not have been possible without the incentive of EU Accession, which was made conditional on steps towards normalisation. Soon after the signing of the Agreement, the European Commission recommended that a date should be agreed to open accession talks with Serbia and that negotiations should begin on a Stabilisation and Association Agreement with Kosovo.

Source: FCO, 2014

<sup>97</sup> Dr Ana Juncos, *submission of evidence*.

<sup>98</sup> Theresia Toeglhofer, *submission of evidence*.

- 2.140 French academics dubbed progress in the Serbia / Kosovo dialogue ‘one of the EU’s greatest foreign policy successes resulting from EU enlargement conditionality’.<sup>99</sup> Tim Haughton agreed that ‘the EU’s approach to the Serbia/Kosovo issue suggests that lessons have been learned’: the key lesson being ‘never allow in a country with an unresolved conflict over its status’.<sup>100</sup>
- 2.141 Ana Juncos believed that, for Serbia, ‘without the promise to open accession negotiations [...] the momentous political agreement [of April 2013] between Serbia and Kosovo [...] would have been unthinkable’.<sup>101</sup> The German Council on Foreign Relations agreed this agreement was ‘a demonstrable example of how the EU can have a positive, stabilising effect through the incentive of EU enlargement’.<sup>102</sup>
- 2.142 The UK Government has welcomed the historic progress made by Serbia and Kosovo in their relations, and believes the enlargement process was a crucial factor in its achievement. It serves as an example to the wider region of how difficult issues can be resolved as countries work together towards the shared goal of EU membership.

### EU Assistance Programmes

- 2.143 Many contributions were received with regard to the effectiveness of EU assistance programmes to aspirant countries. While it should be noted that the great majority were received from organisations that benefit from such funding, this evidence also highlighted the important role of UK organisations in delivering this assistance. Most contributors made a positive assessment of the importance and impact of EU assistance to aspirant countries to help them prepare for the rigours of EU membership. Among contributions received from British organisations involved in implementing EU programmes, however, some concerns were expressed about the depth of change achieved and co-ordination among donors on the ground.
- 2.144 The Senior European Experts Group argued that EU assistance programmes had been ‘an indispensable component of the accession process [...] Without it, applicant countries would have found it extremely difficult to prepare for accession’. ‘Among other measures, Commission-managed Twinning programmes in the 1990s and early 2000s, designed to help prospective Member States develop their capacity to implement the *acquis* by transferring knowledge and expertise from the existing Member States, proved invaluable’.<sup>103</sup> Andrew Duff agreed that ‘EU accession programmes have been effective and the EU can be proud of them’. From his experience, he believed that ‘IPA has made a real contribution to economic and social development in Turkey’.<sup>104</sup>
- 2.145 From the viewpoint of a receiving country, a Serbian contributor described IPA as ‘a key tool in driving reform. Used correctly, it was a game changer and the EU was getting better at using it. It accelerated existing work and supported areas which would otherwise be left untouched’.<sup>105</sup> The European Movement in Serbia agreed that EU support (circa €200m to Serbia annually) has been ‘most beneficial in terms of the preparation of the administration for the structural and cohesion funds, improving overall planning and programming, and overall policies development and cooperation’.<sup>106</sup>

<sup>99</sup> *Record of Paris Roundtable event, 2014.*

<sup>100</sup> Dr Tim Haughton, *submission of evidence.*

<sup>101</sup> Dr Ana Juncos, *submission of evidence.*

<sup>102</sup> Theresia Toeglhofer, *submission of evidence.*

<sup>103</sup> Senior European Experts Group, *submission of evidence.*

<sup>104</sup> Andrew Duff, former MEP, *record of interview, 2014.*

<sup>105</sup> *Record of Belgrade Roundtable event, 2014.*

<sup>106</sup> European Movement in Serbia, *submission of evidence.*

- 2.146 Several UK organisation involved in delivering EU assistance contributed evidence on their experiences. Contributions by the UK's National Metrology Office (NMO) and its partner the Macedonian Bureau of Metrology are highlighted separately as a case study (see Figure Ten).<sup>107 108</sup>
- 2.147 The UK Chemical Regulation Directorate, which has worked on EU-funded projects in 14 aspirant countries over 14 years, believed that 'Twinning was a highly-effective support mechanism' that also brought 'a number of long-lasting benefits'. In Croatia, for example, the support had 'achieved excellent value for money' and 'the relationships forged have continued and pay dividends'.<sup>109</sup>
- 2.148 Northern Ireland Cooperation Overseas highlighted the value it drew from 'developing and nurturing longer-term relationships with EU Member States' through Twinning projects, citing 'one good example of this was when Ministry of Agriculture & Rural Development staff delivered a Water Framework Directive in Poland over a 24-month period'.<sup>110</sup>
- 2.149 The National Audit Office (NAO) had also had good experience of working in ten aspirant countries. However it noted that 'ultimately it is the beneficiary who decides how effective it will be'. In one project to strengthen public financial management and control, the NAO felt there had been 'good technical transfer (and acceptance) of knowledge and skills at operational level, yet minimal impact on the public sector Public Internal Financial Control as a whole'.<sup>111</sup>
- 2.150 AML Consulting was more critical of EU assistance on the field of justice and home affairs. It argued that 'in relation to Chapters 23 and 24, much of the technical assistance has been delivered piecemeal, best by duplication, conflicting advice and waste'. Citing the example of Kosovo, 'a "German" police force works with a "British" customs service and "Italian" prosecutors, using techniques from France and many other countries'. AML Consulting also saw 'examples of excellent assistance', however, for example 'UK intelligence-led policing assistance to Croatia'.<sup>112</sup>
- 2.151 Looking to the future, several contributors considered how EU assistance programmes might be improved. They generally welcomed recent reforms to the new IPA II instrument. However one contributor proposed that the way EU assistance is delivered be reorganised.

<sup>107</sup> National Measurement Office, *record of interview*, 2014.

<sup>108</sup> Macedonian Bureau of Metrology, *record of interview*, 2014.

<sup>109</sup> Chemical Regulation Directorate, *submission of evidence*.

<sup>110</sup> Northern Ireland Cooperation Overseas, *submission of evidence*.

<sup>111</sup> National Audit Office, *submission of evidence*.

<sup>112</sup> AML Consulting, *submission of evidence*.

### Figure 10: Case Study: Assistance by the National Measurement Office

Technical Assistance and Information Exchange (TAIEX) is an EU programme which helps pre-accession countries become acquainted with, apply and enforce EU law and monitor their progress in doing so. It funds short-term peer-to-peer technical assistance, advice and training between officials in Member States and aspirant countries, who may select which Member State should provide expertise.

The UK's National Measurement Office (NMO) has worked with a number of aspirant countries on metrology issues, including Macedonia and Montenegro. Metrology ensures fair and accurate measurements are available and used for transactions regulated by law. This is essential for consumer confidence and economic credibility. It also has a knock-on effect in other areas, such as trade, commerce, health and the environment. The NMO is recognised as a global leader in metrology and has been selected by a number of aspirant countries to provide expertise through TAIEX.

The NMO believed that its work with aspirant countries has had clear benefits for both sides. In its view, its work has had a clear impact on the UK's national interest, both in terms of prosperity but also in terms of building wider bilateral relations which could help further UK objectives in regulatory and trade policy forums. It also reported immediate commercial benefits because, with NMO standards and practices introduced, aspirant countries would be more likely to purchase UK manufactured measuring instruments. The NMO also noted how the development of wider political relationships helped when the UK was looking for support on regulatory issues, for example in the International Organisation of Legal Metrology.

The Macedonian Bureau of Metrology reported the training provided by the NMO to be very helpful. Building on the transposition of the EU *acquis* on metrology into Macedonian law, the NMO had assisted with effective implementation of these measures. The Macedonian side now hope to establish longer-term training links, including possibly secondments between the UK and Macedonia.

Source: National Measurement Office and Macedonian Bureau of Metrology; *record of interviews*, 2014.

- 2.152 Contributors welcomed the continuation of the IPA instrument and the reforms introduced by IPA II. The House of Lords believed that ‘a substantial IPA is essential to prepare countries for membership’.<sup>113</sup> The Scottish Government welcomed ‘the emphasis placed upon performance management in the IPA II programme’.<sup>114</sup> Open Europe agreed that ‘in view of the positive record of EU enlargement, the case for maintaining pre-accession funding remains strong, although there is a need for better differentiation and targeting’.<sup>115</sup>
- 2.153 AML Consulting made specific proposals for reform. It argued that, in future, EU assistance should be targeted by skill-set rather than the ‘current scatter gun approach’. It proposed that ‘EU countries would compete for the right to deliver a finite number of skill areas [...] Having won the competition in a particular skill-set, the donors would pool resources to support the development of the skill across all accession and pre-accession countries’. In this way, skill-sets ‘would be delivered in the same way by the same experts’ across the region, also ‘creating a harmonious environment for cooperation across frontiers’.<sup>116</sup>
- 2.154 The UK Government is a strong supporter of EU assistance programmes such as IPA and Twinning. Alongside national assistance programmes, they have provided vital, practical help to aspirant countries to meet the requirements of EU membership. It welcomes the reforms to the IPA II programme to link it more closely to identified enlargement policy priorities and to take a more targeted, results-focussed approach.

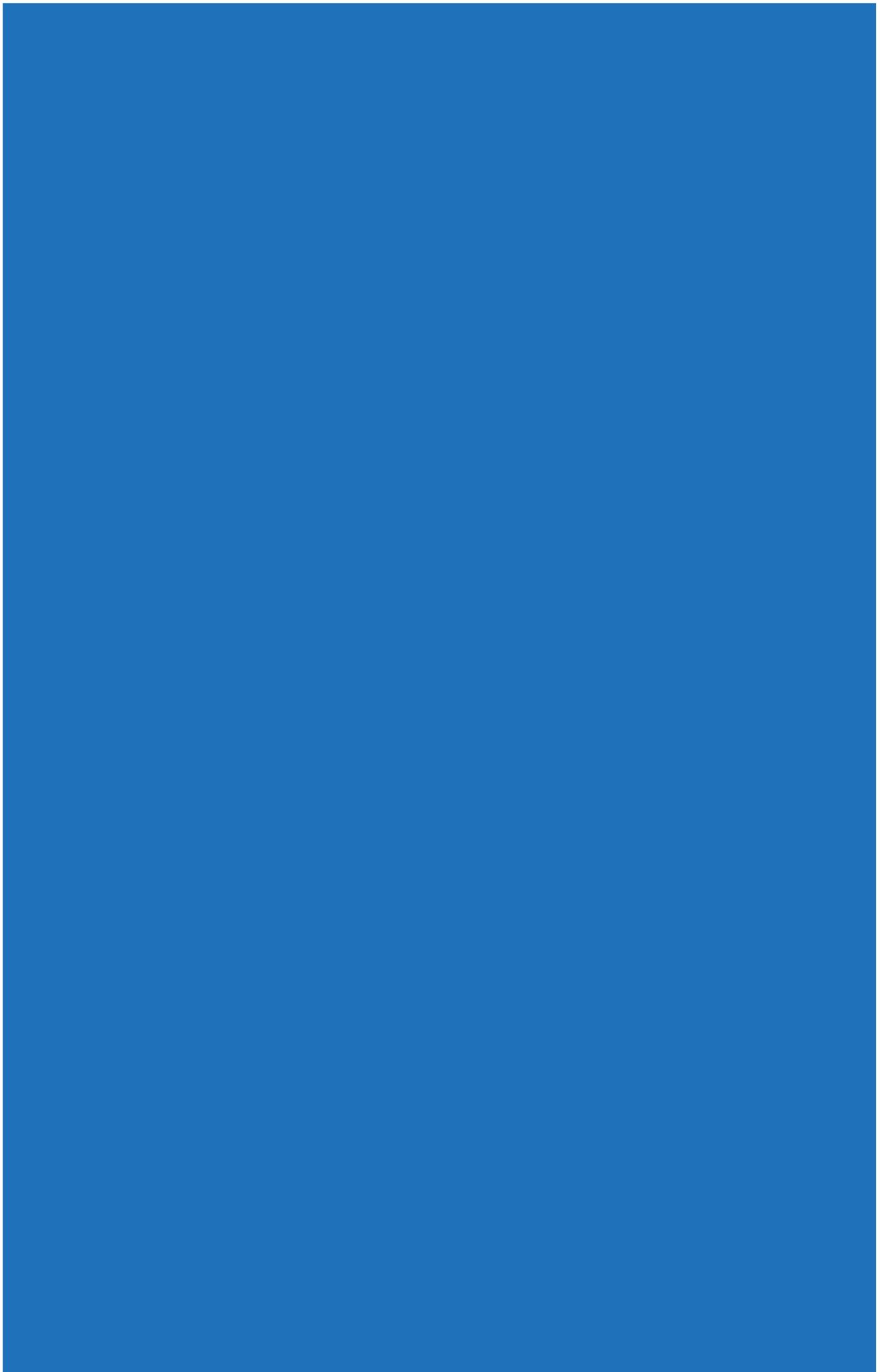
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<sup>113</sup> House of Lords European Union Committee, *The Future of EU Enlargement*.

<sup>114</sup> Scottish Government, *submission of evidence*.

<sup>115</sup> Open Europe, *Seizing the Moment: Aligning the EU Budget with Europe’s Economic Needs* (2012).

<sup>116</sup> AML Consulting, *submission of evidence*.



## Chapter 3: Impact on the National Interest

- 3.1 This chapter considers the evidence received from contributors on the impact of enlargement on the UK national interest across the policy spectrum. It also sets out the Government's approach in key areas.

### Evidence on Impacts on the UK national interest

- 3.2 There was broad consensus among contributors that enlargement had been a success for the EU and beneficial for UK interests. However there were significant dissenting voices in some sectors.
- 3.3 The Senior European Experts Group called enlargement 'an astonishing success story' that has 'extended security, stability, democracy, prosperity and the market economy across most of the European Continent'. It has been 'the single biggest lever enabling the EU to influence its neighbourhood' that has 'allowed the UK, as a prime mover within the EU enlargement, to have a powerful influence'.<sup>1</sup>
- 3.4 They recalled how enlargement was cited as an important reason why the Nobel Peace Prize was awarded to the EU in 2012, with the Nobel Committee declaring:
- 'The stabilizing part played by the EU has helped to transform most of Europe from a continent of war to a continent of peace [...] In the 1980s, Greece, Spain and Portugal joined the EU. The introduction of democracy was a condition for their membership. The fall of the Berlin Wall made EU membership possible for several Central and Eastern European countries, thereby opening a new era in European history. The division between East and West has to a large extent been brought to an end; democracy has been strengthened; many ethnically-based national conflicts have been settled. The admission of Croatia [...] [and the] membership negotiations with Montenegro and Serbia [...] strengthen the process of reconciliation in the Balkans [...] the possibility of EU membership for Turkey has advanced democracy and human rights in that country'.<sup>2</sup>
- 3.5 The Scottish Government agreed that the process had been 'enormously successful' and reiterated its 'steadfast support for the enlargement of the EU'.<sup>3</sup> Among EU aspirant countries, the Government of Macedonia believed enlargement to be 'one of the most

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<sup>1</sup> Senior European Experts Group, *submission of evidence*.

<sup>2</sup> Nobel Prize Organisation, *Nobel Prize Laureates 2012 (2012)*. Available at: [www.nobelprize.org/nobel\\_prizes/peace/laureates/2012/press.html](http://www.nobelprize.org/nobel_prizes/peace/laureates/2012/press.html), accessed on 24 November 2014.

<sup>3</sup> Scottish Government, *submission of evidence*.

successful policies of the EU extending further the zone of peace, prosperity and stability in Europe'.<sup>4</sup>

- 3.6 The House of Lords praised how 'the transformative power of enlargement has been proven through successive enlargements'.<sup>5</sup> Open Europe agreed that 'for good reason, enlargement is often described as the EU's only successful foreign policy. It is clear that the prospect of enlargement has acted as an engine for beneficial social, political and economic reforms in central and east European countries, and continues to do so in the Balkans'.<sup>6</sup>
- 3.7 These themes will be explored in greater depth below.

### Impact on the EU Institutions

- 3.8 Many contributors considered the impact of enlargement on the EU institutions. Some recalled the debate regarding whether the 'widening' of the EU through enlargement would necessarily prevent its further 'deepening'. Most believed that, to date, the EU had not deepened as a result of enlargement against UK interests. Most also believed that the EU institutions had coped well with enlargement and the feared gridlock had not occurred. There may, however, have some slowing of EU decision-making.
- 3.9 Most contributors suggested that deepening-versus-widening was a mistaken assumption: with enlargement, both widening and (perhaps more slowly) deepening progressed together. But contributors did not generally believe this had led to a deepening of integration against UK interests. Alyson Bailes noted that, rather than 'a feared slide towards federalism [...] no state entering in the 1990s or subsequently has favoured speedy supranational integration'.<sup>7</sup> The LSE highlighted the role of opt-outs in partly-insulating the UK from deepening: 'What has happened in practice is that widening and deepening have both progressed – though the UK has opted not to participate in some integration processes (notably the Euro and Schengen arrangements)'.<sup>8</sup>
- 3.10 Richard Rose disagreed, however. He questioned the belief 'that the increased diversity that comes with a larger membership makes it more difficult to adopt common policies binding on all Member States. The experience since the 2004 enlargement, and especially since the Eurozone crisis, calls this assumption into question'.<sup>9</sup>
- 3.11 Rather than greater integration, others contributors noted a distinct increase in intergovernmentalism (cooperation led by national governments rather than the EU institutions) in the EU following enlargement. Experts attending a Foreign and Commonwealth Office (FCO) Roundtable believed that 'recent enlargement rounds had increased intergovernmental processes' in the EU.<sup>10</sup> The German Council on Foreign Relations also argued that 'the addition of new members goes in favour of cooperation based on intergovernmental discussions'.<sup>11</sup>

<sup>4</sup> Government of Macedonia, *submission of evidence*.

<sup>5</sup> House of Lords European Union Committee, *The Future of EU Enlargement*.

<sup>6</sup> Open Europe, *Seizing the Moment: Aligning the EU Budget* (2012).

<sup>7</sup> Prof Alyson Bailes, *submission of evidence*.

<sup>8</sup> European Foreign Policy Unit, LSE, *submission of evidence*.

<sup>9</sup> Prof Richard Rose, *submission of evidence*.

<sup>10</sup> *Record of Emerging Themes Roundtable event, FCO London, 2014*.

<sup>11</sup> Natasha Wunsch, *submission of evidence*.

- 3.12 Seen from the European Parliament, Charles Tannock MEP argued that ‘in Brussels, enlargement has clearly been in the UK’s interests’. From his experience, ‘enlargement has increased general EU sensitivity towards the interests of individual Member States’ and ‘there has not been any drive in an enlarged EU against any individual Member States interests’.<sup>12</sup> Andrew Glencross agreed that institutional changes necessitated by enlargement ‘have not had a detrimental impact on the UK’s specific policy interests’.<sup>13</sup>
- 3.13 Nor, the evidence suggested, has enlargement led to a gridlock in decision-making in the EU institutions. The Senior European Experts Group reported that ‘fears that enlargement would paralyse the EU’s decision-making and development [...] have proved unfounded’.<sup>14</sup> Academic experts from the LSE concurred, arguing that ‘the volume and speed of decision-making has not suffered’.<sup>15</sup>
- 3.14 In practical terms, the Senior European Experts Group acknowledged that ‘enlargement from nine to 28 members has increased the operating costs of the EU institutions’. However though ‘more staff have been recruited [...] the increase in their numbers has been less in relative terms than the increase in population of the EU’.<sup>16</sup> There was general agreement among contributors that the ‘inflation in the number of Commissioners beyond the number of meaningful jobs for them to do’ was a negative consequence of enlargement.<sup>17</sup> In contrast, the view from inside the European Parliament was that ‘the enlarged European Parliament worked very well’.<sup>18</sup>
- 3.15 Sara Hagemann believed ‘the EU institutions have done an extraordinary job in the adjustment to a new setting with so many more countries represented’. Citing statistical research, she reported that, since the 2004 enlargement, the number of legislative acts concluded by the Council has fallen from just over 160 to around 110 per year. Nonetheless she concluded that, while ‘the Council has experienced a decline in the yearly adoption rates in the last few years [...] compared to most national legislatures, these numbers are nevertheless quite high’. She also mused that ‘the presence of more states with an “Anglo-Saxon” way of thinking, meaning a presumption in favour of less legislation and less regulation [...] could serve as a partial explanation for the decrease in legislation’.<sup>19</sup>
- 3.16 Looking to the future, contributors considered challenges around the size of the Commission, the increase in the number of official languages, and the number of British nationals working in the EU institutions.
- 3.17 With regard to the size of the Commission, Richard Rose feared that the ‘increase in Commissioners and Directorates-General’ would increase ‘the fragmentation of policy responsibilities’.<sup>20</sup> The Centre for European Reform also feared that ‘the Commission will grow larger and more unwieldy with every new Member State’ and noted that Member State governments had already agreed in principle to shrink the size of the Commission in the 2007 Lisbon Treaty.<sup>21</sup>

<sup>12</sup> Dr Charles Tannock MEP, *record of interview*, 2014.

<sup>13</sup> Dr Andrew Glencross, *submission of evidence*.

<sup>14</sup> Senior European Experts Group, *submission of evidence*.

<sup>15</sup> European Foreign Policy Unit, LSE, *submission of evidence*.

<sup>16</sup> Senior European Experts Group, *submission of evidence*.

<sup>17</sup> Senior European Experts Group, *submission of evidence*.

<sup>18</sup> Dr Charles Tannock MEP, *record of interview*, 2014.

<sup>19</sup> Dr Sara Hagemann, *submission of evidence*.

<sup>20</sup> Prof Richard Rose, *submission of evidence*.

<sup>21</sup> Centre for European Reform, *submission of evidence*.

- 3.18 Enlargement has increased the number of official languages from six in 1973 to 24 in 2014. However, contributors reported, by bringing in new Member States with a more Anglophone tradition, enlargement has also driven the development of English into Brussels' *lingua franca*. Tim Haughton described how 'primarily as a consequence of the 1995 and 2004 enlargements, English is the main language of communication in EU institutions, structures the way actors behave at the EU level and is a source of potential great influence for the UK'.<sup>22</sup>
- 3.19 Looking forward, contributors noted how enlargement is increasing the complexity of translation and interpretation. Richard Rose argued that 'the commitment to work across all the languages of Member States [...] does not appear cost-effective'.<sup>23</sup> The House of Lords acknowledged that the question of language proliferation was 'a significant one [...] likely to increase the costs of running the EU's institutions but it appears unavoidable'.<sup>24</sup> Adam Lazowski also warned that the translation of the *acquis* into new Member State languages was 'a major challenge particularly in the western Balkans countries which have limited capacities'.<sup>25</sup>
- 3.20 Richard Rose feared that 'the supply of European citizens wanting to work in Brussels has increased many times with enlargement and with it the competition for posts in EU institutions'. UK representation in Brussels was falling, he argued, and if not addressed British interests in the EU would suffer.<sup>26</sup> Attendees at an academics' seminar agreed that, with more nationals from new Member States joining the EU institutions, 'another negative side effect has been the reduction in the number of UK nationals working in the EU institutions, which has arguably weakened the UK's voice'.<sup>27</sup>
- 3.21 The UK Government recognises that the issue of the size and composition of the Commission is a difficult issue, where it is hard to identify a solution that is equitable, legitimate in terms of the relative size and weight of different European countries, and efficient. However, it believes a more pressing priority is ensuring that the new Commission appointed in 2014 delivers on the strategic agenda set for it by the European Council. The Government also recognises the importance of maximising the representation of UK nationals in the EU institutions, and has taken active steps to encourage and support UK applicants. Pressure on the number of UK nationals in the EU institutions, however, has a variety of causes much wider than additional competition from candidates from more Member States.

## EU budget

- 3.22 Several contributors considered the impact of enlargement upon the growth of the EU budget. These issues were also considered previously by the Balance of Competences report on the EU budget led by HM Treasury<sup>28</sup>, and by the Balance of Competences report on agriculture led by Department for Environment, Food & Rural Affairs.<sup>29</sup>

<sup>22</sup> Dr Tim Haughton, *submission of evidence*.

<sup>23</sup> Prof Richard Rose, *submission of evidence*.

<sup>24</sup> House of Lords European Union Committee, *The Future of EU Enlargement*.

<sup>25</sup> Prof Adam Lazowski, *submission of evidence*.

<sup>26</sup> Prof Richard Rose, *submission of evidence*.

<sup>27</sup> *Record of Roundtable event, Birmingham University, 2014*.

<sup>28</sup> HMG, *Review of the Balance of Competences: EU Budget* (2014).

<sup>29</sup> HMG, *Review of the Balance of Competences: Agriculture* (2014).

- 3.23 The evidence received suggested that the budgetary costs of enlargement had been reasonable. Some UK organisations had also benefitted from spending in new Member States. However, some argued that coalitions in support of budget reform are now consequently harder to assemble.
- 3.24 Open Europe believed that, as a supporter of enlargement, the UK ‘should accept that the accession of new Member States will increase the EU’s overall expenditure’.<sup>30</sup> The Senior European Experts Group argued that ‘fears that enlargement would [...] cause excessive budgetary costs have proved unfounded’ – though they acknowledged that, with the accession of new Member States, ‘reform of the Common Agricultural Policy [CAP] [...] has become slower’.<sup>31</sup> The House of Lords agreed, arguing that ‘predicted negative policy impacts, such as on the CAP, have not materialised in the way that was feared, although progress in developing a more innovative market-based CAP may have been hindered’.<sup>32</sup>
- 3.25 Tim Haughton noted, however, that ‘as relatively poor, the newer Member States have tended to be advocates for more spending’ and ‘there is now a smaller percentage of states in favour of British restraint when it comes to the budget’.<sup>33</sup> Sussex University agreed that ‘the budget and by extension policies with major budgetary implications (such as agriculture and regional development)’ are areas where ‘UK and new Member State interests have not converged; on the contrary they have often been on opposite sides of the argument’.<sup>34</sup>
- 3.26 The Scottish Government highlighted how the UK can benefit from EU spending in newly-acceded Member States. Noting how ‘Scottish organisations have successfully participated in a number of transitional projects’, it pointed to programmes involving Aberdeen City Council, Falkirk Council, the University of Edinburgh and the University of Strathclyde.<sup>35</sup>
- 3.27 The Confederation of British Industry (CBI) also argued that ‘EU programmes have contributed to significant economic development in the accession countries through infrastructure investment and regional funding. In turn, this is creating stronger markets for UK products in those other EU countries’. Benefiting from EU programmes to boost broadband capacity in central and eastern Europe, for example, ‘Tesco has recently launched online shopping services in Hungary, Slovakia, Poland and the Czech Republic’.<sup>36</sup>
- 3.28 Looking to the future, contributors did not believe that enlargement would have a major impact on the EU in budgetary terms in the medium term. One contributor, however, believed there were opportunities to find common cause with new Member States to drive EU budget reform. Another feared a growing risk of misuse of EU funds due to enlargement and called for greater EU powers.
- 3.29 The House of Lords argued that future enlargement ‘can be expected to have some impact on the budgetary receipts of older Member States, for example through the redistribution of agricultural or cohesion funds. However this must be understood in

<sup>30</sup> Open Europe, *Seizing the Moment: Aligning the EU Budget* (2012).

<sup>31</sup> Senior European Experts Group, *submission of evidence*.

<sup>32</sup> House of Lords European Union Committee, *The Future of EU Enlargement*.

<sup>33</sup> Dr Tim Haughton, *submission of evidence*.

<sup>34</sup> Sussex European Institute, University of Sussex, *submission of evidence*.

<sup>35</sup> Scottish Government, *submission of evidence*.

<sup>36</sup> CBI, *submission of evidence*.

the context of the broader economic benefits that enlargement can offer'. Furthermore 'the enlargements envisioned in the medium term are likely to involve only one or two countries at a time, and so are unlikely to generate any significant economic impact on the existing EU'. The EU and Member States also needed 'to make clear the costs associated with non-enlargement'.<sup>37</sup>

- 3.30 Open Europe believed that enlargement offered opportunities for reform of the wider EU budget. It argued that 'by radically reforming [...] inefficient policies such as the CAP and the Structural Funds [...] the UK can both secure a better deal for itself and ensure that new Member States are able to access sufficient EU funds'. The UK could find common cause with new Member States 'such as fairer distribution of CAP payments (under the present system the wealthier EU15 members receive substantially more per acre)'. Furthermore 'limiting [Structural and Cohesion Funds] to EU Member States with income at levels at or below 90% of the EU average could create a win-win situation [...] All new Member States except for Cyprus would also save money on their contributions to the EU budget, with Poland gaining the most'.<sup>38</sup>
- 3.31 Richard Rose believed that 'enlargement of the EU has increased the risk of corruption in the allocation and expenditure of EU funds that are administered by Member States'. He therefore called for the expansion of 'the powers of the EU institutions to take effective action against corruption'.<sup>39</sup>
- 3.32 The UK Government notes that any new Member State is expected to contribute to the budget, and will consequently be entitled to receipts from the budget. All other things being equal, therefore, a new Member State joining the EU will likely increase the overall size of the EU budget. The impact upon the UK's contribution will depend on the relative wealth of the new Member State. Wealthier new Member States will be additional net contributors to the EU budget. New, less wealthy Member States, as net recipients, would imply a higher financing share for the UK. The success of negotiations in February 2013, which agreed the first-ever cut to the EU's long-term budget, suggests that enlargement has not acted as a block in achieving overall EU budget restraint.

### Impact on UK influence

- 3.33 There were differing views from contributors with regard to the impact of enlargement on UK influence in the EU and among aspirant countries. Some believed it had increased UK influence, however others believed it had diluted it.
- 3.34 Many were positive about the impact on UK influence. Alyson Bailes believed that 'enlargement in the 1990s and 2000s brought in nations that were either above-averagely connected to and friendly with the UK'.<sup>40</sup> Valentina Kostadinova agreed that enlargement had 'increased the number of 'neo-liberal' member states, thus most likely improving the UK's bargaining position'.<sup>41</sup> James Ker-Lindsay also believed that enlargement had increased UK influence because its role 'as a champion of enlargement [...] has meant that states pursuing membership have tended to see Britain as a natural ally and champion'.<sup>42</sup>

<sup>37</sup> House of Lords European Union Committee, *The Future of EU Enlargement*.

<sup>38</sup> Open Europe, *Seizing the Moment*.

<sup>39</sup> Prof Richard Rose, *submission of evidence*.

<sup>40</sup> Prof Alyson Bailes, *submission of evidence*.

<sup>41</sup> Dr Valentina Kostadinova, *submission of evidence*.

<sup>42</sup> Dr James Ker-Lindsay, *submission of evidence*.

- 3.35 From the viewpoint of the European Parliament, Charles Tannock MEP reported that ‘the UK has found new friends and partners among new Member States’.<sup>43</sup> The House of Lords also concluded that ‘from a UK perspective, newer Member States have often served as allies on key policy areas’.<sup>44</sup>
- 3.36 However, some contributors questioned how successful the UK had been in exploiting alliances with new Member States it had built during the accession process. The LSE argued that UK support for the countries of central and eastern Europe ‘initially, at least, fostered strong ties with those states once they had joined [...] however it is less clear that the UK has been able or willing to cultivate and/or develop those ties further’.<sup>45</sup> Julie Smith believed that ‘the UK arguably squandered the bilateral relations it had begun to build up ahead of the 2004 ‘big bang’ enlargement, and thus failed to capitalise on (some of) the possible benefits of enlargement’.<sup>46</sup>
- 3.37 Sussex University remarked how the new Member States had soon settled into the EU mainstream. They contended that they now ‘see their interest lying in a deeply integrated EU’ and were ‘much more likely to vote with the majority of Member States than the UK’.<sup>47</sup> Kai-Olaf Lang also noted how ‘many newly-acceded countries have developed a culture of consensus and an institutional aversion to saying ‘no’ once momentum gathers behind initiatives’.<sup>48</sup>
- 3.38 Looking to the future, several contributors believed perceptions of the UK’s political debate on Europe and perceptions that the UK was losing enthusiasm for enlargement posed a risk to future UK influence in the enlargement process.
- 3.39 Anand Menon argued that the benefits the UK had gained from enlargement had been ‘partly diminished as a result of disaffection in new Member States with more recent UK rhetoric and policy’.<sup>49</sup> Experts attending a Security and Stability Roundtable noted ‘a perception that the UK is [...] no longer the champion of enlargement that it once was’ and ‘aspirants seem less inclined to expend [...] resources on engaging with the UK’.<sup>50</sup> The LSE warned that ‘for most states of the western Balkans (and Turkey), the key state actor is Germany. The UK is considered an important ally to have, but in many quarters its significance in terms of enlargement is diminishing’.<sup>51</sup>

## UK representation

- 3.40 Several contributors considered the impact of enlargement on UK representation and voting power in the EU institutions, and whether this impacted upon UK influence. More broadly, some evidence suggested that enlargement had affected the decision-making culture in Brussels.
- 3.41 Some evidence noted how existing Member States had in the past sought to protect their influence as the EU enlarged. In the 1990s, for example, ‘as the accession of Austria, Finland, Norway and Sweden approached, an argument erupted concerning the thresholds for constituting a qualified majority or “blocking minority” in the Council.

<sup>43</sup> Dr Charles Tannock MEP, *record of interview*, 2014.

<sup>44</sup> House of Lords European Union Committee, *The Future of EU Enlargement*, (HL2012-13, 10).

<sup>45</sup> European Foreign Policy Unit, LSE, *submission of evidence*.

<sup>46</sup> Dr Julie Smith, *record of interview*, 2014.

<sup>47</sup> Sussex European Institute, University of Sussex, *submission of evidence*.

<sup>48</sup> Kai-Olaf Lang, *record of interview*, 2014.

<sup>49</sup> Prof Anand Menon, *record of interview*, 2014.

<sup>50</sup> *Record of Security and Stability Roundtable event, FCO London*, 2014.

<sup>51</sup> European Foreign Policy Unit, LSE, *submission of evidence*.

The UK and Spain subsequently secured in 1994 what became known as the Ioannina Compromise, under which ‘the Council would continue for a time to seek a wider basis of agreement’ where opposition to a proposal fell just short of a ‘blocking minority’. The Ioannina Compromise subsequently ‘fell into disuse’.<sup>52</sup>

- 3.42 Some business contributors feared that enlargement had diluted UK voting power in Brussels. The London Chamber of Commerce and Industry (LCCI) was concerned that, with qualified majority voting, ‘an increased number of Member States makes it more difficult for the UK to protect its interests within EU institutions, and a greater effort is needed to create large alliances to support a position’.<sup>53</sup> TheCityUK agreed that, while enlargement was ‘a desirable outcome’, it could ‘work against rapid implementation of a uniform internal market in both financial services and other sectors’.<sup>54</sup>
- 3.43 Tate & Lyle Sugars gave the example of the EU cane sugar regime, where they believed the ‘protectionist bias [of the majority of Member States] has been exaggerated by enlargement’. ‘The six Member States with cane refining industries [...] were not enough to create a minority to force the Council to deal with cane refining fairly’. They further argued that ‘the size of the European Parliament has also disadvantaged the UK sugar policy’.<sup>55</sup>
- 3.44 Business for Britain measured an alleged fall in British influence in terms of UK representation in the EU’s institutions. ‘Since 1973, the UK’s voting power in the Council of Ministers has decreased from 17% to 8%, in the European Parliament it has decreased from 20% to 9.5% [of seats] and in the European Commission [British Commissioners had] decreased from 15% to 4%’. Thus ‘Britain’s ability to block bad European laws has diminished in the [...] institutions as more countries have joined the EU’.<sup>56</sup>
- 3.45 Sara Hageman reported that, since 1999, the number of contested votes in the Council involving the UK has increased. ‘Contestation in the Council appears to have increased’ and ‘a larger percentage of policies have governments who either vote ‘no’ or ‘abstain’ than previously’. ‘The Member State which overall has voted against the majority most often is the UK’. She also reported that the UK submitted the largest number of formal statements explaining its policy position to be added to the Council minutes, which – she suggested – ‘strongly correlates with the kind of scrutiny powers held by its national parliament and parliamentary committees’.<sup>57</sup>
- 3.46 On the other hand, the Senior European Experts Group believed that the ‘potential reduction in the influence of individual members’ had, in the case of the UK, ‘been more than compensated by the arrival of like-minded partners’.<sup>58</sup> Derrick Wyatt agreed this was not just an issue of maths: enlargement ‘might in theory lead to the weight of the UK’s influence in decision making being reduced, but if the new Member States share the UK’s outlook on policy issues the UK’s influence might be the same or increased’.<sup>59</sup>
- 3.47 Some contributors also highlighted how a larger EU had affected its decision-making culture. Sara Hagemann described how ‘Council meetings have radically changed

<sup>52</sup> Fiona Hayes-Renshaw and Helen Wallace, *The Council of Ministers* (2006).

<sup>53</sup> LCCI, *submission of evidence*.

<sup>54</sup> TheCityUK, *evidence submitted to the HMG Balance of Competences Report on the Single Market* (2013).

<sup>55</sup> Tate & Lyle Sugars, *submission of evidence*.

<sup>56</sup> Business for Britain, *Measuring Britain’s influence in the Council of Ministers*.

<sup>57</sup> Dr Sara Hagemann, *submission of evidence*.

<sup>58</sup> Senior European Experts Group, *submission of evidence*.

<sup>59</sup> Prof Derrick Wyatt QC, *submission of evidence*.

since the 2004 enlargement'. Meetings 'increasingly rely on the internal formal rules of procedure [...] as negotiators do not necessarily all know each other'. There is 'a greater tendency towards reading out statements'.<sup>60</sup> In a similar vein, Richard Rose believed that 'enlargement has encouraged discussions by an "inner circle" of a small number of countries in order to arrive at an initial proposal to be put to a full meeting of 28'. Therefore 'a government that is not part of the inner circle is handicapped in promoting its specific national interests'.<sup>61</sup>

- 3.48 Overall, differing views suggest that it is not possible to make general statements with regard to the impact of enlargement on UK influence in Brussels. Drilling down into different specific policy areas, a more complex and nuanced picture appears.

## Impact in Specific Policy Areas

### European stability

- 3.49 Many contributors emphasised the crucial contribution that enlargement had made to European stability. The great majority of evidence suggested this was an area where enlargement had made a major beneficial impact on UK and wider global interests.
- 3.50 The House of Lords believed that 'past enlargements have achieved the intended aim of bringing lasting peace and stability to the EU's neighbourhood'.<sup>62</sup> The Scottish Government agreed that enlargement had 'served an important stabilising and democratising function across the continent'.<sup>63</sup>
- 3.51 The Senior European Experts Group called enlargement 'the biggest single lever enabling the EU to influence its neighbourhood' and noted how 'the UK on its own [...] could not have implemented policies that would have given us anything like the same level of influence'. Furthermore, 'in the Balkans today, the EU is the single greatest source of regional stability' and 'is helping to bring reconciliation and reconstruction after the disastrous conflicts of the 1990s'. For the UK, the 'export of security in Europe has been of considerable importance for the UK's own security'.<sup>64</sup>
- 3.52 Andrew Duff believed that, in the European neighbourhood, 'enlargement had been the single most effective tool that had been employed systematically and successfully over the last 30 years'.<sup>65</sup> The Centre for European Reform concurred, calling enlargement 'the Union's greatest contribution to the continent's stability, security and prosperity'.<sup>66</sup>
- 3.53 Joanna Hanson argued that the enlargement process 'has provided crucial stability in all of the countries gaining EU membership in the three waves of the 21st century'.<sup>67</sup> George Kyris believed that, 'in political and security terms, successive EU enlargements have proven to be the EU's most effective tool in promoting regional stability and security'.<sup>68</sup>

<sup>60</sup> Dr Sara Hagemann, *submission of evidence*.

<sup>61</sup> Prof Richard Rose, *submission of evidence*.

<sup>62</sup> House of Lords European Union Committee, *The Future of EU Enlargement*.

<sup>63</sup> Scottish Government, *submission of evidence*.

<sup>64</sup> Senior European Experts Group, *submission of evidence*.

<sup>65</sup> Andrew Duff, former MEP, *record of interview*, 2014.

<sup>66</sup> Centre for European Reform, *submission of evidence*.

<sup>67</sup> Dr Joanna Hanson, *submission of evidence*.

<sup>68</sup> Dr George Kyris, *submission of evidence*.

- 3.54 Experts attending a Security and Stability Roundtable noted, however, that while the EU has successfully ‘softened conflicts’ it had not necessarily finally resolved them. Citing the example of Hungary and Romania, they observed how ‘the EU requirement of a “good neighbourly policy” meant that countries worked and improved their relations despite the tensions wrapped up in pre-existing ethnic issues’.<sup>69</sup>
- 3.55 Linked to regional stability, several contributors also highlighted the beneficial impact that enlargement has had on respect for human rights in new Member States and in aspirant countries.
- 3.56 Considering the treatment of national minorities, the Centre for European Reform recalled that ‘Latvia and Estonia, with large populations of Russian-speakers who are not citizens of the countries, might easily have faced the sort of ethnic tensions which affected Moldova (with its separatist Transnistrian enclave) or most of the states which emerged from Yugoslavia’.<sup>70</sup> The Senior European Experts Group also argued that ‘in the light of events in Georgia and Ukraine, where Russia has argued that military intervention was justified to protect Russian-speaking minorities, the EU’s requirement for applicant countries to respect and protect minorities has gained new salience’.<sup>71</sup>
- 3.57 Index on Censorship argued that ‘the EU enlargement process has been one of the most effective tools of its foreign policy, not least in the ability through the membership negotiations to contribute positively to democratisation processes including respect for freedom of expression and media freedom’.<sup>72</sup> However it perceived a lower EU commitment to enlargement in recent years, which meant that ‘the EU ability to impact positively on freedom of expression and democratic change in its own neighbourhood has been substantially reduced’.<sup>73</sup>
- 3.58 Experts attending a Security and Stability Roundtable warned that human rights compliance risked being shallow. Citing Lesbian, Bi-Sexual, Gay and Transgender (LBGT) rights as an example, they noted how ‘in the haste to ensure compliance, LBGT reforms were forced through and into statute rather than adopted following a national debate [...] The EU conditionality box was ticked but did this come at the cost of better and wider understanding and acceptance of the need for and importance of such equality?’<sup>74</sup>
- 3.59 Heather Grabbe disagreed, and argued that ‘the political conditionality in the accession process has brought attention to rule of law, human rights and respect for and protection of minorities far beyond what post-communist and post-conflict governments would otherwise have paid to them [...] The EU’s conditions and its regular reporting on the human rights situation in the country forced ministers and heads of government to take action much more comprehensively and on a faster timetable – both in central Europe, and the Balkans and Turkey. For example, nearly all of the constitutional protections against discrimination in the Balkans are the result of EU pressure, while the small progress on policy measures to help Roma inclusion is almost entirely due to the EU constantly asking countries to report on this issue. The situation on rights and minorities would be much worse by now if there had been no enlargement policy’.<sup>75</sup>

<sup>69</sup> *Record of Security and Stability Roundtable event, FCO London, 2014.*

<sup>70</sup> Centre for European Reform, *submission of evidence.*

<sup>71</sup> Senior European Experts Group, *submission of evidence.*

<sup>72</sup> Index on Censorship, *evidence submitted to the Review of the Balance of Competences report on Foreign Policy.*

<sup>73</sup> *Idem.*

<sup>74</sup> *Record of Security and Stability Roundtable event, FCO London, 2014.*

<sup>75</sup> Dr Heather Grabbe, *submission of evidence.*

- 3.60 The UK Government believes enlargement has made a crucial contribution to stability and security in Europe. It also welcomes the sustained focus of accession conditionality upon the proper functioning of democratic institutions and protecting fundamental rights, which further underpins stability and security.

### Foreign Policy

- 3.61 Many contributors highlighted the importance of the EU as an influence-multiplier for the UK in global affairs and how an enlarged EU has increased this influence further. Most believed enlargement had increased the EU's Atlanticist outlook and its global influence more broadly to the benefit of the UK. However some argued that the increased diversity of opinion also increased the risk that UK and EU foreign policy positions would not coincide.
- 3.62 Referring to EU foreign policy influence, the House of Lords concluded that 'enlargement increases the EU's influence on the global stage and better equips the EU to deal with its neighbourhood'.<sup>76</sup> Alyson Bailes noted how enlargement, by 'almost doubling the EU "caucus", has strengthened the EU's collective voice and clout in wider European (e.g. Organisation for Security and Cooperation in Europe) and global (e.g. United Nations) fora'.<sup>77</sup>
- 3.63 Others specifically considered UK foreign policy influence. Anand Menon noted that, 'in future, the major players are likely to be continent-sized' and 'the UK's influence can be increased through a stronger EU'.<sup>78</sup> Experts attending an FCO roundtable agreed that 'an enlarged EU would lead to a greater global footprint, allowing greater EU (and, by extension, UK) influence outside of the immediate neighbourhood and, most significantly, with other global players like Russia and China'.<sup>79</sup>
- 3.64 Several contributors argued that enlargement had benefitted the UK's global alliances. Experts attending a Roundtable in Brussels contended that 'enlargement in 2004 has broadly made the EU more Atlanticist'.<sup>80</sup> Sussex University agreed that 'on foreign policy, [the new Member States] have strengthened Atlanticist sentiment' and their 'positions on the Atlantic Alliance and Russia chime with those of the UK'.<sup>81</sup>
- 3.65 The Senior European Experts Group highlighted how 'successive US administrations have encouraged and supported' enlargement and how the new Member States were 'anchored in the transatlantic alliance and NATO'.<sup>82</sup> Senator Bob Carr, the Australian Minister for Foreign Affairs, recognised the UK as 'a leading voice in EU enlargement, which has helped transform eastern Europe and improved Europe's security and prosperity. In advocating a spirit of inclusiveness and openness, the UK's efforts have benefitted both the EU and third states, including Australia'.<sup>83</sup>

<sup>76</sup> House of Lords European Union Committee, *The Future of EU Enlargement*.

<sup>77</sup> Prof Alyson Bailes, *submission of evidence*.

<sup>78</sup> Prof Anand Menon, *record of interview*, 2014.

<sup>79</sup> *Record of the Emerging Themes Roundtable event, FCO London*, 2014.

<sup>80</sup> *Record of Brussels Roundtable event*, 2014.

<sup>81</sup> Sussex European Institute, University of Sussex, *submission of evidence*.

<sup>82</sup> Senior European Experts Group, *submission of evidence*.

<sup>83</sup> Australian Minister for Foreign Affairs, *evidence submitted to the Review of the Balance of Competences between the United Kingdom and the European Union: Foreign Policy* (2013).

- 3.66 Rosa Balfour, however, questioned whether enlargement had overall strengthened 'Atlanticist allegiances in Europe'. She believed that 'US growing demands for greater European responsibility in global security, the economic crisis and its related austerity measures made many of the countries which joined the EU in 2004 more committed to the European agenda'.<sup>84</sup>
- 3.67 Several contributors also noted how enlargement had also increased diversity of opinion within the EU on foreign policy. The LSE recalled how 'many of the new Member States have been more supportive than the UK of strong EU leadership in particular areas of foreign policy – and therefore of stronger EU institutions'.<sup>85</sup>
- 3.68 Others noted how enlargement had progressively turned a western European organisation into one with borders with Russia and close to the Middle East. Some contributors now saw gaps in the EU's foreign policy alignment regarding its neighbours. Experts attending a roundtable in Brussels believed 'the two big dividing issues in EU foreign policy are Russia and the Middle East'. Since 2004, 'on the Middle East, Member States have pretty much agreed to disagree, albeit they have come closer. On Russia, they are not close enough, although countries like Poland, Lithuania and Estonia have appreciated EU solidarity on bilateral disputes with Russia – a game-changer for them'.<sup>86</sup> Carnegie Europe agreed that 'new and old Member States have not yet agreed a wider strategic view on the EU's relations with its neighbours. This is particularly apparent in the EU's relations with Russia'.<sup>87</sup>
- 3.69 Several contributors contended that enlargement policy had now become a contested policy area with Russia. Charles Tannock MEP recounted how 'Moscow has said it sees EU enlargement as a threat to Russian interests'.<sup>88</sup> Andrew Glencross believed that 'EU countries are at odds over how far to pursue enlargement in the former Soviet space, with eastern European countries, notably Poland, especially keen to expand the EU's borders in the face of Russian reluctance'.<sup>89</sup> George Kyris took the view that 'competition with Russia might serve to underline the importance of EU enlargement'.<sup>90</sup>
- 3.70 The UK Government believes that enlargement has strengthened the EU's foreign policy, by creating a broader EU with greater economic and political influence and a broadly more Atlanticist outlook. While there has been a broader range of opinion among Member States, this has not prevented the EU from acting decisively where needed, as the EU's recent pressure and sanctions on Russia demonstrate. The UK has worked particularly closely with a number of newer Member States, notably Poland and the Baltic States, in formulating the EU's response to Russia's actions.

## Defence

- 3.71 A number of contributors pointed to the read across between EU enlargement, NATO enlargement and broader defence cooperation as part of a wider process of Euro-Atlantic integration. While believing that enlargement had been beneficial in broad terms, many also believed that EU / NATO co-ordination had suffered since 2004 due to the dispute between Cyprus and Turkey.

<sup>84</sup> Dr Rosa Balfour, *submission of evidence*.

<sup>85</sup> European Foreign Policy Unit, LSE, *submission of evidence*.

<sup>86</sup> *Record of Brussels Roundtable event, 2014*.

<sup>87</sup> Judy Dempsey, *record of interview, 2014*.

<sup>88</sup> Dr Charles Tannock MEP, *record of interview, 2014*.

<sup>89</sup> Dr Andrew Glencross, *submission of evidence*.

<sup>90</sup> Dr George Kyris, *submission of evidence*.

- 3.72 Andrew Glencross believed ‘the UK was highly successful in preserving the compatibility between EU foreign policy commitments and NATO’.<sup>91</sup> However many contributors argued that the accession of Cyprus had damaged EU co-ordination with NATO. The Senior European Experts Group reported that, ‘in the field of defence and security policy, the accession of a divided Cyprus has obstructed the UK’s objective of better cooperation between the EU and NATO’.<sup>92</sup> Andrew Duff agreed that ‘admitting Cyprus before a settlement proved to be a great mistake [...] and we – including UK interests – are now living with the consequences including on EU / NATO cooperation’.<sup>93</sup>
- 3.73 Several contributors underlined that NATO enlargement was distinct and no substitute for the EU. James Ker-Lindsay believed that, to EU aspirant countries, NATO membership ‘is secondary to EU membership in terms of national priorities’ and ‘is unlikely to provide anywhere near the sort of influence Britain has as a member of the EU’. Furthermore, ‘the process of membership is far less wide-ranging and rigorous’.<sup>94</sup> Experts attending a Security and Stability Roundtable agreed that ‘NATO was not in a position to offer institutional transformation across the whole government and civil society, and therefore its influence (and use as a comparative model to the EU) was limited’.<sup>95</sup>
- 3.74 The UK Government believes EU enlargement is beneficial to UK defence interests, and complementary to (but separate from) NATO enlargement. In the western Balkans, enlargement would encourage aspirant countries to take an active role in supporting regional stability and security. This in turn would enable the UK to reduce actual and potential UK military commitments to the region, for example in BiH. As for Turkey, its EU accession would greatly benefit UK defence interests *inter alia* through a marked improvement of EU/NATO relations.

### Free Trade and the Single Market

- 3.75 Many contributors pointed to free trade and the Single Market as particular areas where the UK has benefited from the accession of new Member States to the EU. These issues were also considered previously by the Balance of Competences report on the Single Market led by the Department for Business, Innovation & Skills.<sup>96</sup>
- 3.76 There was general consensus that the UK had benefited as part of a growing EU trading bloc, and new Member States have generally supported the UK’s Single Market agenda. However, as one contributor noted, a larger EU also increases the risk of individual Member States blocking progress in this area.<sup>97</sup>
- 3.77 Highlighting the increased negotiating power of an enlarged EU in international trade negotiations, Charles Tannock MEP argued that ‘the UK is able to project significant influence through the EU as a major global trading bloc – which grows further with enlargement’. With more consumers, ‘a larger EU is more attractive for other global partners – e.g. the US and India – to deal with’.<sup>98</sup> The Scottish Government agreed that ‘enlargement has played an important role in strengthening the bargaining position of

<sup>91</sup> Dr Andrew Glencross, *submission of evidence*.

<sup>92</sup> Senior European Experts Group, *submission of evidence*.

<sup>93</sup> Andrew Duff, former MEP, *record of interview*, 2014.

<sup>94</sup> Dr James Ker-Lindsay, *submission of evidence*.

<sup>95</sup> *Record of Security and Stability Roundtable event, FCO London*, 2014.

<sup>96</sup> HMG, *Review of the Balance of Competences between the United Kingdom and the European Union: The Single Market* (2014).

<sup>97</sup> Dr Syed Kamall MEP, *record of interview*, 2014

<sup>98</sup> Dr Charles Tannock MEP, *record of interview*, 2014

the EU collectively in global economic negotiations' and 'the strong collective voice with which the EU engages with the institutions of global economic diplomacy, especially the WTO [World Trade Organisation] [...] and the IMF [International Monetary Fund]'. It cited benefits including a Free Trade Agreement (FTA) with South Korea, a planned Canada-Europe FTA and negotiations with the USA (Transatlantic Trade & Investment Partnership – TTIP), Japan, the Association of Southeast Asian Nations (ASEAN) and Mercosur.<sup>99</sup>

- 3.78 There were dissenting voices on global trade benefits, however. Syed Kamall MEP agreed that 'an EU of 28 is clearly a more powerful interlocutor vis-à-vis, for example China'. But he warned that 'trade agreements are often held up by the slowest Member States or those with specific concerns' and 'this risk increases as the EU enlarges'.<sup>100</sup> Experts attending a roundtable in Brussels disagreed, arguing that 'enlargement has made free trade agreements [...] easier to conclude'. Without the accession of pro-free trade new Member States, 'it would have been more difficult to come to an agreement with 15 Member States than with 28'.<sup>101</sup>
- 3.79 Within the EU, the House of Lords highlighted 'Single Market issues and better regulation' as particular areas where 'newer Member States have often served as allies' for the UK.<sup>102</sup> The Senior European Experts Group also pointed to support for the UK's free-trade agenda, noting that 'the Single Market and free trade policies have been priorities for [the Nordic countries] and for most of the countries of central and east Europe'. Like the UK, for example, they 'wished to go further in fields such as innovation, the digital economy and better regulation'.<sup>103</sup>
- 3.80 Sussex University pointed to how new Member States have also tended to be more like-minded on the social agenda, noting that 'new Member States have generally been keen to limit the extent to which EU legislation upwardly harmonises social policy'. They cited, for example, support from new Member States for the UK's position on the Working Time Directive.<sup>104</sup>

### Impacts on British Business

- 3.81 Many contributors considered the impact of enlargement on British business. The great majority highlighted the benefits of access to a larger Single Market. However, some evidence suggested that not all parts of the UK economy were benefitting, and not all sectors of British business were exploiting the opportunities.
- 3.82 Data suggested that UK exports of goods and services to Member States who acceded in 2004 have since risen by 100% – more than double the rate for the EU as a whole. Meanwhile, Poland's real GDP, for example, grew by 41% between 2004-13.<sup>105</sup> UK exports of goods and services to Poland have increased by 172% since 2003 to reach £5.2bn in 2013.<sup>106</sup>

<sup>99</sup> Scottish Government, *submission of evidence*.

<sup>100</sup> Dr Syed Kamall MEP, *record of interview*, 2014.

<sup>101</sup> *Record of Brussels Roundtable event*, 2014.

<sup>102</sup> House of Lords European Union Committee, *The Future of EU Enlargement*.

<sup>103</sup> Senior European Experts Group, *submission of evidence*.

<sup>104</sup> Sussex European Institute, University of Sussex, *submission of evidence*.

<sup>105</sup> Eurostat, *Gross Domestic Product at Market Prices*.

<sup>106</sup> Office for National Statistics, *Pink Book* (2014). Available at: [www.ons.gov.uk/ons/datasets-and-tables/index.html](http://www.ons.gov.uk/ons/datasets-and-tables/index.html), accessed on 25 November 2014.

- 3.83 The Scottish Government argued that enlargement had ‘delivered significant economic and social benefits’ for Scotland. ‘Between 2004 and 2013, growth in exports of goods to the EU10 [countries that acceded in 2004] has increased by 124.8%. In 2013, those exports were worth £737m to the Scottish economy. Annual growth in trade in goods with the EU10 has, with the exception of 2009, outstripped growth with the remaining EU Member States each year since 2006’.<sup>107</sup>
- 3.84 British Influence believed that ‘successive waves of enlargement have positively influenced competition, specialisation, economies of scale and have enhanced growth and employment opportunities’. Furthermore the ‘extension of democracy, the rule of law, respect for human rights, non-discrimination and free markets all have a positive impact on trade levels both within and without the EU’.<sup>108</sup> The Trades Union Congress (TUC ) agreed that enlargement ‘has expanded the internal market and extended the reach of EU rules to new countries; with it came economic growth and opportunities for business to access new markets’.<sup>109</sup>
- 3.85 The Centre for European Reform highlighted how the trade benefits to the UK were swift and many came before accession. ‘The UK benefited from an increase in exports to the applicant countries before 2004 as they opened their markets in the run-up to accession: according to the House of Commons Select Committee on Trade and Industry, UK exports doubled between 1997 and 2005’.<sup>110</sup>
- 3.86 The LCCI agreed that enlargement had ‘given UK businesses access to [...] the world’s largest consumer market comprised of over 500 m consumers’. The LCCI also noted that ‘while new Member States that joined since 2004 currently compose only around 7% of all UK exports to the EU, these developing markets have greater growth potential than developed markets’. ‘Candidate EU member countries also hold potential for UK companies [...] particularly Turkey’.<sup>111</sup>
- 3.87 Business representatives attending an FCO Roundtable also concluded that ‘the expansion of the Single Market to 500m people had been beneficial for UK business. New Member States had faster growing economies than old ones’. One company confirmed that ‘its growth in eastern Europe was faster than elsewhere’. Another company reported that ‘the Single Market was a bedrock for its expansion globally both in Europe and to the BRICs [Brazil, Russia, India, China], MINTs [Mexico, Indonesia, Nigeria, Turkey], US and Japan’.<sup>112</sup>
- 3.88 Furthermore, the Senior European Experts Group believed that the ‘economic benefits that accrue from enlargement are not represented by exports figures’ alone. ‘Economic benefits for the UK go much wider than exports – for example the contribution of skilled staff to public services’.<sup>113</sup>

<sup>107</sup> Scottish Government, *submission of evidence*.

<sup>108</sup> British Influence, *evidence submitted to Review of the Balance of Competences between the United Kingdom and the European Union: The Single Market*.

<sup>109</sup> TUC, *evidence submitted to the Review of the Balance of Competences between the United Kingdom and the European Union: The Single Market*.

<sup>110</sup> Centre for European Reform, *submission of evidence*.

<sup>111</sup> LCCI, *submission of evidence*.

<sup>112</sup> *Record of Business Roundtable event, FCO, 2014*.

<sup>113</sup> *Record of meeting with Senior European Experts Group, 2014*

- 3.89 There was, however, at least one dissenting voice from business. Business for Britain countered that, ‘while there were benefits to the EU Single Market, some of the advantages are at risk of being over emphasised’. Furthermore, it feared that ‘further expansion of the EU, and thus a *de facto* enlargement of the Eurozone, will tilt the political balance away from those EU countries not in the Eurozone, putting them in a more isolated position in the future’.<sup>114</sup> Business for Britain feared that this could ‘damage UK banking interests’ and ‘result in excessive regulation and a gradual reduction in London’s overall competitiveness’.<sup>115</sup>
- 3.90 There also appeared to be some difference of views between small and large companies. The LCCI thought the enlarged Single Market was ‘particularly attractive to small and medium-sized enterprises (SMEs) and those new to exporting, because Single Market regulations make EU Member States easier to penetrate than markets outside the EU’.<sup>116</sup>
- 3.91 Business for Britain disagreed, however, arguing that ‘SME interest was more focussed on [...] newer markets found in the BRICs and MINTs’. Turkey’s entry ‘to the Single Market would not necessarily be an advantage to smaller companies looking for foreign markets’.<sup>117</sup> A small business owner from Surrey concurred that ‘some businesses will benefit from having access to new markets, but I imagine that they will be the large multi-corporates. Certainly the businesses in my local area will not benefit, they are street shops who don’t export at all’.<sup>118</sup>
- 3.92 Contributions also suggested that not all sectors of UK business are yet fully exploiting the potential provided by enlargement. The CBI reported that ‘parts of the eastern EU are growing more rapidly and represent an under-exploited trading opportunity. The countries that have acceded to the EU since 2004 have a combined economy the size of Spain and are forecast to grow faster than the EU average’. However ‘the UK takes little advantage of new trading opportunities with the 13 countries that joined the EU between 2004 and 2013 – together they accounted for only a 3.1% share of exports, highlighting the continuing opportunities in developed markets for UK firms’.<sup>119</sup> Business representatives attending an FCO roundtable also confirmed that ‘this growth was not uniform throughout the British economy’. For example, ‘the UK’s agricultural trade balance had fared less well: having previously been a net exporter of wheat and lamb, the UK was now a net importer’.<sup>120</sup>

### Cases Studies of British Business Success

- 3.93 A lot of case study evidence was received reflecting how individual firms have focussed on the opportunities presented by enlargement. For Kingfisher PLC, who own B&Q and Screwfix, ‘eastern enlargement of the EU has opened up new opportunities [...] Romania’s DIY market has trebled in size since 2005 [...] and Kingfisher expanded into Romania in 2013 acquiring 15 large stores’.<sup>121</sup>

<sup>114</sup> Business for Britain, *record of interview*, 2014.

<sup>115</sup> *Idem*.

<sup>116</sup> LCCI, *submission of evidence*.

<sup>117</sup> Business for Britain, *record of interview*, 2014.

<sup>118</sup> Small business owner, *submission of evidence*.

<sup>119</sup> CBI, *submission of evidence*.

<sup>120</sup> *Record of Business Roundtable event, FCO London*, 2014.

<sup>121</sup> CBI, *submission of evidence*.

- 3.94 Shell reported how its ‘business has benefitted from the ability to access markets and co-ordinate operations across Member States, for example, linking our business service centres in Glasgow and Warsaw’. More widely, ‘enlargement and the extension of business interests within a cross-border (pan European) regulatory environment enables easier working versus dealing with multiple individual Member States’.<sup>122</sup>
- 3.95 The Scotch Whisky Association reported that ‘EU enlargement has proved to be of huge importance to Scotch whisky’. ‘Extension of the Single Market and the free movement of goods principle has been massively helpful’. For example, ‘in 2013, Scotch exports to Poland grew to £60m, more than 10 times the level when it acceded in 2004’.<sup>123</sup> Endava, an IT services company, reported that ‘85% of the company’s work is carried out in eastern Europe’. Enlargement had given access to a ‘capable and low cost work force’ while ‘intellectual property has received increased protection’.<sup>124</sup>
- 3.96 Further case studies of UK business success in new Member States in wake of EU enlargement are cited in a ‘Central and East European Economic Scorecard’ produced by the British Embassy Warsaw and PwC, including contributions from Tesco, Rolls Royce, Astra-Zeneca, BUPA, Atkins, HSBC, and Provident.<sup>125</sup>

### Business Environment in New Member States

- 3.97 Several business contributors raised concerns about the business environment in newer new Member States and their ability to enforce EU rules and standards. They consequently feared that British business might be placed at a disadvantage. But evidence from academics questioned whether new Member States could be unfairly accused of poor implementation of EU rules.
- 3.98 Business representatives attending an FCO roundtable believed that ‘the EU had raised regulatory standards in new and aspiring Member States but sometimes these standards remained too low’. They noted that ‘new Member States found it difficult to keep up with the pace of new regulations’. Furthermore, some participants believed ‘there was no level playing field of implementation of legislation across Europe [...] new Member States were particularly at fault’.<sup>126</sup>
- 3.99 Shell agreed that ‘there are some challenges around enlargement, such as the implementation of regulations at different speeds across new and old Member States. For example, the third energy package has been implemented at different levels’.<sup>127</sup> One LCCI member company reported that, in the new Member States (as well as some old ones), national regulators ‘unduly use flexibility in the EU measures to obfuscate and delay the open competition process’, while ‘public procurement is another area of uneven implementation’.<sup>128</sup>

<sup>122</sup> Shell International Ltd, *submission of evidence*.

<sup>123</sup> Scottish Whisky Association, *submission of evidence*.

<sup>124</sup> Endava, *record of interview*, 2014.

<sup>125</sup> British Embassy Warsaw and PwC, *Central and East European Economic Scorecard*. Available at: [www.EconomicScorecard.eu](http://www.EconomicScorecard.eu), accessed on 21 November 2014.

<sup>126</sup> *Record of Business Roundtable event, FCO London*, 2014.

<sup>127</sup> Shell International Ltd, *submission of evidence*.

<sup>128</sup> LCCI, *submission of evidence*.

- 3.100 Attendees at a roundtable on intellectual property echoed these concerns. They believed that ‘the accession of further countries into the EU, while offering commercial opportunities, also presented risks regarding piracy, illegal streaming and counterfeit operations’. They suggested that ‘a key concern was that countries sign up to EU Directives but that, through a lack of capacity, political will or both, these Directives are not enforced’. However attendees believed that ‘provided the correct legislation was enforced, these difficulties would be surmountable’ and ‘part of the solution was for the Commission to take a strong steering role to aid implementation’. Furthermore ‘the accession of candidate countries could help ensure the EU had direct engagement [...] which might help reduce these risks’.<sup>129</sup>
- 3.101 On the other hand, academic contributors questioned whether new Member States could be fairly accused of poor implementation and enforcement of EU rules and standards. The LSE argued that ‘most of the new Member States outperform most of the old Member States with regard to compliance with EU law’, though this ‘might mask a gap between good formal compliance/legal transposition and the proper application of these laws in practice’.<sup>130</sup> Sussex University cited the Single Market Scoreboard, which suggested that ‘new Member States have a slightly higher level of untransposed legislation than the old Member States’ (that is 0.74% compared to 0.7%). However ‘by other measures, the new members appear to have performed better than the old guard [...] the number of infringement proceedings against new Member States has been on average slightly under two-thirds of those faced by old Member States’, though they concede that this ‘does not necessarily mean that the street level application of EU legislation is better’.<sup>131</sup>
- 3.102 Overall, the UK Government believes that enlargement has been greatly beneficial to the UK with respect to business, trade and the Single Market. Expansion of the Single Market to over 500m consumers has brought greater prosperity across Europe and greater market access for British business. The Single Market also opens new business opportunities as new Member States spend Structural and Cohesion Funds.

### Rule of Law, International Crime and Justice

- 3.103 Several contributors gave evidence regarding the impact of enlargement on UK interests with regard to upholding the rule of law, action against organised crime and corruption, and law enforcement and judicial co-operation. Some highlighted increased risks to UK interests brought by enlargement. Others believed enlargement increased the appetite and ability of aspirant countries to work with UK law enforcement and judicial authorities.
- 3.104 Richard Rose believed, following enlargements to the east and south after 2004, that corruption remained a major issue in these countries. This was ‘a recurring challenge to UK companies trying to operate there’.<sup>132</sup> Derrick Wyatt also warned that ‘in some new Member States, those who work in the civil service, public sector, politics and business are vulnerable to corruption and to links with organised crime’ and there were ‘relatively high degrees of tolerance of bribery and other forms of corruption in the new Member States’.<sup>133</sup>

<sup>129</sup> *Record of Roundtable Event, UK Intellectual Property Office, London, 2014.*

<sup>130</sup> European Foreign Policy Unit, LSE, *submission of evidence.*

<sup>131</sup> Sussex European Institute, University of Sussex, *submission of evidence.*

<sup>132</sup> Prof Richard Rose, *submission of evidence.*

<sup>133</sup> Prof Derrick Wyatt QC, *submission of evidence.*

- 3.105 The Centre for European Reform agreed that ‘it will be essential for the EU to take a firm line’ on rule of law conditionality in the western Balkans, otherwise ‘new Member States will export their own problems’. ‘This should be a particular concern for the UK in relation to financial services: a combination of weak enforcement of anti-money laundering regulations in some Member States and the free movement of capital inside the EU already enable dubiously-acquired money to be recycled through London’.<sup>134</sup>
- 3.106 AML Consulting, based on its experience working in aspirant countries, believed that ‘enlargement has not necessarily increased [...] criminal industries in the UK but the relative ineffectiveness of justice systems in accession and pre-accession countries increases the capacity and motive of organised crime from those countries to come and work in the UK’. It alleged that, ‘once criminal profit is removed from the UK back to the accession country, ineffective judicial systems [...] mean the risk of confiscation is close to zero’. Furthermore, in the UK, ‘the risk of capture is high but the risk of actual consequences is low’ (for example ‘prostitution is not a priority for UK law enforcement’).<sup>135</sup>
- 3.107 Other contributors argued that enlargement in fact increased the UK’s ability to address international crime threats. Alyson Bailes believed that, had enlargement not brought the new Member States into the EU, then its ‘outer defences – now also the UK’s outer defences – against crime, smuggling, terrorism, trafficking in dangerous goods and illegal migration would be far weaker today’.<sup>136</sup> From a business viewpoint, Endava believed that ‘enlargement enhances the rule of law [...] and provides the right framework for business to expand’. It contended that ‘corruption is being tackled’ in the new Member States and ‘is more competently handled within the EU than outside it’.<sup>137</sup>
- 3.108 The UK Parliament has also previously considered the impact of enlargement in this area. Looking at the implications of future Turkish accession to the EU, the Home Affairs Committee in 2011 thought its accession ‘would be unlikely to lead to an increase of narcotics into the EU market’. However MPs were ‘concerned by evidence [...] of an increase in [human] trafficking following previous enlargements of the EU’. They further considered ‘the likely impact of more open borders on [people smuggling] an area of major concern’. They nonetheless concluded that ‘accession will bring opportunities for greater cooperation between Turkish and EU law enforcement agencies, which could bring about a more robust response’. In the long-term, MPs believed that ‘the risks that Turkish accession poses for organised crime in the EU are considerably outweighed by the potential benefits’ but ‘if Turkey is not permitted to join the EU, the Turkish authorities may lose their incentive to prioritise tackling criminality which affects EU Member States’.<sup>138</sup>
- 3.109 The UK Government recognises the risks posed by international crime to the UK and is leading EU efforts to prioritise action against organised crime and corruption in the enlargement process. However it also believes that enlargement is the most effective vehicle to strengthen the UK’s defences through increased operational co-operation between UK law enforcement and judicial agencies and their counterparts in aspirant countries. For example, Albania was required to push through major reforms, including to root out corruption and crack down on illegal migration and other aspects of organised

<sup>134</sup> Centre for European Reform, *submission of evidence*.

<sup>135</sup> AML Consulting, *submission of evidence*.

<sup>136</sup> Prof Alyson Bailes, *submission of evidence*.

<sup>137</sup> Endava, *record of interview*, 2014.

<sup>138</sup> House of Commons Home Affairs Committee, *Implications for the Justice and Home Affairs Area of the Accession of Turkey to the European Union* (HC 2010-12, 10).

crime, in order to be awarded EU Candidate Status in 2013.<sup>139</sup> Albania will be required to continue these efforts before it can progress towards opening accession negotiations.

### Climate Change and the Environment

- 3.110 A few contributors considered the impact of enlargement upon EU climate change policy. This was generally seen as an area of policy divergence between the new Member States and the UK. However one environmental campaign group thought the impact of enlargement on wider environmental policy was on balance positive.
- 3.111 Sussex University highlighted how ‘the new Member States’ positions as relatively more carbon-intensive economies has made them reluctant participants in the development of the EU’s climate and energy policies’. ‘However more recently they have worked with the UK to have the policy rebalanced in the direction of competitiveness and supply security concerns’.<sup>140</sup> The Senior European Experts Group agreed that ‘new members such as Poland have refused targets for reduction of emissions that they consider to be too high’.<sup>141</sup> However experts attending a Roundtable in Brussels argued that ‘you wouldn’t expect a country that is dependent on coal like Poland to take on the commitments it did as part of the EU agenda’ and so therefore this was a relative success.<sup>142</sup>
- 3.112 Greenpeace agreed that the implementation of the environmental parts of the *acquis* in accession countries had brought environmental benefits. However the accession of countries with high-carbon energy generation and with climate change low down on in their political priorities had slowed action against climate change. Greenpeace concluded that ‘enlargement, especially the one of 2004, has on balance been positive for European nature because of the implementation of the *acquis* in the central and east European region’.<sup>143</sup>
- 3.113 The UK Government believes that enlargement has been broadly positive for climate change policy because it has expanded the number of states who have taken on ambitious climate change targets and therefore increased the level of reductions delivered. However the more diverse nature of Member States has meant some elements of climate policy that require unanimous agreement have not found agreement.

### Migration

- 3.114 Migration is a salient issue in the context of the UK debate on enlargement. The impact of EU enlargement upon migration was also considered previously by the Balance of Competences Review report on Free Movement of Persons led by the Home Office.
- 3.115 It found ‘considerable differences in opinion on this topic [...] Some saw free movement of persons as both a necessary part of the Single Market and as broadly positive for the UK economy. Others however highlighted negative effects, such as competition for jobs and pressure on public services and housing’.<sup>144</sup>

<sup>139</sup> European Commission, *Albania’s Progress in the Fight Against Corruption and Organised Crime in the Judicial Reform* (2014).

<sup>140</sup> Sussex European Institute, University of Sussex, *submission of evidence*.

<sup>141</sup> Senior European Experts Group, *submission of evidence*.

<sup>142</sup> *Record of Brussels Roundtable event, 2014*.

<sup>143</sup> Greenpeace, *submission of evidence*.

<sup>144</sup> HMG, *Review of the Balance of Competences: Free Movement of Persons*.

- 3.116 The report highlighted ‘the sharp increase in EU migration to the UK in the last 10 years, resulting from a variety of factors [...] Major contributing factors were the expansion of the EU in 2004, the decision to open up the UK’s labour market to workers from the accession countries earlier than most other Member States, and the relative openness and flexibility of the UK’s labour market and economy’.<sup>145</sup>
- 3.117 It identified ‘three distinct phases of free movement. Prior to the 2004 and 2007 enlargements, most movements were small scale and regional [...] Following the 2004 enlargement, the second phase of EU migration saw very large numbers of, in many cases unanticipated, movements from east to west; and the third phase has seen an initial decline in east-west migration following the economic crisis, with some evidence of a new south-north trend on movement of workers from the crisis hit Member States of the south to the more prosperous north’.<sup>146</sup>
- 3.118 The report also found that, following 2004, ‘whereas flows had previously been relatively modest, enlargement resulted in a significant increase in the number of EU citizens in the UK: from around 1.1m in 2004 to approximately 2.3m by 2012 [...] The fact that the UK was one of only three countries (UK, Sweden and Ireland) that gave EU8 nationals [Czech Republic, Estonia, Latvia, Lithuania, Poland, Slovakia, Slovenia] full access to their labour market in 2004 clearly played a major part in attracting this influx. The biggest single group of foreign nationals in the UK are now Polish nationals’.<sup>147</sup>
- 3.119 It concluded that ‘the 2004 enlargement has had the single biggest impact on the UK. The significant increase in the numbers of migrants from the EU8 countries has been mirrored in growing public concern about the local impacts of large inflows to particular areas, especially those unused to receiving large numbers of migrants’.<sup>148</sup>
- 3.120 Future options and challenges around the issue of migration will be considered further in Chapter Four.

### Other Areas of Impact

- 3.121 Other Balance of Competences reports also highlighted the impact of EU enlargement on UK interests in their areas. In both the fields of animal welfare, and research and development, the respective reports found both advantageous and disadvantageous impacts on UK interests.

### Animal health and welfare, and food safety

- 3.122 The impact of EU enlargement upon animal health and welfare, and food safety was considered previously by the Balance of Competences report led by the Department for Environment, Food & Rural Affairs.<sup>149</sup>
- 3.123 It concluded that enlargement, ‘although diluting the influence of individual countries, has the potential to have a balancing effect. The difficulty of reaching agreement with so many may focus efforts on developing standards only where they are really needed’.<sup>150</sup>

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<sup>145</sup> Idem.

<sup>146</sup> Idem.

<sup>147</sup> Idem.

<sup>148</sup> Idem.

<sup>149</sup> HMG, *Review of the Balance of Competences between the United Kingdom and the European Union: Animal Health and Welfare and Food Safety* (2013).

<sup>150</sup> Idem.

3.124 'An expanding internal market might bring opportunities for business and may allow consumers access to new products. Further expansion also increases the food production capacity of the EU and could help to stabilise prices. It should also mean high welfare standards over a larger area. However, it may also make it more difficult to ensure that common standards on issues like animal welfare are adopted at levels of ambition that the UK public would prefer'.<sup>151</sup>

### Research and Development

3.125 The impact of EU enlargement upon research and development was considered previously by the Balance of Competences report led by the Department for Business, Innovation & Skills.<sup>152</sup>

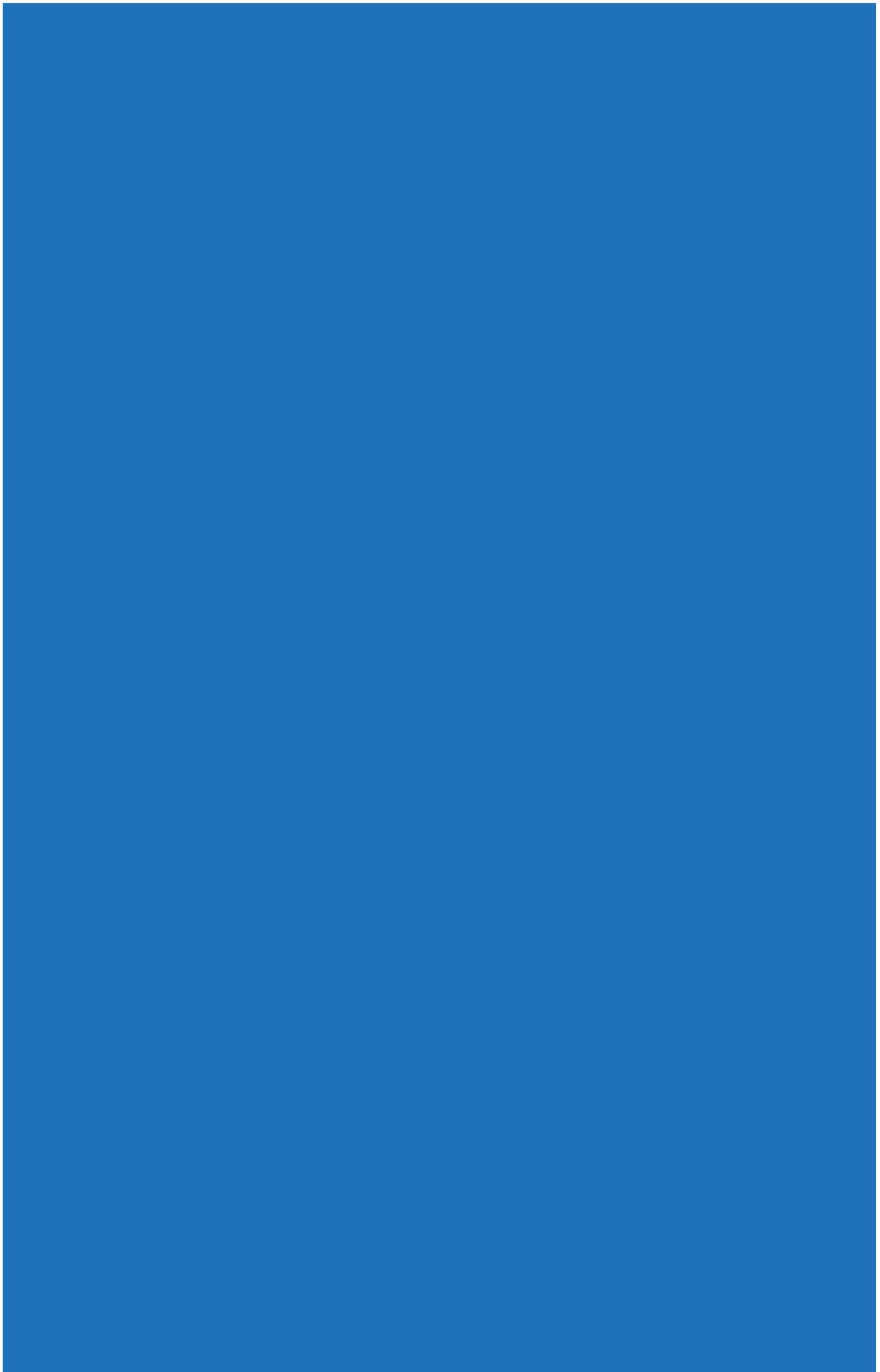
3.126 It concluded that 'while many recognised the advantages of increased competition and diversity, some reservations were expressed about the potential future enlargement of the EU. These generally stressed that it would be vital to retain the focus on 'excellence' as the primary criterion for awarding funds. This reflects concerns that research funding should not be used to redress regional imbalances'.<sup>153</sup>

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<sup>151</sup> Idem..

<sup>152</sup> HMG, *Review of the Balance of Competences between the United Kingdom and the European Union: Research and Development* (2014).

<sup>153</sup> Idem.



## Chapter 4: Future Options and Challenges

- 4.1 This Chapter will consider the evidence received with regard to the balance of competences in the field of enlargement. It will also look ahead and consider the key challenges facing enlargement: where the EU's borders should lie, alternative models of enlargement, and the politics of enlargement.

### Evidence on the Balance of Competences

- 4.2 Among all contributors who gave evidence, there was very little call for a change in the balance of competences between the Member States and the EU institutions in the area of enlargement given the strong leading role of Member States in the process. Nearly all believed this would be undesirable and not in the UK's national interest.
- 4.3 The Senior European Experts Group set out how 'intergovernmentalism is the standard operating procedure in matters of enlargement [...] at every stage of the process each Member State can exercise a veto'. It noted how 'enlargement is put into effect not by the EU institutions but by accession treaties between existing and future Member States' and, furthermore, 'developments in recent years have diminished the influence of the Commission in relation to the Council'.<sup>1</sup> Also among attendees at an academics seminar, 'the division of competence between the EU institutions and Member States [...] was generally agreed to be in the right place'. 'Member States have retained their power and the European Parliament's role remains marginal'.<sup>2</sup>
- 4.4 From a legal viewpoint, Adam Lazowski argued that 'the balance between the role of the Member States and that of the EU institutions in the enlargement process is adequate [...] This *modus operandi* serves UK interests and no change is required'.<sup>3</sup> Derrick Wyatt confirmed that 'the UK's interests are protected in a procedural sense by the fact that accession of a new Member State requires the consent of all existing Member States. In the UK, an Act of Parliament is required'.<sup>4</sup> Allan Tatham agreed that, when it comes to agreeing accession, 'the Member States each possess a double veto option: first in the context of the Council vote; and second in the need for national ratification'.<sup>5</sup>

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<sup>1</sup> Senior European Experts Group, *submission of evidence*.

<sup>2</sup> *Record of Birmingham University Roundtable event*, 2014.

<sup>3</sup> Prof Adam Lazowski, *submission of evidence*.

<sup>4</sup> Prof Derrick Wyatt QC, *submission of evidence*.

<sup>5</sup> Dr Allan Tatham, *submission of evidence*.

- 4.5 Contributors generally considered the leading role of the Commission in the negotiating process as crucial and beneficial to the Member States, given the capacity, expertise and co-ordination it brings to bear. Andrew Taylor argued that ‘the role of the EU institutions – notably the Commission – is critical in enlargement’. They are ‘the experts in the process [...] and there is little point in [...] giving the Member States a greater share of the relevant competences’.<sup>6</sup> Sussex University thought it ‘extremely difficult to envisage how the detailed negotiations could be carried out if one body was not in charge of them. If all 28 Member States were involved in the negotiations, there would be total confusion’.<sup>7</sup>
- 4.6 From a business viewpoint, the LCCI concluded that ‘there is an appetite among London business to see certain powers transferred from Brussels to Westminster’ but ‘EU enlargement is not among those’.<sup>8</sup> The Scotch Whisky Association also concluded ‘in the field of EU enlargement, we see no issues which require subsidiarity or to be repatriated to national level [...] the Association therefore sees no advantages in altering the current balance of competences in this area’.<sup>9</sup>
- 4.7 Some questioned whether UK interests might in fact better be served by weakening Member State control of the process. The House of Lords suggested that ‘a change to the way that enlargement is handled by the Council in order to diminish the ability of individual Member States to veto progress on enlargement unilaterally, particularly at the opening or early stages of accession negotiations, could be welcome’.<sup>10</sup>
- 4.8 David Phinnemore also noted that unanimity is a ‘double edged sword [...] equally available to other Member States to veto a process which [...] the UK Government supports’.<sup>11</sup> Tim Haughton, recalling ‘Britain’s applications in 1963 and 1967 vetoed by Charles de Gaulle’ and (more recently) Greece’s ‘threat of veto over the possible exclusion of Cyprus’, argued that ‘the unanimity lock has not worked to the best advantage of the UK’.<sup>12</sup> The Centre for European Reform agreed that ‘an argument could be made for shifting to some version of qualified majority voting (perhaps ‘consensus minus one’) for future enlargements so that (for example) Cyprus could not on its own block Turkey’s progress’.<sup>13</sup>
- 4.9 The LSE wondered whether ‘given the UK’s strong support for further enlargement, it might then appear that a move to qualified majority voting would be in its interests’.<sup>14</sup> Julie Smith agreed that ‘this is one area, perhaps, where less stringent decision-making rules might be desirable: Majority Voting for decisions on enlargement could be in the UK interest’.<sup>15</sup> Joanna Hanson argued that ‘the EU, as an organisation of 28 Member States, may need to look at ways states can be granted Candidate Status and open negotiations without unanimous agreement’.<sup>16</sup> Dmitry Kochenov also believed that ‘the EU needed a mechanism to prevent Member States blocking the progress of enlargement countries’.<sup>17</sup>

<sup>6</sup> Prof Andrew Taylor, *submission of evidence*.

<sup>7</sup> Sussex European Institute, University of Sussex, *submission of evidence*.

<sup>8</sup> LCCI, *submission of evidence*.

<sup>9</sup> Scotch Whisky Association, *submission of evidence*.

<sup>10</sup> House of Lords European Union Committee, *The Future of EU Enlargement*.

<sup>11</sup> Prof David Phinnemore, *submission of evidence*.

<sup>12</sup> Dr Tim Haughton, *submission of evidence*.

<sup>13</sup> Centre for European Reform, *submission of evidence*.

<sup>14</sup> European Foreign Policy Unit, LSE, *submission of evidence*.

<sup>15</sup> Dr Julie Smith, *record of interview*, 2014.

<sup>16</sup> Dr Joanna Hanson, *submission of evidence*.

<sup>17</sup> Prof Dmitry Kochenov, *record of interview*, 2014.

- 4.10 Richard Rose was the only contributor who called explicitly for ‘a review of the EU’s balance of competences governing enlargement’. By this, he called *inter alia* for reform to the process to ‘avoid making closer ties with neighbouring countries appear to be a stage in gaining EU membership’, ‘expand the powers of the EU institutions to take effective action against corruption’, ‘open up the enlargement process to more public and political scrutiny’, ‘seek a European Council review of the impact of enlargement on the role of national governments’, and ‘increase resources to develop more European political capital among UK citizens’.<sup>18</sup> His proposals are considered in the course of this report.

## Evidence on the Future of EU Enlargement

### Where the EU’s borders should lie

- 4.11 Many contributors considered where the borders of the EU should lie and the limits of EU enlargement. Most contributors agreed that enlargement should continue to the western Balkans and (if ever they wish to join) the EFTA countries. There was greater disagreement regarding the EU future of Turkey and of Ukraine/the Eastern Partnership countries.
- 4.12 Contributors noted that the EU had never attempted to define its borders. While Article 49 TEU states that ‘any European state [...] may apply to become a Member of the Union’, the Senior European Experts Group believed that defining what a ‘European state’ meant ‘would be impractical and undesirable [...] since there is no possibility of consensus among Member States on this question and [...] defining limits now would demotivate or destabilise countries excluded, and diminish the leverage on those included’.<sup>19</sup> The House of Lords believed that ‘any attempt to draw a boundary that would permanently exclude European countries would not be consistent with the Treaty’ and ‘could also lead to countries being drawn into a Russian sphere of influence’.<sup>20</sup>
- 4.13 The Senior European Experts Group called for enlargement to continue, arguing that ‘future enlargements should continue to have a positive impact on British interests’.<sup>21</sup> The Centre for European Reform agreed that ‘it is in the UK’s interest, as well as that of other Member States, that the EU’s doors remain open and that the world’s largest market and area of democracy continues to grow’.<sup>22</sup> Andrew Duff thought ‘it was impossible to conceive that a “closed” EU would be in the UK’s interests’.<sup>23</sup> Charles Tannock MEP highlighted how enlargement fitted with the UK’s vision of ‘a wider, looser, more flexible Europe’.<sup>24</sup> Anand Menon thought ‘future enlargement could benefit the UK as it would increase the number of Euro “outs” in the EU, thus reducing the risk of isolation’.<sup>25</sup>

<sup>18</sup> Prof Richard Rose, *submission of evidence*.

<sup>19</sup> Senior European Experts Group, *submission of evidence*.

<sup>20</sup> House of Lords European Union Committee, *The Future of EU Enlargement*.

<sup>21</sup> Senior European Experts Group, *submission of evidence*.

<sup>22</sup> Centre for European Reform, *submission of evidence*.

<sup>23</sup> Andrew Duff, former MEP, *record of interview*, 2014.

<sup>24</sup> Dr Charles Tannock MEP, *record of interview*, 2014.

<sup>25</sup> Prof Anand Menon, *record of interview*, 2014.

- 4.14 Julie Smith, however, was more sceptical. She warned that ‘shifting institutional arrangements associated with enlargement [...] ensure existing states all feel they lose some power, influence and perhaps financial benefits of membership. Thus, even for the UK, further enlargement should be viewed with caution given the likely institutional upheaval’. Furthermore ‘future expansion is likely to bring the boundaries of Europe closer to conflict zones’.<sup>26</sup>
- 4.15 The UK Government strongly supports the further enlargement of the EU to all of the western Balkans, Turkey and (if they wish) to the EFTA countries. It believes their accession would bring major benefits to the UK in terms of regional stability and security, trade and prosperity, and bringing like-minded allies into the EU. In the long-term, the Government also supports the Eastern Partnership countries as possible EU members in future, providing they meet the necessary criteria.

### EFTA Countries

- 4.16 There was consensus among contributors that the EFTA countries should be eligible for EU membership if they chose to reactivate their membership applications. Contributors noted, however, that Norway, Switzerland and (in the short term at least) Iceland were sufficiently comfortable to prefer to stay outside the EU, while keeping a close relationship with it.
- 4.17 Iceland suspended its accession negotiations following the election of a new government in 2013. Its previous enthusiasm for enlargement, Tim Haughton argued, ‘was fuelled largely by the consequences of the financial crisis and is unlikely to return’. As for Norway and Switzerland, ‘as long as they have access to the Single Market [...] they are likely to remain content outside of the EU’.<sup>27</sup>
- 4.18 Alyson Bailes thought it ‘more likely than not’ that Iceland would resume accession negotiations in future. However she agreed that Norway’s ‘oil and gas wealth largely insulates it from the problems of European economic management and [...] it looks primarily to the US and NATO for strategic protection’.<sup>28</sup>
- 4.19 The Senior European Experts Group believed that ‘we should be ready to accept [Iceland, Norway and Switzerland]: they satisfy all the main conditions, and in many areas of policy have similar views to the UK’.<sup>29</sup>

### Western Balkans Countries

- 4.20 There was also general consensus among contributors that enlargement to the western Balkans countries should continue. The rationale in terms of European stability and security, they argued, is compelling – even if the accession process looks set to be long and economic benefits modest.
- 4.21 The Senior European Experts Group believed the western Balkans ‘should continue to be a priority for the EU’s enlargement policy’ as ‘the only satisfactory way of bringing peace and stability to the whole Balkans region’.<sup>30</sup> Charles Tannock MEP agreed that enlargement to the western Balkans was in the UK’s ‘enlightened self interest [...]’

<sup>26</sup> Dr Julie Smith, *record of interview*, 2014.

<sup>27</sup> Dr Tim Haughton, *submission of evidence*.

<sup>28</sup> Prof Alyson Bailes, *submission of evidence*.

<sup>29</sup> Senior European Experts Group, *submission of evidence*.

<sup>30</sup> Senior European Experts Group, *submission of evidence*.

- without which there was a real danger of destabilisation'.<sup>31</sup> Anand Menon argued that 'enlargement into the western Balkans will lock in stability and good governance'.<sup>32</sup>
- 4.22 Noting there would be no large extension of the Single Market in the western Balkans, the Senior European Experts Group acknowledged that 'the bedrock of the case for further enlargement is not one founded in the economic benefits but in the impact on peace, security and stability'.<sup>33</sup> Experts attending a roundtable in Brussels also concluded 'there is no strong economic based argument for enlargement on the western Balkans side – it is mostly about peace and reunification'. That said, pointing to 'the cost of instability in the Balkans in the 1990s', they nonetheless concluded with the stark assessment that it 'costs less to keep the Balkans in the EU than it does to keep them out'.<sup>34</sup>
- 4.23 Contributors agreed that enlargement to the western Balkans would be tougher going than previous rounds. Andrew Taylor highlighted how 'the western Balkans, as a result of the collapse of Yugoslavia and the consequent blood-letting was a much harder nut to crack' than the central and east European states. He added that 'the EU had virtually simultaneously to engage in conflict resolution, state-building and Member State building'.<sup>35</sup> Alyson Bailes agreed that, despite the difficulties, 'it is both in Europe's general interest and in the UK's national interest to press ahead nevertheless, defining full Balkan integration as a strategic imperative to be achieved sooner or later regardless of cost'.<sup>36</sup>
- 4.24 From the region, western Balkans aspirant countries regarded the EU as their only feasible future. The Government of Macedonia argued that the 'western Balkans region is economically and politically closely tied to Europe and there is no real alternative to EU integration for western Balkans countries'. It urged the EU to continue 'using the power of membership to transform the countries in its neighbourhood'.<sup>37</sup> Serbian contributors agreed that 'Serbia risked finding itself surrounded by EU members, with the EU making up the vast majority of its trade and investment. That added up to a conclusion that Serbia had no option but to pursue the EU path'.<sup>38</sup>

## Turkey

- 4.25 There was significant disagreement among contributors regarding the EU future of Turkey, with no consensus emerging. Many contributors pointed to the long-term geo-strategic, security and economic benefits of Turkey's accession. Others, however, highlighted political obstacles both in EU Member States and in Turkey, and the implications for the EU *inter alia* in foreign policy, migration, and institutional terms. There was general consensus among contributors that Turkey's path to accession, if it succeeded, would in any case be long.
- 4.26 The Senior European Experts Group favoured Turkey's membership, highlighting Turkey's great economic potential and the strategic importance of anchoring Turkey securely in Europe. They therefore believed it was 'essential to restore the credibility of the EU's accession process in the eyes of Turkey' in order 'to encourage Turkey to pursue

<sup>31</sup> Dr Charles Tannock MEP, *record of interview*, 2014.

<sup>32</sup> Prof Anand Menon, *record of interview*, 2014.

<sup>33</sup> Senior European Experts Group, *record of interview*, 2014.

<sup>34</sup> *Record of Brussels Roundtable event*, 2014.

<sup>35</sup> Prof Andrew Taylor, *submission of evidence*.

<sup>36</sup> Prof Alyson Bailes, *submission of evidence*.

<sup>37</sup> Government of Macedonia, *submission of evidence*.

<sup>38</sup> *Record of Belgrade Roundtable event*, 2014.

reform in areas such as rule of law and press freedom'.<sup>39</sup> Tim Haughton believed 'the potential benefits of Turkish accession remain large and significant [...] The EU faces a demographic time-bomb, which the Turkish labour force could help to counterbalance, and having Turkey – a NATO member state – inside the EU could help soft security, particularly combating drug and people smuggling'.<sup>40</sup>

- 4.27 Afif Demirkiran pointed to the benefits to European stability of Turkish accession. 'Turkish membership of the EU would promote wider security and stability objectives and help spread democracy in the region. The EU would also be better positioned to address regional issues of concern, including Syria and Egypt' and 'build better cross-border cooperation, particularly on international terrorism and foreign fighters'.<sup>41</sup> Carnegie Europe agreed that 'Turkish accession would be a boost to EU security and defence interests given its weight and geo-strategic significance'.<sup>42</sup>
- 4.28 From a business viewpoint, British Influence argued that 'the accession of Turkey in particular, with its population of some 75m, would add very substantially to the Single Market's actual and potential growth, whether in terms of consumers or GDP'.<sup>43</sup> Business representatives attending an FCO roundtable also believed the accession of Turkey would be 'highly significant in expanding the Single Market' and Turkey would be 'an ally in tackling anti-market forces' in the EU.<sup>44</sup>
- 4.29 Other business voices were more cautious, however. While recognising the potential Turkish accession would hold for UK companies as the only EU aspirant on UK Trade & Investment's top 20 priority export markets list, the LCCI believed that 'for the UK Government to gain a widespread public support for Turkey's accession, the specific economic, social and geo-political benefits associated with it would need to be clearly outlined'.<sup>45</sup> Some business representatives attending an FCO Roundtable noted that 'Turkey's economy was increasingly integrated with the EU while it remained outside', which they believed might suggest many business benefits could be reaped short of Turkish membership.<sup>46</sup>
- 4.30 Other contributors pointed to barriers to Turkish progress towards the EU. Andrew Taylor warned that Turkey's accession to the EU 'is not going to happen anytime soon'. This was 'because many Member States are deeply hostile to Turkey's membership (for example Austria and [...] Cyprus) and would most likely veto [...]; questions about Turkey's compliance with EU governance norms [...]; Turkey would become the second-largest EU state [...] and this could not but have a significant effect on the EU's governance [...]; Turkey's population remains significantly more agricultural and less prosperous than the EU average, which raises the possibility of a high level of migration into western Europe [...]; and Turkey is an Islamic country'. He concluded that 'Turkey's size and culture represent an absorption and integration task far greater than anything confronted hitherto'.<sup>47</sup>

<sup>39</sup> Senior European Experts Group, *submission of evidence*.

<sup>40</sup> Dr Tim Haughton, *submission of evidence*.

<sup>41</sup> Afif Demirkiran MP, *record of interview*, 2014.

<sup>42</sup> Judy Dempsey, *record of interview*, 2014.

<sup>43</sup> British Influence, *evidence submitted to the Review of the Balance of Competences between the United Kingdom and the European Union: The Single Market*.

<sup>44</sup> *Record of Business Roundtable event, FCO London*, 2014.

<sup>45</sup> LCCI, *submission of evidence*.

<sup>46</sup> *Record of Business Roundtable event, FCO London*, 2014.

<sup>47</sup> Prof Andrew Taylor, *submission of evidence*.

- 4.31 Andrew Glencross outlined how Turkish accession ‘would pose serious challenges in terms of border control’ and, he believed, given challenges policing borders and managing asylum policies, there would be ‘grave doubts over Turkey’s ability to participate eventually in Schengen’.<sup>48</sup> Florian Bieber feared Turkish accession would bring ‘sources of instability on the EU’s borders’.<sup>49</sup> Syed Kamall MEP also highlighted ‘the impact of the EU extending its borders to Iran or Iraq’.<sup>50</sup>
- 4.32 However Anand Menon believed ‘the argument that the EU bordering Syria and Iraq would be a risk is naïve, as the EU already has significant interests in the Middle East and it would not be able to isolate itself from them’.<sup>51</sup>
- 4.33 Syed Kamall MEP further highlighted – given its size – Turkey’s ‘impact on the EU’s institutional arrangements’.<sup>52</sup> Kai-Olaf Lang agreed that ‘Turkey would affect the internal dynamics of the EU’ and ‘could fundamentally shake up the formal and informal coalitions inside the EU’.<sup>53</sup> The House of Lords, however, concluded that Turkey’s impact on ‘the balance of decision making within the EU [...] need not be feared’.<sup>54</sup>
- 4.34 From a Turkish standpoint, Firat Cengiz foresaw stalemate. She believed ‘the Turkish government had largely abandoned Turkey’s EU accession agenda’ and that ‘the EU seems to have largely lost the support of the Turkish people in the accession process’. If Turkey is to proceed towards EU accession, she concluded that this will require at the very minimum ‘the commitment of Member States (most importantly [...] Germany, Netherlands, Austria) [...] equal treatment of Turkish citizens in all policies targeting candidate countries; progress in the unification of Cyprus; and a shift in the incentive structure of the increasingly authoritarian Turkish government’.<sup>55</sup> Turkish thinktankers also believed the accession process ‘had effectively failed; Turkish membership prospects were currently dead’.<sup>56</sup>
- 4.35 Afif Demirkiran was more optimistic, noting that ‘membership of the EU [...] remained a strategic objective of the country’ and ‘all the main political parties [...] were supportive, to varying degrees’.<sup>57</sup> Aykan Erdemir agreed that ‘Turkey would ultimately join the EU’, otherwise ‘a vacuum will develop in Turkey’.<sup>58</sup> A member of the Senior European Experts Group rejected the notion that Turkey would abandon the accession process: ‘Being part of the process served Turkey’s interests even if the prospect of accession remained distant (even, indeed, if it might never actually happen). Accession would be its preference but in the absence of that it would prefer to maintain the process’.<sup>59</sup>

<sup>48</sup> Dr Andrew Glencross, *submission of evidence*.

<sup>49</sup> Prof Dr Florian Bieber, *record of interview*, 2014.

<sup>50</sup> Dr Syed Kamall MEP, *record of interview*, 2014.

<sup>51</sup> Prof Anand Menon, *record of interview*, 2014.

<sup>52</sup> Dr Syed Kamall MEP, *record of interview*, 2014.

<sup>53</sup> Kai-Olaf Lang, *record of interview*, 2014.

<sup>54</sup> House of Lords European Union Committee, *The Future of EU Enlargement*.

<sup>55</sup> Dr Firat Cengiz, *submission of evidence*.

<sup>56</sup> Economic Development Foundation and Economic Policy Research Foundation, *record of interview*, 2014.

<sup>57</sup> Afif Demirkiran MP, *record of interview*, 2014.

<sup>58</sup> Prof Dr Aykan Erdemir MP, *record of interview*, 2014.

<sup>59</sup> Senior European Experts Group, *record of interview*, 2014.

## Eastern Partnership Countries

- 4.36 Contributors also took differing views on whether the Eastern Partnership countries should be offered an EU future. Several contributors were in favour of offering at least some of the Eastern Partnership countries the prospect of EU membership in the long-term, which they argued could have a stabilising function. Others believed that such a pledge – if made – would be premature.
- 4.37 Of the Eastern Partnership countries, the Centre for European Reform believed that ‘Georgia, Moldova and Ukraine are much harder to dismiss’ as potential future EU members than Armenia, Azerbaijan and Belarus. It noted that ‘all three have clear political aspirations to join the EU eventually’.<sup>60</sup> So far, ‘the most the EU has been able to offer Ukraine is a statement that the Association Agreement “does not constitute the final goal in EU-Ukraine cooperation”’.<sup>61</sup> It believed that ‘the real issue for many EU countries is lack of enthusiasm for pushing enlargement in the face of Russia’s obvious opposition’. However it argued that, while Russia ‘would prefer the countries that lie between it and the EU to be weak and dependent on Moscow [...] that would be inimical to EU interests’.<sup>62</sup> The Centre for European Reform concluded that ‘the prospect of EU membership, however distant, would provide an incentive for all these countries to make progress, to become richer countries and therefore bigger markets for the EU and to be contributors to European security’.
- 4.38 Charles Tannock MEP agreed, arguing that ‘given the EU has recognised Turkey as a negotiating candidate, it would be inconsistent not to recognise Ukraine also as a potential member’.<sup>63</sup> Florian Bieber also believed that ‘a clear deal on the table for Ukraine was now necessary in order to show where its future – within the EU – might lie’.<sup>64</sup>
- 4.39 Sussex University, contrasting Ukraine with the western Balkans, contended that an offer of an EU future could be a stabilising influence in Ukraine. They argued that ‘a perspective of membership appears to have been a major factor in the stabilisation of the western Balkans and the lack of a perspective of EU membership may have been a contributory cause to the lack of reform in Ukraine’. They concluded that ‘the promise of future accession is the essential element in the creation of an external anchor for reform’.<sup>65</sup>
- 4.40 Others advised greater caution, especially with regard to handling Russia. Anand Menon argued that ‘the EU displayed strategic naïvety in trying to sign an Association Agreement with Ukraine and not anticipating a Russian reaction’. If not carefully considered, enlargement ‘could take the EU closer to a zone of instability’.<sup>66</sup>
- 4.41 Andrew Duff also warned that ‘facile promises to the Eastern Partnership countries regarding their potential future EU membership should be avoided. Their membership, if it ever happens, will be a very major challenge’.<sup>67</sup> The Senior European Experts Group, recalling the example of Turkey, also warned that ‘in future, the EU should not

<sup>60</sup> Centre for European Reform, *submission of evidence*.

<sup>61</sup> *Idem*.

<sup>62</sup> *Idem*.

<sup>63</sup> Dr Charles Tannock MEP, *record of interview*, 2014.

<sup>64</sup> Prof Dr Florian Bieber, *record of interview*, 2014.

<sup>65</sup> Sussex European Institute, University of Sussex, *submission of evidence*.

<sup>66</sup> Prof Anand Menon, *record of interview*, 2014.

<sup>67</sup> Andrew Duff, former MEP, *record of interview*, 2014.

open accession negotiations unless its Member States are willing to conclude them'.<sup>68</sup> Carnegie Europe argued that, while 'the door needs to remain open in principle', 'an explicit membership perspective should not be put on the table now'.<sup>69</sup>

- 4.42 Other contributors pointed to alleged mixed messages from the EU to the Eastern Partnership countries. Alyson Bailes concluded that with 'the next tier of interested states – Moldova, Ukraine and Georgia – the EU has neither said Yes or No clearly enough'. In any case, none of them 'is anywhere near the standards required for even a medium-term prospect of membership'.<sup>70</sup>

### Alternatives Models of Enlargement

- 4.43 Several contributors mooted potential alternative models of EU enlargement, primarily in the context of Turkey but also potentially applicable to other aspirant countries. There was no consensus around any particular model. Key themes raised by contributors were the attractiveness (or not) of alternative models to the aspirants themselves, and whether accession should proceed more in stages.
- 4.44 Richard Rose believed the EU should get away from the assumption of future membership altogether, and 'avoid making closer ties with neighbouring countries appear to be a stage in gaining EU membership'. He contended that 'in the western Balkans [...] stabilising state boundaries, reducing cross-border ethnic problems and reducing corruption [...] need not require EU membership'.<sup>71</sup> Firat Cengiz agreed that 'it might be more plausible for the EU and the Member States to strengthen the EU's foreign policy mechanisms, such as the neighbourhood policy, rather than relying on enlargement as an external governance tool'.<sup>72</sup>
- 4.45 Some contributors were sceptical whether another workable alternative model could be found. The Senior European Experts Group likened the search for a workable arrangement for 'being an EU member without really being a member, i.e. something slightly less than full membership' as akin 'to the quest for the Philosopher's Stone'.<sup>73</sup> Sussex University agreed that, to date, 'attempts to establish some sort of intermediary stage in accession – EEA, potential candidates/candidates etc – have to some extent all failed'.<sup>74</sup>
- 4.46 Undeterred, other ideas for alternative models were put forward.

### 'Privileged Partnership'

- 4.47 Several contributors considered the idea of a 'privileged partnership' as an alternative to full membership, as proposed *inter alia* by Chancellor Merkel for Turkey.<sup>75</sup> Their conclusions were however sceptical.

<sup>68</sup> Senior European Experts Group, *submission of evidence*.

<sup>69</sup> Jan Techau, *record of interview*, 2014.

<sup>70</sup> Prof Alyson Bailes, *submission of evidence*.

<sup>71</sup> Prof Richard Rose, *submission of evidence*.

<sup>72</sup> Dr Firat Cengiz, *submission of evidence*.

<sup>73</sup> Senior European Experts Group, *record of interview*, 2014.

<sup>74</sup> Sussex European Institute, University of Sussex, *submission of evidence*.

<sup>75</sup> Spiegel, *The Word from Berlin: 'It's Time for Turkey to Snap Out of its Self-Delusion'* (2010). Available at: [www.spiegel.de/international/germany/the-world-from-berlin-it-s-time-for-turkey-to-snap-out-of-its-self-delusion-a-685647.html](http://www.spiegel.de/international/germany/the-world-from-berlin-it-s-time-for-turkey-to-snap-out-of-its-self-delusion-a-685647.html), accessed on 25 November 2014.

- 4.48 While agreeing that ‘Turkey’s accession cannot go forward on the traditional basis’, Andrew Duff argued that ‘the EU needs to find an alternative for Turkey within the EU but short of full membership – a ‘privileged partnership’ outside the EU will not succeed’.<sup>76</sup> Experts attending a Roundtable in Brussels agreed that a ‘privileged partnership without membership at the end of the process would not be accepted by Turkey or the Balkan countries’.<sup>77</sup> Attendees at an academics seminar also believed that ‘any enlargement process that offered layered, associate, progressive or graduated membership would be inherently weakened if it did not carry a final promise of full membership. That is what states want’.<sup>78</sup> The House of Lords agreed that ‘permanent alternatives [to EU membership] are unlikely to be politically acceptable to candidate or potential candidate countries, as these countries would prefer to pursue full, equal membership’.<sup>79</sup>
- 4.49 Furthermore, the House of Lords noted that ‘a withdrawal of an offer of membership by removing candidate status would be a dramatic step with significant political consequences’.<sup>80</sup> Andrew Glencross feared that that ‘withdrawing the incentive [of full EU membership] from Turkey by offering instead a more limited form of membership would constitute crossing the Rubicon [...] and could lead to an unravelling of existing progress made by Turkey’.<sup>81</sup>
- 4.50 Turkish thinktankers were less pessimistic, however, and believed that ‘Turkey would likely consider an amended form of membership of the EU’.<sup>82</sup>

### EEA-Based Models

- 4.51 Some saw the EEA as a vehicle for such an intermediary status. Alyson Bailes saw ‘double standards’ between the EU’s willingness to allow ‘something close to associate membership in the form of the EEA (and Switzerland’s *sui generis* status) to the West, allowing to Western non-members into Schengen’ while being ‘closed to the idea of further institutional experimentation’ to the South and East.<sup>83</sup>
- 4.52 Benjamin Leruth thought that ‘the EEA constitutes a good alternative to EU membership, despite the so-called “democratic deficit” of the agreement’ under which ‘Iceland, Liechtenstein and Norway have implemented about 75% of EU legislation’. Therefore ‘alternatives to full EU membership, following the EEA model, could be considered in the near future’.<sup>84</sup> Carnegie Europe agreed that a reformed process ‘could involve these states first joining an “outer core”, in a similar model to Switzerland and Norway, before becoming full members’.<sup>85</sup>
- 4.53 However the House of Lords concluded that, while ‘the European Neighbourhood Policy, European Economic Area or an ‘associate membership’ could be used as a ‘waiting room’ or ‘stepping stone’ for European countries that eventually wish to accede [...] none are a viable alternative to membership’.<sup>86</sup>

<sup>76</sup> Andrew Duff, former MEP, *record of interview*, 2014.

<sup>77</sup> *Record of Brussels Roundtable event*, 2014.

<sup>78</sup> *Record of Birmingham University Roundtable event*, 2014.

<sup>79</sup> House of Lords European Union Committee, *The Future of EU Enlargement*.

<sup>80</sup> *Idem*.

<sup>81</sup> Dr Andrew Glencross, *submission of evidence*.

<sup>82</sup> Economic Development Foundation and Economic Policy Research Foundation, *record of interview*, 2014.

<sup>83</sup> Prof Alyson Bailes, *submission of evidence*.

<sup>84</sup> Dr Benjamin Leruth, *submission of evidence*.

<sup>85</sup> Judy Dempsey, *record of interview*, 2014.

<sup>86</sup> House of Lords European Union Committee, *The Future of EU Enlargement*.

## Euro Zone Base Models

- 4.54 Sussex University foresaw the Euro Zone creating a new two-stage accession process for new Member States once they had joined the EU. They argued that ‘as the EU moves towards a deeply-integrated Euro Zone [...] and a far less integrated non-Eurozone outer ring, it may be feasible to envisage a first accession to the EU followed some years later by accession to the core EU/Euro Zone’.<sup>87</sup>
- 4.55 Czech experts believed that aspirant countries already see ‘EU membership [...] in two parts: becoming an EU member and becoming part of the Euro Zone’.<sup>88</sup> Vit Benes agreed that, outside the Euro, the Czech Republic’s ‘status and thus its bargaining power resembled that of a candidate country’. Any Czech effort to join the Euro would ‘feel like a second accession’.<sup>89</sup>
- 4.56 The Senior European Experts Group questioned, however, the assumption that all new Member States must join the Euro. ‘While this may be true in principle it is not the case in practice [...] The EU has neither the intention nor the means to oblige new members to join the Euro [...] unless and until they wish to do so’. Sweden, for example, ‘has no opt-out from the Euro [...] it simply refrains from complying with the criteria for joining it’.<sup>90</sup>

## Other Models

- 4.57 French academics called on the EU ‘to invent an intermediary status between an Association Agreement and enlargement’.<sup>91</sup> Anand Menon similarly favoured ‘a ‘two-speed’ operation where states could first join an emerging outer core of more loosely-integrated members’.<sup>92</sup>
- 4.58 Experts attending a Roundtable in Brussels proposed a more graduated approach, in which – over long accession timelines – aspirant countries could be permitted to join more elements of EU cooperation before full membership. One ‘possibility would be to provide them with the opportunity to be at the negotiating table with the EU Member States on certain issues – something that would likely be coveted’.<sup>93</sup> Afif Demirkiran agreed, arguing that Ankara ‘needed to continue to demonstrate the progress being made’, and proposed allowing Turkey to be ‘represented on the technical committees on EU Free Trade Agreements’.<sup>94</sup>

## The Politics of Enlargement

- 4.59 There was general consensus among contributors that the politics of enlargement were becoming more difficult, characterised as ‘enlargement fatigue’ in existing Member States and ‘accession fatigue’ in aspirant countries. How to maintain public support for and confidence in future enlargement was a theme running through many contributions.

<sup>87</sup> Sussex European Institute, University of Sussex, *submission of evidence*.

<sup>88</sup> *Record of Prague Roundtable event, 2014*.

<sup>89</sup> Vit Benes, *record of interview, 2014*.

<sup>90</sup> Senior European Experts Group, *submission of evidence*.

<sup>91</sup> *Record of Paris Roundtable event, 2014*.

<sup>92</sup> Prof Anand Menon, *record of interview, 2014*.

<sup>93</sup> *Record of Brussels Roundtable event, 2014*.

<sup>94</sup> Afif Demirkiran MP, *record of interview, 2014*.

## Enlargement Fatigue

- 4.60 Many contributors pointed to falls in public support for the EU across Europe – as witnessed in the 2014 European Elections – and increasing public concern about further EU enlargement in the context of migration. Some feared that any future referendums in Member States on enlargement would consequently be harder to win.
- 4.61 The LSE believed ‘enlargement fatigue’ resulted ‘from the debilitating effects of the Euro-zone crisis and the broader recession’ and ‘it is unlikely that progress will be made in accepting new members when there is a heightened level of debate [...] on EU reform, further integration and the future of the Euro Zone’.<sup>95</sup> The Centre for European Reform agreed that ‘for the moment, the EU enlargement process seems to have run out of steam’. It believed that the global economic crisis ‘has also created political challenges [...] particularly in the form of anti-EU and especially anti-immigrant political movements’ opposed to enlargement.<sup>96</sup> Experts attending a roundtable in Brussels noted how ‘enlargement has largely become a domestic political issue within Member States, whereas previously it was primarily seen as a foreign policy one’.<sup>97</sup>
- 4.62 A member of the public who contributed reflected these concerns, writing that ‘enlargement of the EU [...] has been OK so far but [...] we are quite near a serious very long-standing cultural limit, particularly in regard to the possible accession of Ukraine’.<sup>98</sup>
- 4.63 Other contributors pointed to the risks that referendums posed to future enlargement. France held a referendum on the prospect of the (then) EEC’s first enlargement in 1973 and, under French law, the President may call a referendum on future enlargements. The Austrian Government has made a specific commitment to hold a referendum on Turkish accession to the EU. No other Member States, however, have raised the possibility of referendums on future enlargements.
- 4.64 Sussex University believed that ‘government commitments in France and Austria to referendums on Turkish EU membership [...] have set precedents which can be expected to reinforce referendum pressures in other EU Member States’. They contended that, ‘given the rise in public scepticism [...], referendum votes that go against the accession of new members are a distinct possibility’. Furthermore, ‘the expectation of referendum demands may make governments of EU Member States resort to hard-line or obstructionist negotiation strategies’.<sup>99</sup>
- 4.65 Proposals from contributors that aimed to help address ‘enlargement fatigue’ included strengthened parliamentary oversight, better communication with publics on enlargement, and addressing public concerns over migration.

## Parliamentary Oversight

- 4.66 A number of contributors proposed greater parliamentary oversight and scrutiny, in both Member States and aspirant countries, to help maintain public support for future enlargement. Some also called for wider civil society involvement in the process.
- 4.67 Richard Rose called for reform of the enlargement process to ‘open up the enlargement process to more public and political scrutiny’, including more ‘open scrutiny in national parliaments’ and facilitating the ‘submission of opinions by international NGOs and those

<sup>95</sup> European Foreign Policy Unit, LSE, *submission of evidence*.

<sup>96</sup> Centre for European Reform, *submission of evidence*.

<sup>97</sup> *Record of Brussels Roundtable event, 2014*.

<sup>98</sup> Member of the public, *submission of evidence*.

<sup>99</sup> Sussex European Institute, University of Sussex, *submission of evidence*.

with a stake in applicant countries' to inform EU assessments of progress.<sup>100</sup> Sussex University agreed that 'what could be improved is the flow of information among the EU institutions and between these institutions on the one hand and national parliaments and the wider public on the other'.<sup>101</sup>

- 4.68 Firat Cengiz also called for greater democratic oversight of the enlargement process, lamenting its 'limited democratic nature'. 'The consent procedure gives the [European] Parliament a veto power in the process but it does not make the [European] Parliament an active party to the debate'. While 'the UK Parliament subjects the UK Government to account in all EU related matters, including enlargement', there is 'limited involvement of national parliaments in the process'.<sup>102</sup>
- 4.69 Andrew Glencross believed the European Parliament was the wrong body to provide greater democratic oversight. It 'had the potential to hold up the accession process by launching its own reports on compliance [...] In doing so, the European Parliament could politicise enlargement [...] especially if instrumentalised by the kind of anti-EU populist parties that did well in the 2014 European Parliament elections'.<sup>103</sup>
- 4.70 Serbian contributors believed that increased parliamentary oversight should apply to aspirant countries as well, arguing that 'the Serbian parliament had an important role in adding scrutiny and democratic accountability to the process'. There also needed to be a wider 'mechanism to involve a diverse group on interests and views' including broader civil society.<sup>104</sup>
- 4.71 The House of Lords agreed that 'the Commission in particular should do more to promote 'bottom-up' reform by increasing civil society's engagement with the reform process, and national governments could seek to promote this through Twinning projects'.<sup>105</sup>

### Communication to Wider Publics

- 4.72 Many contributors also argued that Member State governments – including the UK – could do more to explain the rationale for EU enlargement, whether economic, political or strategic, to the wider general public.
- 4.73 David Phinnemore called for 'a compelling narrative for enlargement' and 'more effective communication of the rationales behind and the costs and benefits from enlargement [...] if public opinion is to at least accept if not actively support' it.<sup>106</sup> Experts attending a Roundtable in Brussels agreed that 'governments have to work harder to make a positive case for enlargement domestically [...] the benefits need to be explained all the way along if a huge shock upon [...] accession is to be avoided'.<sup>107</sup> French academics also lamented 'an absence of transparency [...] and effective communication about the enlargement process'.<sup>108</sup>

<sup>100</sup> Prof Richard Rose, *submission of evidence*.

<sup>101</sup> Sussex European Institute, University of Sussex, *submission of evidence*.

<sup>102</sup> Dr Firat Cengiz, *submission of evidence*.

<sup>103</sup> Dr Andrew Glencross, *record of interview*, 2014.

<sup>104</sup> *Record of Belgrade Roundtable event*, 2014.

<sup>105</sup> House of Lords European Union Committee, *The Future of EU Enlargement*.

<sup>106</sup> Prof David Phinnemore, *submission of evidence*.

<sup>107</sup> *Record of Brussels Roundtable event*, 2014.

<sup>108</sup> *Record of Paris Roundtable event*, 2014.

- 4.74 The Senior European Experts Group called for ‘a clear explanation of its economic, political and strategic benefits’. They were particularly alarmed that a theme of ‘the EU’s alleged ‘expansionism’ and ‘imperialism’ in eastern Europe’ has entered the public debate, whereas in reality enlargement was a reactive process whose ‘main driver [...] is the desire of neighbouring countries to join’.<sup>109</sup>
- 4.75 Joanna Hanson called for ‘a more sustainable policy of public engagement’ in the aspirant countries as well. This would create from their publics ‘greater pressure on their political leadership’ to reform.<sup>110</sup> The House of Lords agreed that ‘both national governments and the Commission should work more proactively to communicate to citizens the long-term benefits of sometimes painful reforms’ and called on the Commission also ‘to highlight the costs of non-enlargement for both the aspirant countries and the EU as a whole’.<sup>111</sup>

## Migration

- 4.76 While free movement of persons was subject to a separate Balance of Competences report, reform of how it operates for future enlargements is a cross-cutting issue on which substantial evidence was received. It is therefore also considered in this report alongside the previous Home Office report.<sup>112</sup>
- 4.77 Many contributors identified migration in particular as an issue where European publics were looking for reassurance with regard to future EU enlargement. There was general consensus among contributors that public concerns in this area should be addressed. A number put forward specific proposals for reform.
- 4.78 The Home Office report noted that ‘some respondents suggested that future EU enlargement should be underpinned by alternative models of transitional controls. These, it was suggested, should be designed to ensure not just a fixed time period before full access to the labour market for accession state workers, but instead should seek greater economic convergence, for example by reference to GDP per capita and/or other indicators, before full free movement of persons rights are granted. This would be a significant departure from the existing model of transitional restrictions’.<sup>113</sup>
- 4.79 From a political standpoint, Syed Kamall MEP argued that ‘EU enlargement and free movement had had an impact on the UK that politicians must address [...] Sending countries also feared the loss of talent. For future enlargements, sensible transitional periods and rules were needed – a GDP rule might be looked at’.<sup>114</sup> Charles Tannock MEP agreed that ‘the UK should remain pro-enlargement but recognise it cannot continue in future as now. There are issues – for example. – around welfare, benefits tourism and free movement to be addressed’.<sup>115</sup> Andrew Duff believed that ‘the EU needs cast-iron certainty that accession countries can function as new Member States before borders are opened to them’.<sup>116</sup>

<sup>109</sup> Senior European Experts Group, *submission of evidence*.

<sup>110</sup> Joanna Hanson, *submission of evidence*.

<sup>111</sup> House of Lords European Union Committee, *The Future of EU Enlargement*.

<sup>112</sup> HMG, *Review of the Balance of Competences between the United Kingdom and the European Union: Free Movement of Persons*.

<sup>113</sup> *Ibid.*

<sup>114</sup> Dr Syed Kamall MEP, *record of interview*, 2014.

<sup>115</sup> Dr Charles Tannock MEP, *record of interview*, 2014.

<sup>116</sup> Andrew Duff, former MEP, *record of interview*, 2014.

- 4.80 Julie Smith believed enlargement had caused ‘legitimate concerns to surface about the impact [of free movement] on society’.<sup>117</sup> Valentina Kostadinova agreed that ‘immigration [...] is an issue in which there is a very strong public perception at the moment that enlargement was not a good idea. Politicians have to take this into account as it makes making the case for future enlargements more difficult to make’.<sup>118</sup>
- 4.81 Adam Lazowski noted that future enlargement to the western Balkans would be ‘relatively small in terms of size and population’ and ‘their accession should not have major budgetary or immigration implications for the UK. However, bearing in mind the sensitivity associated with immigration, it might be worth revisiting the transitional periods for free movement of workers’.<sup>119</sup> Derrick Wyatt also acknowledged that ‘the impact of potential new Member States [from the western Balkans] would in population terms be relatively small [...] and would not all happen at once’, nonetheless it was necessary ‘to address possible public concerns about the accession of new Member States’.<sup>120</sup>
- 4.82 From a business viewpoint, the LCCI believed, before seeking to reform transitional controls, ‘the Government should carry out a formal assessment of the effectiveness of transitional controls on Romanian and Bulgarian workers [...] with a view to appraising how the UK should handle future accessions’.<sup>121</sup>
- 4.83 British Influence argued that concerns over ‘unsustainable migration levels [...] need to be addressed’, proposing ‘substantial transitional periods before full free movement is permitted’ as well as looking at social security systems.<sup>122</sup>
- 4.84 The Senior European Experts Group proposed that migration concerns be handled ‘by a combination of transitional controls [...] perhaps for as period longer than the previous norm of seven years and targeted social measures [for specific towns and communities affected in the UK] to solve regional or local problems’. It believed that ‘aspirant states would probably accept longer transitional periods’. There could also be ‘further internal welfare reform, consistent with the principle of free movement, to reduce the (largely illusory) threat of benefit tourism’. In addition, ‘the application of transitional controls in future should be better harmonised at the EU level’. With regard to the end of the transitional controls period, some members thought ‘there might be conditionality associated with transitional controls, so that it is not simply a case of waiting for a set time period to pass’.<sup>123 124</sup>
- 4.85 Adam Lazowski proposed ‘extending in time the current [seven year] 2+3+2 model for the free movement of workers’ and ‘applying a transitional regime to the right of establishment and free movement of services’, where ‘in the case of the latter, Austria and Germany have previously negotiated restrictions’.<sup>125</sup>

<sup>117</sup> Dr Julie Smith, *record of interview*, 2014.

<sup>118</sup> Dr Valentina Kostadinova, *submission of evidence*.

<sup>119</sup> Prof Adam Lazowski, *submission of evidence*.

<sup>120</sup> Prof Derrick Wyatt QC, *submission of evidence*.

<sup>121</sup> LCCI, *submission of evidence*.

<sup>122</sup> British Influence, *evidence submitted to the Review of the Balance of Competences between the United Kingdom and the European Union; Single Market*.

<sup>123</sup> Senior European Experts Group, *submission of evidence*.

<sup>124</sup> Senior European Experts Group, *record of meeting*, 2014.

<sup>125</sup> Prof Adam Lazowski, *submission of evidence*.

- 4.86 Allan Tatham noted a number of proposals for reform of transitional controls, including the 'extension of the transitional periods for free movement of workers (e.g. Spanish and Portuguese workers were subject to a 10-year period after accession [...]), safeguard clauses to be given extended scope both temporally (deeper into the post-accession period) and materially (to cover more sectors), and the threat of permanent derogations from the four freedoms and other areas of EU policy [...]'. Alternatively he mused that newly-acceded Member State nationals' right to benefit from free movement 'might be triggered when this new State's GDP reaches 75%-80% of the EU average, or when that State joins the Euro'.<sup>126</sup>
- 4.87 Derrick Wyatt proposed that 'the Treaty must make provision for a 10 year period' of transitional controls and their application 'could be made solely a matter for the existing Member State/the UK to decide and not dependent on there being 'serious disturbances' in the labour market', which is a current requirement. Furthermore, he proposed a '2030 commitment', whereby 'the UK Government might also commit itself to refuse to agree to the citizens of any EU Member State acquiring the right to work in the UK before 2030, and to include such a commitment in an Act of Parliament'. He acknowledged 'this could not apply to migrant workers from Croatia' (whose transitional controls period will end in 2020) but nor, he argued, would it 'affect the UK's general policy of supporting enlargement since no new accessions are in any event imminent'.<sup>127</sup>
- 4.88 Others, however, were less supportive of reform of transitional controls. The House of Lords, while acknowledging 'widespread public concerns about the impact of free movement of persons', believed 'the seven year transitional period allowing Member States to maintain restrictions on the movement of workers from new Member States' to be 'ample time'.<sup>128</sup>
- 4.89 Some members of the Senior European Experts Group were cautious 'for fear that a post-transition regime might derogate from the principle of Free Movement of People. This would be the case, for example, with GDP thresholds'.<sup>129</sup> A participant at an academics seminar also feared that 'transitional controls based on GDP per head would be unworkable as it would undermine the principle of free movement'.<sup>130</sup>
- 4.90 The IPPR rejected ideas for a GDP measure or restrictions of inflows. It argued that a GDP measure would 'remove one of the key drivers of GDP growth: the mobility of labour'. It also believed that 'new Member States should not be subjected to 'second-tier' status' over a prolonged period, and 'it would have no quick impact on migration flows in Europe, since the next set of EU accessions are a distant prospect'.<sup>131</sup> The IPPR concluded that restrictions on inflows would *inter alia* 'be a difficult and expensive system to administer and police', 'involve reintroducing border controls in the Schengen area' and 'essentially put an end to free movement'.<sup>132</sup>

<sup>126</sup> Dr Allan Tatham, *submission of evidence*.

<sup>127</sup> Prof Derrick Wyatt QC, *submission of evidence*.

<sup>128</sup> House of Lords European Union Committee, *The Future of EU Enlargement*.

<sup>129</sup> Senior European Experts Group, *record of interview*, 2014.

<sup>130</sup> *Record of Birmingham University Roundtable event*, 2014.

<sup>131</sup> IPPR, *Europe, Free Movement and the UK: Charting a New Course* (April 2014).

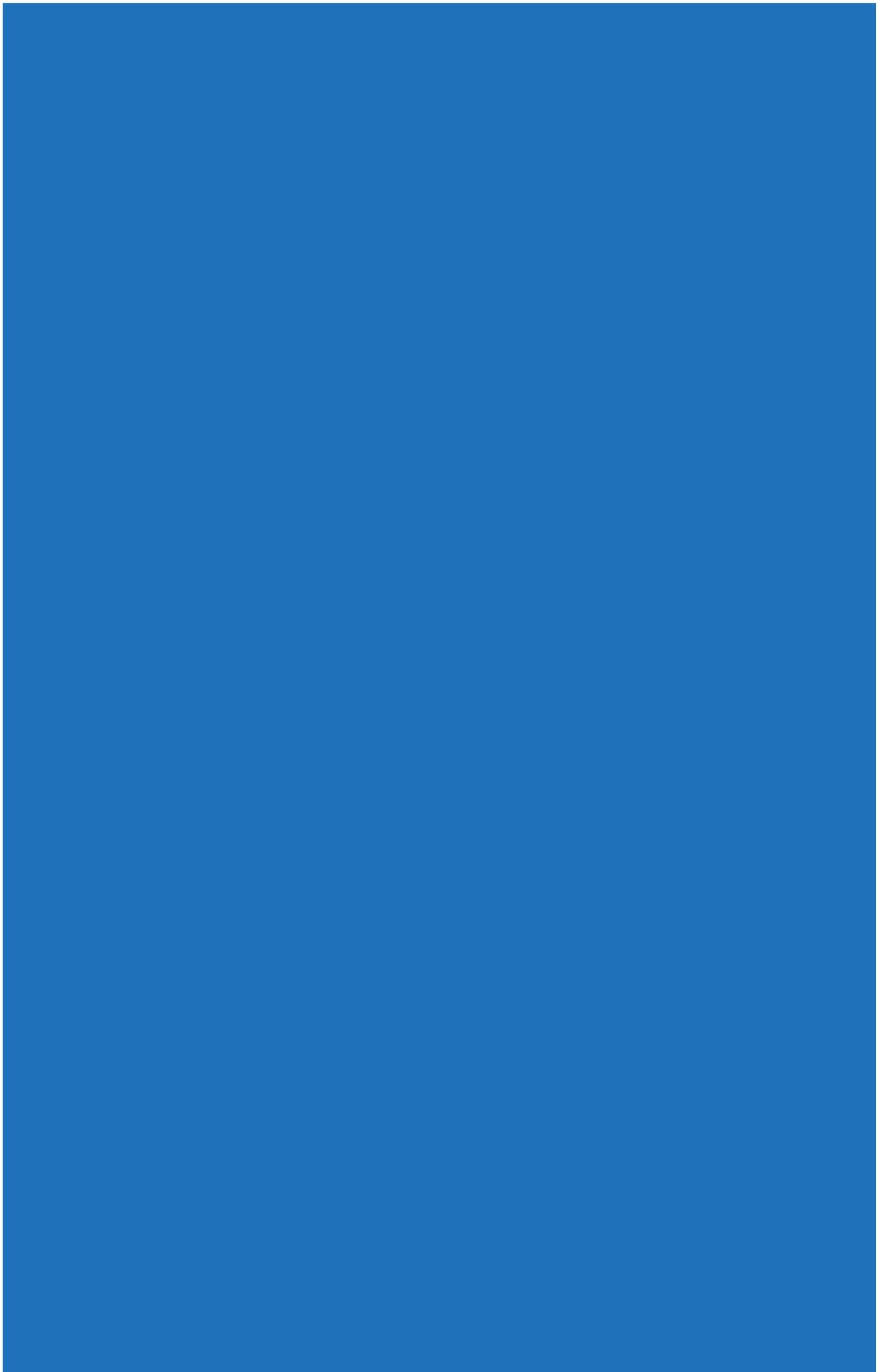
<sup>132</sup> *Idem*.

- 4.91 The IPPR instead put forward its own ideas for reform. It recommended that ‘the regulations for allowing EU nationals to migrate as a ‘self-employed’ person should be significantly tightened’ and ‘any Member State experiencing high outflows of economic migrants in a single year should be required to report to the European Parliament on the causes of this and to set out an action plan for addressing them’.<sup>133</sup>
- 4.92 The UK Government supports reform of transitional controls on free movement for future new Member States in order to maintain public confidence in and support for enlargement. While remaining strong supporters of enlargement, it recognises that many across Europe have been concerned by the large-scale movement of people that has followed the accession of new countries to the EU and that this issue needs to be addressed before any more members join. It therefore welcomed the Commission’s most recent 2014 Progress Reports on enlargement, which recognised the need to examine transitional measures and/or a safeguard mechanism on the free movement of workers in the course of accession negotiations on future enlargement.<sup>134</sup>

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<sup>133</sup> *Idem.*

<sup>134</sup> European Commission *Annual Enlargement Strategy 2014* (2014).



# Annex A: List of respondents submitting evidence

## Written evidence by organisation

- AML Consulting
- Business for Britain
- Confederation of British Industry
- Centre for European Reform
- Chemical Regulation Directorate
- Economic Development Foundation, Turkey
- Economic Policy Research Foundation of Turkey
- Endava
- European Commission
- European Foreign Policy Unit, London School of Economics
- European Movement in Serbia
- London Chamber of Commerce and Industry
- Greenpeace
- Macedonian Bureau of Metrology
- National Audit Office
- National Measurement Office
- Northern Ireland Co-operation Overseas
- Parliamentary Delegates to the Council of Europe
- Government of the Republic of Macedonia
- Scotch Whisky Association
- Scottish Government
- Senior European Experts Group

- Shell International Limited
- Sussex European Institute, University of Sussex
- Tate and Lyle Sugars

### Written evidence from individuals

- Bailes, Professor Alyson, University of Iceland
- Balfour, Dr Rosa, European Policy Centre
- Belfer, Dr Mitchell, Metropolitan University Prague
- Beneš, Mr Vit, Institute of International Relations Prague
- Bieber, Dr Florian, University of Graz
- Cengiz, Dr Firat, University of Liverpool
- Christou, Dr George, University of Warwick
- Currie, Dr Samantha, University of Liverpool
- Demirkiran, Mr Afif, MP, Turkish Grand National Assembly
- Dempsey, Ms Judy, Carnegie Europe
- Dostal, Mr Vit, Association for International Affairs Prague
- Duff, Mr Andrew, former MEP for the East of England
- Erdemir, Professor Dr Aykan, MP, Turkish Grand National Assembly
- Glencross, Dr Andrew, University of Stirling
- Grabbe, Dr Heather, Open Society European Policy Institute
- Hagemann, Dr Sara, London School of Economics
- Hanson, Dr Joanna, London School of Economics
- Haughton, Dr Tim, University of Birmingham
- Juncos, Dr Ana, University of Bristol
- Kamall, Dr Syed, MEP for London
- Kochenov, Professor Dr Dmitry, University of Groningen
- Kosadinova, Dr Valentina, University of Buckingham
- Kullaa, Dr Rinna, University of Jyväskylä Finland
- Kyris, Dr George, University of Warwick
- Lang, Dr Kai-Olaf, German Institute for International Studies and Security Affairs
- Lazowski, Professor Adam, University of Westminster
- Leruth, Dr Benjamin, University of Edinburgh
- Ker-Lindsay, Dr James, London School of Economics

- Menon, Professor Anand, Kings College London
- Phinnemore, Professor David, Queen's University Belfast
- Rose, Professor Richard, University of Strathclyde
- Russell, Mr Malcolm, former FCO Official
- Smith, Dr Julie, University of Cambridge
- Tannock, Dr Charles, MEP for London
- Tatham, Dr Allan F, Universidad CEU San Pablo Madrid
- Taylor, Professor Andrew, University of Sheffield
- Techau, Mr Jan, Carnegie Europe
- Vinke-de Kruijf, Dr Joanne, University of Osnabrück
- Votavova, Ms Vlad'ka, Association for International Affairs Prague
- Whitman, Professor Richard, University of Kent
- Wunsch, Ms Natasha, German Council on Foreign Relations
- Wyatt, Professor Derrick, QC

## Annex B: Evidence from workshops and meetings

Brussels roundtable held at the UK Representation to the EU, Brussels, 28 April 2014

Business roundtable held at the Foreign and Commonwealth Office, London, 1 May 2014

Belgrade roundtable held at the British Ambassador's Residence, Belgrade, 3 May 2014

Academics roundtable held at the University of Birmingham, 8 May 2014

Prague roundtable held at the British Ambassador's Residence, Prague, 6 June 2014

Paris roundtable held at the British Ambassador's Residence, Paris, 17 June 2014

Intellectual Property Office roundtable held at the Intellectual Property Office, 19 June 2014

Security and Stability roundtable held at the Foreign and Commonwealth Office, London, 19 June 2014

Emerging Themes roundtable held at the Foreign and Commonwealth Office, London, 27 June 2014

Senior European Experts Group roundtable held at the Foreign and Commonwealth Office, London, 14 July 2014

### List of participants at roundtables and meetings

Arthur, Sir Michael, Senior European Experts Group

Avery, Professor Graham, Senior European Experts Group

Bailey, Dr David, University of Birmingham

Balfour, Dr Rosa, European Policy Centre

Belfer, Dr Mitchell, Metropolitan University Prague

Beneš, Mr Vit, Institute of International Relations Prague

Bennett, Mr Tony, Tate and Lyle Sugars

Business for Britain, representative

Cary, Mr Anthony, Senior European Experts Group

Čáslavka, Mr Jiří, Glropolis

Cengiz, Dr Firat, University of Liverpool

Centre for European Reform, representative

Cooke, Mr John, Senior European Experts Group  
Copsey, Professor Nathaniel, Aston University  
Council of British Chambers of Commerce in Europe, representative  
Demirkiran, Mr Afif, MP, Turkish Grand National Assembly  
Dostál, Mr Vit, Association for International Affairs Prague  
Double, Mr Paul, City of London Corporation  
Dragneva-Lewers, Dr Rilka, University of Birmingham  
Duff, Dr Andrew, former MEP for the East of England  
Elliott, Sir David, Senior European Experts Group  
Eralp, Ms Nilgün Arisan, Economic Policy Research Foundation of Turkey  
Erdemir, Professor Dr Aykan, MP, Turkish Grand National Assembly  
Euclid Network, representative  
Foucher, Ambassador Michel, Collège d'études mondiales Paris  
Gapuma, representative  
Gibson, Ms Charlotte, Shell International Limited  
Serbian European Integration Office, representative  
Serbian Ministry of Foreign Affairs, representative  
Serbian Parliament, EU Integration Committee, representative  
Grabbe, Dr Heather, Open Society European Policy Institute  
Hammer, Ms Catronia, Chartered Institute of Patent Attorneys  
Hannay, Lord of Chiswick, Senior European Experts Group  
Hartnell, Ms Carrie, techUK  
Haughton, Dr Tim, University of Birmingham  
Heathrow Airport, representative  
Hoey, Ms Joan, Economist Intelligence Unit  
Hokovský, Mr Radko, European Values  
Hudik, Mr Marek, CEVRO Institut  
Juncos, Dr Ana, University of Bristol  
Kamall, Dr Syed, MEP for London  
Kent, Mr Nick, British Influence  
Ker-Lindsay, Dr James, London School of Economics  
Koblovský, Mr Petr, Liberal Institute  
Koneska, Dr Cvete, Analyst (Europe), Global Risk Analysis  
Kostandinova, Ms Valentina, University of Buckingham  
Lambert, Ms Anne, Senior European Experts Group  
Lang, Dr Kai-Olaf, German Institute for International Studies and Security Affairs  
Lebrecht, Mr Andy, Senior European Experts Group

London Chamber of Commerce and Industry, representative  
Manchi, Ms Francesca, European Commission Representation in the UK  
Marshall, Sir Peter, former Deputy Secretary General of the Commonwealth  
Novotna, Ms Tereza, Université libre de Bruxelles  
Nuray, Mr Haluk, Economic Development Foundation Turkey  
O'Rourke, Ms Kate, The Institute of Trade Mark Attorneys  
Parmentier, Mr Florent, Sciences Po Paris  
Policy Exchange, representative  
Valero, Ms Gaëlle Pério, Institut des Relations Internationales et Stratégiques  
Phinnemore, Professor David, Queen's University Belfast  
Reilly, Mr Thom, Shell International Limited  
Roberts, Mr Michael, former British Ambassador to Slovakia  
Rupnik, Mr Jacques, Sciences Po Paris  
Russell, Mr Malcolm, former FCO Official  
Schmid, Ms Dorothée, Institut Français des Relations Internationales  
Spalding, Ms Alison, Food Standards Agency  
Stone, Mr Larry, British Telecom  
Tannock, Dr Charles, MEP for London  
Töglhofer, Ms Theresia, German Council On Foreign Relations  
Ülgen, Mr Sinan, Carnegie Europe  
Vinke-de Kruijf, Dr Joanne, University of Osnabrück  
Votavová, Ms Vlad'ka, Association for International Affairs Prague  
Wolff, Professor Stefan, University of Birmingham  
Yeates, Mr Andrew, British Copyright Council  
Zitti, Ms Lucia, National Farmers' Union  
Znamenačková, Ms Jitka, Office of the President Prague

## Annex C: Other sources

- Business for Britain, *Measuring Britain's Influence in the Council of Ministers* (2014).
- European Commission, *Albania's Progress in the Fight Against Corruption and Organised Crime in the Judicial Reform* (2014).
- European Commission, *Annual Enlargement Strategy 2014-15* (2014).
- European Stability Initiative, *Vladimir and Estragon in Skopje* (2014).
- Fiona Hayes-Renshaw; and Helen Wallace, *The Council of Ministers* (2006).
- HMG, *Review of the Balance of Competences between the UK and the EU: Agriculture* (2014).
- HMG, *Review of the Balance of Competences between the UK and the EU: Animal Health and Welfare and Food Safety* (2013).
- HMG, *Review of the Balance of Competences between the UK and the EU: EU Budget* (2014).
- HMG, *Review of the Balance of Competences between the UK and the EU: Free Movement of Persons* (2014).
- HMG, *Review of the Balance of Competence between the UK and the EU: Research and Development* (2014).
- HMG, *Review of the Balance of Competences between the UK and the EU: The Single Market* (2014).
- House of Commons Home Affairs Committee, *Implications for the Justice and Home Affairs Area of the Accession of Turkey to the European Union* (2011).
- House of Lords European Union Committee, *The Future of EU Enlargement* (2013).
- IPPR, *Europe, Free Movement and the UK: Charting a New Course* (2014).

## Appendix A: Glossary of Terms

### Accession negotiations

Negotiations take place in inter-governmental conferences between Member States and the candidate country. They relate to the conditions under which the country will be admitted to the EU and focus on the adoption and implementation of the EU's body of law (the *acquis*). The *acquis* is divided into 35 Chapters, each covering a specific policy area. Negotiations help candidate countries to prepare to fulfil the obligations of EU membership. They also allow the EU to prepare itself for enlargement in terms of integration capacity. The results of the negotiations are incorporated into a draft Accession Treaty, once the negotiations on all Chapters have been closed.

### Accession Treaty

An Accession Treaty is signed by the Member States and the Candidate Country once accession negotiations have come to a close. Accession is not however automatic, as the Treaty has to be ratified by the Member States and the Candidate Country. The Treaty enters into force after ratification on a date that has been previously determined, setting out the conditions and arrangements regarding accession, including the rights and obligations of the new Member State as well as adaptations to the EU institutions.

### Acquis

The body of common rights and obligations that is binding on all Member States. It is constantly evolving and comprises: the content, principles and political objectives of the Treaties; legislation adopted pursuant to the Treaties and the case law of the European Court of Justice; declarations and resolutions adopted by the EU; instruments under the Common Foreign and Security Policy; international agreements concluded by the EU and those entered into by the Member States among themselves within the sphere of the EU's activities.

### Annual Enlargement Package

An annual report produced by the Commission each Autumn, comprising its updated enlargement strategy and annual progress reports on each of the Candidate and Potential Candidate Countries. This provides the basis for the Council's traditional set-piece discussion on enlargement at the December General Affairs Council.

### Aspirant country

A Candidate Country or a Potential Candidate Country.

## Association Agreement

An association agreement is a bilateral agreement between the EU and a third country. In the context of accession to the EU, it serves as the basis for implementation of the accession process. Turkey currently has an association agreement. Association agreements between the western Balkan countries and the EU and its Member States are called Stabilisation and Association Agreements.

## BiH

Bosnia and Herzegovina.

## CARDS

The programme of Community Assistance for Reconstruction, Development and Stabilisation (CARDS) for the western Balkan countries, replaced by the Instrument for Pre-accession Assistance (IPA) in 2007.

## Candidate Country

An EU aspirant country may be granted Candidate Status by the European Council on the basis of a recommendation by the Commission. This is a stage on the way to opening accession negotiations.

## Chapters of the *acquis*

The 35 Chapters of the *acquis* form the basis of the accession negotiations for each candidate country. They correspond to the different areas of the *acquis* for which reforms are needed in order to meet the accession conditions. The candidate countries are required to adapt their administrative and institutional infrastructures and to bring their national legislation into line with EU legislation in these areas.

## Copenhagen Criteria

The Copenhagen Criteria (after the European Council in Copenhagen in 1993 which defined them), are the essential conditions all candidate countries must satisfy to become a Member State. These are:

- political criteria: stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;
- economic criteria: a functioning market economy and the capacity to cope with competition and market forces;
- administrative and institutional capacity to effectively implement the *acquis* and ability to take on the obligations of membership.

The EU's capacity to absorb new members, while maintaining the momentum of European integration, is also an important consideration.

## Instrument for Pre-Accession Assistance (IPA)

Since 2007, aspirant countries have received EU funding and support through a single instrument – the Instrument for Pre-Accession Assistance. IPA has replaced previous pre-accession assistance instruments, for example the PHARE and CARDS programmes. IPA I ran between 2007-13, and IPA II will run between 2014-20. IPA consists of the following five components: Transition Assistance and Institution Building; Cross-Border Cooperation; Regional Development; Human Resources Development; and Rural Development.

### Integration capacity (or absorption capacity)

The EU's capacity to integrate new members. While the candidate countries must be ready and able to fully assume the obligations of membership, the EU must also be able to function effectively and to develop.

### Negotiating Framework

The Negotiating Framework establishes the guidelines and principles for the accession negotiations with each candidate country. The Commission draws up a draft Negotiating Framework and the Member States amend and adopt it.

### Potential Candidate Countries

Since June 2000, all EU partners in the western Balkans involved in the Stabilisation and Association process and who are not yet recognised as Candidate Countries are considered Potential Candidate Countries for EU membership. Currently BiH and Kosovo are Potential Candidate Countries.

### Screening of the *acquis*

Screening, or analytical examination of the *acquis*, is a preparatory phase of accession negotiations. The screening process is carried out jointly by the Commission and each of the candidate countries. This process allows the latter to familiarise themselves with the *acquis* and, subsequently, to indicate their level of alignment with EU legislation and outline plans for further alignment. A further purpose of screening is to identify those areas of the *acquis* in which progress is needed if the candidate countries' legislation is to be compatible with the EU rules.

### Stabilisation and Association Agreement (SAA)

Stabilisation and Association Agreements (SAAs) constitute the framework of relations between the EU and the western Balkan countries for implementation of the Stabilisation and Association Process. SAAs are adapted to the specific situation of each partner country and, while establishing a free trade area between the EU and the country concerned, they also identify common political and economic objectives and encourage regional co-operation. In the context of EU accession, an SAA serves as the basis for implementation of the accession process.

### Stabilisation and Association Process (SAP)

The Stabilisation and Association Process (SAP) is the EU's policy towards the western Balkans, established with the aim of eventual EU membership. Western Balkan countries are involved in a progressive partnership with a view of stabilising the region and establishing a free-trade area. The SAP sets out common political and economic goals although progress evaluation is based on countries' own merits.

The SAP was launched in 1999.

### TAIEX

The Technical Assistance and Information Exchange (TAIEX) is an institution-building instrument financed by IPA for short-term assistance in adoption, application and enforcement of the *acquis*. It is available to Candidate and Potential Candidate Countries, as well as to countries involved in the European Neighbourhood Policy and to Russia.

### Twinning

Twinning is an IPA-financed instrument for implementing institution-building projects. It involves the secondment of experts from the Member States to the administrations of aspirant countries. The idea is to help the administrations of the countries to develop the administrative structures, human resources and modern and effective management skills needed to manage the *acquis* at the time of accession.