

Submission of evidence on the Government's Review of the Balance of Competences between the United Kingdom and the European Union: EU Enlargement



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The European Foreign Policy Unit (EFPU), based in the International Relations Department of the LSE, acts as a focus for research and teaching on issues relating to European foreign policy. EFPU members are currently researching and writing on topics such as the EU's policies towards the Mediterranean region and south-eastern Europe; EU-UN relations; European diplomacy; and the European External Action Service. EFPU publishes working papers, and has organised conferences on European foreign policy (see <http://www2.lse.ac.uk/internationalRelations/centresandunits/EFPU/EFPUhome.aspx>)

The three members of the European Foreign Policy Unit submitting this evidence have written extensively on various aspects of EU enlargement, including on: EU enlargement to Central and Eastern Europe, the Western Balkans, and Turkey; the application of membership conditionality and its impact on candidate countries; and the impact that EU enlargement has had on the EU's foreign policies and global role. Given our combined expertise, we will focus our comments on the EU enlargement process from the 1990s onwards. We will answer most of the questions that were posed on p. 11 of the call for evidence.

1-2. What has been the impact of EU enlargement on UK interests? How has the UK influenced the enlargement process? What effect has EU enlargement had on UK interests in specific policy areas? What advantages and disadvantages has the UK experienced as a result?

The UK has long been a staunch supporter of EU enlargement in general. It was an early and consistent supporter of enlarging to the Central and East European countries (CEECs), and continues to support the membership prospects of countries in the Western Balkans and Turkey. The UK's support for enlargement has, at times (particularly in the early 1990s), generated suspicions in other member states that this support was forthcoming solely because the UK anticipated that a larger EU would not be able to 'deepen', to integrate further. 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).

The UK has supported enlargement for numerous reasons: it is a way to overcome the past division of Europe and it helps consolidate political and economic reforms in new member states. It has also helped that many new member states share similar views of economic reform with the UK, and are supportive of NATO and the transatlantic partnership.

The UK's support for enlargement has helped to temper opposition to enlargement by some member state governments; consistent UK-German support for further enlargement in Central, Eastern and South-Eastern Europe has demonstrated that a strong core of large member states can

outstrip opposition to the policy, often though not always. For example, the then British Prime Minister Tony Blair's outspoken support in 1999 for enlargement to Bulgaria and Romania helped propel their membership prospects forward. (Conversely, where the UK and other large member states do not agree on further enlargement – notably to Turkey – the process has stalled.)

The UK's support for the membership candidates in Central and Eastern Europe initially, at least, fostered strong ties with those states once they had joined. A decade on from the 2004 enlargement, however, and it is less clear that the UK has been able or willing to cultivate and/or develop those ties further. This is, for example, evident in the fact that the new member states are participating in further integration processes (EMU, Schengen) while the UK does not, and that the UK does not always benefit from the support of the CEECs or work together with them on joint initiatives. Many of the new member states have been more supportive than the UK has of strong EU leadership in particular areas of foreign policy – and therefore of stronger EU institutions to enable this leadership. In December 2011, for example, Poland and the three Baltic states signed a letter (together with eight other member states) calling for the strengthening of the roles of the European External Action Service and the High Representative; the UK did not. It is also noticeable that while the UK in 2002 had come up with the initiative to have a European neighbourhood policy, the initiative to create a European Partnership was instead driven by Poland and Sweden.

3. How do you consider the balance between the roles of member states and of the EU institutions in the process? Might UK interests be served by any changes to the balance of competences in this area?

In the enlargement process, member states are the driving forces. Although the European Commission issues an opinion on membership applications, it is the Council that decides to open negotiations in the first place, to open and close the negotiations on particular chapters, and to approve the Accession Treaty. The Council presidency leads the negotiations.

The fact that the member states must unanimously agree on each stage of the negotiating process (opening negotiations, opening and closing negotiations on chapters, and so on), means the process can be easily blocked by one or more member states. We have seen this in the case of the excruciatingly slow ongoing negotiations with Turkey, but also in the veto placed on opening negotiations in the first place with Macedonia. 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, as it would be easier to negotiate accession agreements with candidate countries. But the UK has also expressed reticence to open negotiations with some countries (notably Albania) or to offer candidate status to others (notably Ukraine), and thus overall, the UK's interests continue to be served well by the current balance of competences in this area.

4. How effectively have member states and EU institutions run the enlargement process?

In general, the EU institutions and member states have run the process fairly effectively. Although the treaty rules are rather basic with regard to the procedures to be followed for the accession of new states, the EU has developed over the last decades fairly clear procedures for the various steps to be followed on the road to accession, accompanied by monitoring of alignment and regular progress reports by the Commission that may lead to recommendations for candidates to proceed to the next stage of the accession process.

Reforms of EU institutions and decision-making procedures to ensure the continued effectiveness of decision-making have been rather minimal. Still, current evidence suggests that enlargement has not

led to a gridlock in decision-making. Research generally confirms that the volume and speed of decision-making has not suffered since the 2004 enlargement.

5. How do you assess the EU's use of conditionality?

Enlargement is now often presented as the EU's most successful foreign policy or foreign policy tool. To a large extent, this success can be attributed to the EU's use of conditionality – making membership, and specific steps on the path towards membership, as well as trade/market access and aid conditional on the candidate countries meeting conditions set by the EU. These conditions do not only include a state's ability to apply EU legislation, but also a range of other political conditions, broadly related to liberal democratic principles, human rights, minority rights, and good neighbourly relations.

Generally, conditionality has been successful in bringing about domestic changes in the candidate countries, but research has shown that this success depends 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. Such adjustment costs for the EU's political conditions tend to be too high for governments that rely on illiberal practices and/or strongly nationalist mobilization to remain in office. Examples include Slovakia during the leadership of Meciar, Croatia under Tudjman, or Belarus. It is therefore important not to overstate the power of conditionality in bringing about democratic change. Studies suggest that the EU's political conditionality has affected democratization primarily through locking in democracy in fragile democracies after liberal democratic coalitions obtained office through elections.

An innovation in the accession process has been to tackle the political conditions at the very start of accession negotiations. In addition to making compliance with the main political conditions a precondition for the start of negotiations, these now start with the chapters 23 (on judiciary and fundamental rights) and 24 (on justice, freedom and security). 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 accession negotiations when a candidate has closed all other negotiation chapters. A disadvantage is that in those candidate countries where the EU's political conditions constitute major adjustment costs for governments, they might find it difficult to carry out costly reforms at the very start of accession negotiations when accession is still a more distant prospect rather than the final step necessary to achieve membership.

Another key factor that determined the effectiveness of conditionality – and that is in the hand of the EU and its member states – is the credibility of conditionality, namely whether a candidate country believes that it will obtain the promised reward – ultimately membership – if (and only if) it meets the EU's conditions. By and large, the credibility of conditionality has been high in the countries that joined between 2004 and 2013 as the EU has granted progress towards membership largely in line with candidate countries' progress in meeting the EU's conditions. However, more recently, the EU or rather some member states have started to undermine the credibility of conditionality. Especially in the case of Turkey, suggestions in some member states that accession negotiations might only lead to some form of privileged partnership rather than accession, and the possibility of a referendum on accession in certain member states has made it much more uncertain whether membership will be granted even if the candidate met all of the EU's conditions. A similar case is the Greek veto of the start of accession negotiations with (the FYR) Macedonia due to the bilateral dispute over the country's name – despite the Commission's assessment that the country had aligned sufficiently. Similarly, the veto of some member states of the accession of Bulgaria and Romania to Schengen over their alleged lack of progress in fighting corruption and reforming their

judiciaries (again despite the Commission's assessment that the countries have met the conditions) can undermine the necessary reforms in other new member states hoping to join Schengen.

The main lesson to draw here is that open disagreement among the member states about the desirability of enlargement (to particular) countries thus undermines the EU's power to influence domestic change in line with its objectives. The member states face a choice: either they have to put the option of membership unambiguously on the table, or they have to accept that they will not be able to influence domestic politics in candidate countries.

Another – obvious – problem for the credibility of conditionality is that in areas of political conditionality that are not part of EU law, the EU cannot sanction backsliding after accession. The EU responded to this challenge in the areas of corruption control, the fight against organized crime, and judicial reform in the context of the accession of Romania and Bulgaria. The new members' progress in these areas is continuously monitored and although this 'Cooperation and Verification Process' (CVM) does not entail material sanctions (apart from the threat not to recognise decisions by these countries' courts), the stigma attached to continued monitoring (and negative reports) can be a resource for domestic actors pressing for reform. Regrettably however the Commission discontinued this process in the wake of Croatia's accession – ostensibly for fear that it might suggest to the member states that problems in this area meant that accession was premature. Instead, it might have been desirable to extend CVM monitoring to all member states, not only (specific) new members.

Apart from the EU's use of political conditionality, conditionality has been highly effective in bringing about the candidate countries' alignment with EU legislation in the countries that joined since 2004. Maybe surprisingly, in view of the greatly diminished power of the EU to sanction non-compliance after accession, research has shown that most of the new member states outperform most of the old member states with regard to compliance with EU law. In part the continued good compliance after accession seems due to the experience of pre-accession conditionality that makes the new members more susceptible to considering a good compliance record as a source of pride and as a validation that they deserve membership. Some research has raised concerns that the good compliance record of the new members might mask a gap between good formal compliance/legal transposition and the proper application of these laws in practice. More research is necessary to establish whether this is indeed a problem that applies specifically to these new member states

7. What challenges/opportunities might EU enlargement face in the future?

The challenges likely to be faced by the EU in terms of enlargement become increasingly contingent on current political and economic conditions within the EU and its member states and not, as in previous enlargements, on conditions within the candidate countries or prospective candidates. This is not restricted to the notion of 'enlargement fatigue', which presupposes some form of natural limits of absorption reached by the EU after the 2004 enlargement. Nor does it reflect the limits in the ability of EU institutions to take the strain of further members, and to accommodate their rights and interests.

Instead, the main challenge facing the EU in terms of enlargement results from the debilitating effects of the Euro-zone crisis and the broader recession resulting from this and the 2008 financial crisis. The EU and its members are immersed in a set of debates, and a level of introspection, surrounding the institutional and economic consequences of the economic crisis which dominates the political landscape and limits the attention devoted to enlargement. Whilst accession talks proceed with Montenegro, Serbia and Turkey, it is difficult to view the prospects of membership of these countries independently of the broader debate within the Union on reform, further

integration, and the future of the Euro-zone. Essentially, it is unlikely that progress will be made on accepting new members when there is a heightened level of debate on current politico-economic and institutional arrangements within the EU. Of course, this is magnified by economic conditions in many EU member states, where the prospect of accepting new members is not readily countenanced in economic terms or in terms of migration (and other contentious issues).

In short, the major challenge faced by the EU in terms of future enlargement has to be defined in the context of the outcomes of internal EU debates on the future *shape* of the Union. Once we have greater clarity on that, which may be some time from now, we may envisage a greater devotion of attention to expanding the *size* of the Union.

8. How might the EU's approach to enlargement be improved?

Future enlargement centres on the Western Balkans and Turkey. With the states of this region in mind (and including Turkey), the EU should be increasingly aware of the needs for consistency in treatment of candidate countries. This is important both for the credibility of the Union and the smooth operation of the process of enlargement potentially culminating in successful accession. This demands consistency of application of principles and conditionality for the countries of the Western Balkans, and between that region and Turkey. The danger of either waiving conditions, creating too many new agreements and stages in the accession process (such as the Stabilisation and Association Process), or simply fast-tracking the application of one candidate over others, undermines the impact of the EU as a value-based actor on the international stage. Geopolitics and strategic imperatives do matter, and will always play a significant role in determining the speed of progress in the accession negotiations of candidate countries. But as the process of accession is geared towards creating and accepting modern 'European' states into the Union, depending on their ability to behave like European states, the criteria of accession should be readily maintained and adhered to fairly and equally across the board. Enlargement, as mentioned before, is a hugely powerful instrument of EU foreign policy. As such it must be used with equanimity and equity.

In a technical and institutional sense, it would be useful to have closer coordination in formal 'messages' sent by the Council and the Commission to candidates and prospective candidates. The regular Commission Progress Reports on candidates and applicants are prone to depicting a rather rosier picture than those encountered in negotiations or through the monitoring of SAAs. In return, the position of the Council is usually less sanguine and prone to highlight difficulties, present and future, involved in the accession process. This disparity in positions, often leads to mixed signals and political manipulation of the process of enlargement at the domestic level by a variety of different pro- and anti- European forces. Of course, there is a fine balance to be struck here but, nevertheless, greater consistency in this presentational dimension could lead to clearer and more realistic and realisable goals for both sides.

9. What future impact might EU enlargement have on UK interests?

In general, the UK has always seen enlargement as being beneficial to its interests on a variety of levels. What is, perhaps, most interesting about the next stages of enlargement towards the Western Balkans and Turkey, is what effects the political process of negotiations may have on UK interests and not the enlargement itself. It is clear 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. This results both from internal UK debates on the EU and the process of integration, and the ambivalence it brings with it, as well as the predominant position of Germany in Europe in economic and geopolitical terms. As such, if the UK shies away from taking a leading role in the enlargement process, or shows disinterest, then

candidate countries will take the concerns and positions of the UK less seriously than they have in the past. This, of course, would be increasingly damaging to UK interests both in practical terms, on the economic/trade front, but also in terms of credibility and the ability to foster strong relations with candidate countries if and when they finally join the EU. The process of enlargement, and the UK's role in it, must not be neglected.