

Response to the UK Government's Balance of Competences Review on EU Enlargement Policy

Sussex European Institute, University of Sussex

Liljana Cvetanoska

James Hampshire

Peter Holmes

Dan Hough

Alan Mayhew

Francis McGowan

Kai Oppermann

Jim Rollo

Aleks Szczerbiak

Paul Taggart

Adrian Treacher

July 2014

Note: the Sussex European Institute (SEI) is an interdisciplinary research centre in the School of Law Politics and Sociology at the University of Sussex. It specializes in matters of European law, politics, policy and society with a particular interest the economics, law and politics of European integration.

As requested, we have organized our response in terms of the questions asked in the Review document (though we did not respond to questions 6 and 9).

1. What has been the impact of EU enlargement on UK interests? How has the UK influenced the enlargement process?

The enlargement process allowed the UK to join the EU in 1973. Since then there have been several enlargements based on article 49 of the Treaty of European Union. The United Kingdom has always been a major supporter of the enlargement programme and exerted a key influence during the last enlargement to Central and Eastern Europe.

From a British point of view, enlargement has been a diplomatic success overall. As a policy, enlargement has stabilised democracy in southern and central Europe and used the promise of political and economic integration to stimulate market orientated economic reform in post-authoritarian Iberia and Greece as well as in the post-communist states of Central Europe and the Balkans. The absorption of Austria and the Scandinavian countries in the mid 1990s expanded the group of broadly economically liberal states which shared many of Britain's aspirations for the EU. The failures of enlargement policy may be said to be where enlargement has not been on offer (Ukraine – which may give some sense of what might have happened in the post 2004 member states in the absence of accession) or withheld, notably Turkey where the opportunity to embed western political norms may have been lost by French and German resistance to membership based largely on fears of the impact of free movement of labour on domestic labour markets – fears shared by many British euro sceptics – as well as cultural considerations. (UK governments have been amongst the most supportive of Turkish membership).

The UK's support for enlargement reflected its interest in developing an open and economically liberal EU as well as in the particular case of Central and Eastern Europe supporting those countries coming out of the planned economy. Enlargement policy was also supported by some British governments in the hope that by widening the EU, it would limit the potential for policy deepening. As it turns out enlargement has proved more effective in securing the former than the latter.

The most recent wave of enlargements (2004 and after) has had economic and institutional effects which have been beneficial to the EU as a whole and, in most respects the UK.

The enlargement of the EU to Central and Eastern Europe has been shown in most serious economic studies to have had a globally beneficial impact on the UK. Quite naturally geography has played a role and the enlargement to Central and Eastern Europe has been economically more positive for the member states geographically closest to that region (Germany, Austria). However the UK was the principal beneficiary of one aspect of enlargement when, in contrast to most other member states, it chose not to restrict access to its labour market in 2004. The economic impact of the migration which took place has been generally seen as positive for the UK economy. Since the economic crisis and with a slow recovery in the UK, those benefits have been overshadowed by perceived adverse effects on employment opportunities for British workers as well as on public services and welfare provision (though the evidence to support of these perceptions is mixed).

Institutionally, the effects of enlargement on EU policy making have also been broadly positive. Prior to enlargement there were fears that the influx of new member states would adversely affect policy-making within the EU institutions. The new member states (NMS), it was argued, whether because of their administrative limitations, political instability or simple lack of experience would be a disruptive force in the institutions with a negative impact on procedures and the effectiveness of policy making. They would be more likely to vote against legislation in the Council and to vote "nationalistically" in the EP, in the process slowing down pace of decision-making. Moreover, domestic limitations in terms of administrative and judicial capacities would lead to a poor implementation record. As it turns out these fears have been largely unfounded:

- * Within the Council the new member states have voted with the majority more often than they have voted against or abstained: in the last five years new member states were in minority

roughly half as often as old member states (averaging 13 negative votes/abstentions in just over 660 decisions compared with 17 for old member states).

* Far from voting on the basis of national loyalty, MEPs from the new member states were more likely to vote with their party group than those from old member states (though for both groups the level of cohesion was very high).

* Overall, enlargement does not seem to have slowed the EU's decision making processes. In the ten years prior to enlargement, a fifth of legislative measures based on codecision were taken at first reading stage while over a quarter went to third reading. In the ten years since enlargement 78% of decisions were taken at the first reading stage while only 3% went to third reading. While many factors contributed to this trend (familiarity with the procedure, incentives to compromise between the institutions, etc), it cannot be argued that enlargement slowed down decision making.

* On implementation, the evidence is mixed. The so-called transposition deficit in the EU's "single market scoreboard" shows that new member states have, on average, a slightly higher level of untransposed legislation than the old member states (EU average is just over 0.7% and the NMS are at 0.74% while OMS are 0.7%). (This current position marks a shift from past scoreboards where the NMS appeared to be performing better.) By other measures, the new members appear to have performed better than the old guard. Taking the period 2009/2012, the number of infringement proceedings against new member states has been on average slightly under 2/3 of those faced by old member states. This better implementation record has been reflected in a smaller number of cases where new member states were taken to the European Court of Justice for failure to act. Over the last five years, new member states were approximately half as likely to be taken to the court as old member states (averaging 12 cases compared with old member states' average of 22 cases). However, this apparently stronger performance does not necessarily mean that the street level application of EU legislation is better (academic studies indicate that the lower number of cases might be due to relatively weaker NGO capacity – such groups are often protagonists in launching complaints in older member states – or other institutional weaknesses).

If the UK has a stake in the smooth workings of the EU institutions then the generally smooth integration of the post-2004 members has been to its advantage. Yet while this overall impact on the effectiveness of policy-making may have been beneficial in terms of the UK's national interest, the detail of the new member states' contribution may have been less so. The United Kingdom was hoping with the last enlargement to gain allies in decisions being taken by the Council of Ministers in Brussels. However the positions taken by the new member states have been determined not by blanket support for the United Kingdom position but naturally by the interests of the new member states themselves.

Two factors have affected the way the new member states view the United Kingdom. The first was extreme disappointment with the negotiating tactics of the British Presidency in 2005 over the new financial framework 2007-2013. The second was that the majority of the new member states see their interest lying in a deeply integrated EU whereas the British position has become more sceptical towards EU membership. This Euroscepticism, particularly as it has manifested itself in a shift in the government's position on freedom of movement, has been of growing concern to new member states (see our response to question 10 for fuller accounts of how relations between the UK and one new member state have been affected and how the shift in policy on freedom of movement has played out).

The divergence between the NMS and the UK is apparent in the comparative performance in Council votes. Data on Council voting gathered by VoteWatch shows the UK in an opposing minority for 16% of votes, the largest level for any member state. By contrast the new member states were in opposing minorities for only 2% of the votes. In other words new member states were much more

likely to vote with the majority of member states than the UK. By extension this suggests that in overall terms, the new member states have not been aligned with the UK in opposing or abstaining legislation.

2. What effect has EU enlargement had on UK interests in specific policy areas? What advantages and disadvantages has the UK experienced as a result? Please give examples.

Aggregate figures on Council votes only tell us so much about Council operations. It is clear that in certain areas of EU policy, the UK has been able to work with NMS on shaping the EU's position in specific policy areas. Although the new member states have not transformed the policy agenda, they have contributed to a rebalancing of some policy stances and have been vigorous opponents of others with variable implications for UK interests.

On foreign policy they have strengthened Atlanticist sentiment and have sought to develop good relations with the EU's eastern neighbours while, in most cases, seeking to keep Russia at arms' length. The NMS' impact on the Union's security and defence policies has been more limited, however, though progress in any case would arguably have been constrained regardless of enlargement. The initial strong momentum behind the CSDP through 1999 had already slowed significantly well before the first of those enlargements (in 2004). Some military assets have admittedly been added, notably by Poland, but so too have thirteen more sets of national interests to further impede the Union's singularity of purpose. Furthermore, the EU15 was already split with regards to attitudes towards the use of military force long before 2004. None of the thirteen newer members have brought with them much of an external vocation beyond the European space and so the CSDP has not gained any new champions. In the meantime, extra-institutional military cooperation between states continues apace, as witnessed by the Franco-British defence agreements, and is perhaps indicative of a general disenchantment with the CSDP. It should be stressed that the NMS are not the only or even the main constraint on the development of CSDP but nor have they been a particularly positive force underpinning it.

In terms of the advantages or disadvantages which enlargement has delivered for the UK's external interests the picture is mixed. On the one hand the NMS' positions on the Atlantic Alliance and Russia chime with those of the UK. On the other, the UK's interest in enhancing CSDP has not received much support from the NMS.

On internal economic policies, the picture is also quite mixed. The new member states have found more common ground with the UK given that most are more economically liberal than many older member states. This has translated into support for the UK and other North European member states in promoting economic and regulatory reform. Two examples from the EU's single market programme illustrate the way that enlargement has enabled the UK to defend or promote its interests in partnership with the new member states:

Social policy/labour regulation: As economies which enjoy relatively low labour costs and low levels of labour regulation, the new member states have generally been keen to limit the extent to which EU legislation upwardly harmonises social policy. In recent years, the Business Secretary has acknowledged the support of new member states in helping to stave off pressures to reform the working time directive.

Climate/energy policy: 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 and to obtain sizeable concessions when the first climate energy package was negotiated in 2008/9. More recently they have worked with the UK to have the policy rebalanced in the direction of competitiveness and supply security concerns (with the blocking of binding "2030" targets for renewables development and the adoption of a light touch approach to shale gas regulation key achievements of that coordinated response).

In other areas, primarily those regarding the budget and by extension policies with major budgetary implications (such as agriculture and regional development) the UK and NMS interests have not converged; on the contrary they have often been on opposite sides of the argument.

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?

It is difficult to see much scope for changing the balance of competences in the enlargement area without complicating what is already a complex process even more.

This is an area where member states have an absolute veto power. The possibility of a refusal by the EU to agree to an accession has been present in each negotiation. The potential for vetoing an accession has been used also in the past by certain individual member states to obtain better conditions - this was the case with France in the British accession, France in the Iberian accession, Spain in relation to the Polish and Hungarian accessions, with Italy in the Croatian accession and Slovenia also in the Croatian accession. However it is somewhat questionable whether an individual member state should use the accession process for improving its own position in the accession.

Unanimity is required in the Council and the intergovernmental conference with the applicant country in all stages of the enlargement procedure. The United Kingdom therefore has complete control of whether a new country joins the EU as do the other 27 member states. The European Parliament must agree with the enlargement by a simple majority of its members and individual member states must ratify the accession in the appropriate constitutional method - in the UK by a vote in Parliament.

The negotiations are managed by the European Commission following the negotiating mandate. The Commission reports regularly to the Council of Ministers which establishes an ad hoc committee for the negotiations. It is 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 and member states would not have the resources to carry out this task.

What could be improved is the flow of information amongst the European Institutions and between these institutions on the one hand and national parliaments and the wider public on the other. Giving that enlargement negotiations last several years, managing the information flow is difficult.

4. How effectively have the member states and the EU institutions run the enlargement process? Have lessons drawn from previous enlargement rounds been applied?

The enlargement process is a lengthy procedure with many different actors and interests involved, and success has varied among candidates and among policy areas. For example, the EU was very successful in facilitating the transposition of the *acquis* to national legislation of candidate countries. It has also been successful in assisting countries to strengthen their institutional capacities, and in sharing best practices with candidates during the enlargement process. In addition, the financial assistance given to candidates during accession has further supported the building of relevant institutions, training public servants, and especially in establishing and developing the civil society sector in candidate countries. The EU has also used the 'carrot and stick' approach which has proven to be very successful in improving candidates' performance, as the threat of lagging behind and exclusion from the accession process has been a motivator for candidates to fulfil the necessary requirements.

Nevertheless, there are shortcomings in the enlargement process that need to be addressed for the future enlargement rounds. During the accession process, member states seek to secure their

national interests, EU institutions seek to make sure that new enlargements will not destabilize the functioning of the Union, and candidates aim to fulfill their agendas by finalising the enlargement process as soon as possible. Member states have on some occasions placed their own national interests and bilateral issues with candidates at the forefront of the enlargement process, resulting in slowing down or even blocking the enlargement process for some candidates until bilateral issues are resolved. This has been so far evident in the accession process of Croatia when Slovenia blocked Croatia's accession over their border issues, or in the current stagnation of the enlargement process of Macedonia, where negotiations are not being opened regardless of the positive comments and recommendations by the European Commission, due to the country's name dispute with Greece.

In other cases the fulfilment of some of the accession criteria has had a secondary role in granting membership. For example, 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. As effective control of corruption is crucial for the rule of law and independent institutions, allowing countries to join in without strong track record in tackling corruption suggests that the enlargement process has not been effective in these cases.

EU institutions, especially the European Commission through its regular annual progress reports have contributed to the enlargement process by providing invaluable guidance for candidates on their level of preparedness for accession and on the further steps required. Yet the Commission's reports have on some occasions showed inconsistencies in the past, especially during the 2004 enlargement wave when some candidates have been criticised on their inefficiencies in some policy areas, where as similar issues have not been even mentioned as problems in other candidates' progress reports. Also, the expected results that candidates were supposed to achieve were not always clearly stated and there was confusion on the measures that needed to be taken in order to achieve the desired outcomes. Finally, it was also not very clear what success meant in many policy areas, and confusion among whether a policy is successful or not has occurred in the past.

Overall then it is difficult to assess how effectively the member states and EU institutions have run the enlargement process. For the acceding countries the process was always too slow due to the need to coordinate amongst the member states in the IGC. On the EU side there have always been delays for a variety of reasons, some of which could have been avoided but these are not problems which can be solved by changes in competence or procedure. Moreover, the effectiveness of the EU enlargement process depends not only on the EU institutions and member states, but also on the ability, capacity and willingness of a specific candidate to introduce and implement domestic reforms. It has become evident that it is very difficult for many candidates to achieve the necessary changes in practice and to successfully implement the transposed legislation in key areas such as corruption, organized crime and reform and independence of the judiciary.

Lessons have clearly been learnt from the 2004/2007 enlargements.

The first is that enlargement is a political process in which the political will of the member states overrides an objective view of the quality of an acceding country. The EU has always emphasised that accession to the EU is a bilateral process in which each individual acceding state is treated on its merits. However with the 2004/2007 enlargement the political desire to enlarge to all of the new democracies of central and Eastern Europe at the same time overcame any truly objective bilateral decision. It is true that some differentiation was made for Bulgaria and Romania, including certain conditions which applied after the actual accession of those countries, but even these safeguards really did not adequately deal with the problems posed by these two countries.

The second is that EU institutions also need to reassure candidates that bilateral issues will not stand in the way of their membership if the enlargement criteria are fulfilled, as the opposite may result in candidates losing motivation and interest in joining the EU.

The third, which is not new, is that while changes in the way in which an acceding country behaves can be demanded prior to accession, the leverage of existing EU member states is very limited after accession. This indicates the need for strict application of the conditionality which has been set for each country.

The fourth is that, while in the past emphasis was put on countries being able to adopt and implement the *acquis communautaire*, it has become clear that the most important conditions for joining are those relating to the values of the EU as expressed in article 2 of the treaty (TEU).

Significant changes in the enlargement process were made following the recognition of these lessons from the 2004/2007 enlargement. The EU has changed its strategy for tackling these issues in the current enlargement rounds, and new approaches to the enlargement process, such as consistency in measuring candidates' progress, benchmarks, and particular emphasis on the rule of law issues have been introduced to ensure better functioning of the accession process of current candidates, and to allow as much time as possible for candidates to implement the necessary reforms. This approach has been seen in the way that conditionality has been tightened up for the accession of Croatia and Turkey. In the first place acceding third countries had to meet certain minimum conditions before a negotiating chapter could be opened, whereas previously chapter negotiations had been opened when the IGC adopted a common position. More recently absolute priority has been given to the quality of the democracy, the rule of law, human rights and minority rights before other areas of negotiations can be opened. These changes are quite sensible even though they obviously tend to slow down the process of negotiation.

The United Kingdom has a central role in the enlargement process, as it provides financial assistance to candidates, as well as expertise, training and sharing of best practices in many program areas. The UK has particularly contributed to strengthening democratic institutions, the rule of law, economic reforms and the development of the civil society sector in candidates. The investment in improving candidates' performance does not only benefit the target countries but UK's national interest as well given the UK's commitment to supporting enlargement.

5. How do you assess the EU's use of conditionality (eg, the Copenhagen Criteria, the "New Approach" on rule-of-law issues)? Has conditionality been effective in ensuring candidate countries implement reforms necessary for EU membership? Please give examples.

i. General Observations on Conditionality

With the increasing complexity and the demands of implementing the single market the process of accession has shifted from one of joining and adjusting to the *acquis communautaire* (which applied to the UK when it acceded) to one of adjusting and then joining that has largely applied since the EFTA enlargement of the 1996.

The conditions now set by the EU for accession, especially the conditions outlined in the 'new approach', are adequate. The problem lies in the correct implementation of these conditions and the extent to which changes made to meet these conditions turn out to be of long-term significance or merely superficial.

Establishing the facts on how the conditions are being addressed in the acceding countries is far more difficult than it would seem at first sight. An essential element in those countries which joined the EU in 2004/2007 appears to have been the enthusiasm which the first post-communist governments have themselves shown for fundamental reform independent of any intention to join the EU. The transformation in the Polish system towards democracy and the market economy was determined essentially by the new Polish government itself in 1989/90 ('Balcerowicz Plan') independently from its desire to integrate with the EU. In certain other countries (Romania and Bulgaria) the early reforms were much shallower and sometimes were rolled back and the politicians in charge were sometimes the same politicians who had been active under the previous regime.

In these latter countries, the conditions set by the EU frequently seemed to have been fulfilled but changes have turned out to be rather superficial. The necessary adjustments to the values of the EU need to be deeply embedded in the institutions of state and in society at large. Even in Hungary, one of the 'best' candidates for membership prior to 2004, these adjustments do not seem to have been made.

These are extremely difficult issues, as backsliding on fundamental values also affect core members of the EU and are not exclusively limited to acceding countries. What is probably required therefore is a tightening up of the procedures in the Treaty for tackling non-respect for the values expressed in article 2 TEU in current member states.

However, in spite of these problems, conditionality attached to a perspective of membership has been in general a successful external anchor for reforms in neighbouring countries. This has resulted in creating a wider Europe of stability and economic integration, which has been essential to peace and prosperity in the region. The linkage between conditions set for economic integration with the EU and 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.

ii. Conditionality and Anti-Corruption Reform

The main aim of the EU conditionality is to guide aspiring candidates on the specific conditions and requirements that they are expected to achieve prior to accession, as well as to reassure member states that new members would cope with the many challenges that EU membership brings. However, so far the effectiveness of the EU's use of conditionality has varied between candidates and policy areas. In some cases the application of EU conditionality has contributed towards positive changes in candidates in various policy areas, including the key areas of rule of law and democratic governance. However, conditionality has not always been a success story and many of the new member states still struggle with issues such as corruption, judicial independence and organized crime. This raises concerns about the effectiveness and the limits of the EU conditionality tool.

For example, the EU has strong interests to support anti-corruption reforms in candidate countries, as corruption is a potential threat to the Copenhagen Criteria and poses a danger to the free market economies in the candidate countries that will become part of the Single Market once they become members. Nevertheless, success in controlling corruption differs significantly from one case to another.

In the enlargement wave of 2004, ten countries joined the EU simultaneously. Even though all these countries have been exposed to the EU enlargement conditionality mechanism, the outcomes among the new member states as regards corruption vary. Estonia, for instance, has noted positive trends in controlling corruption from the mid-1990s onwards, and is considered a success story among the Central and Eastern European members and candidates. The country even exceeds some of the older EU member states in various corruption ratings, such as Greece, Italy and Portugal. On the contrary, in other cases, such as the Czech Republic, the control of corruption has progressively decreased over the years, especially after the accession into the EU, which points out to the short-term effects that EU conditionality can have on the policy areas in some cases. In other words, imposing conditions on candidate countries increases the risk of them adopting 'EU conform laws' for external consumption that can have little effect on the actual implementation of laws and policies in a candidate country. In regards to the control of corruption, this trend was even more intensified during the accession process of Romania and Bulgaria. As an example, Romania managed to maintain status quo by adopting corruption related laws and provisions, which were later on abolished or amended.

Moreover, Bulgaria and Romania were allowed to join the EU in 2007, despite their serious inabilities to control domestic corruption. Even though EU conditionality has been used to improve

Bulgaria's and Romania's anti-corruption infrastructure, it still had little effect in practice. As a result, the EU decided to impose post-verification mechanisms to further oversee anti-corruption efforts of the two new members. Having in mind the importance of the control of corruption for the EU and the limited ability of the Union to have an impact on this policy area after accession, the accession of Bulgaria and Romania can be seen as premature. Granting EU membership based on adoption of the legal anti-corruption requirements for accession without a significant improvement of the situation in practice does undermine the credibility of the conditionality mechanism, and sends a message to countries that membership is potentially achievable regardless of a candidate's ability to effectively improve control of corruption in practice.

Based on these experiences, the EU enhanced its enlargement conditionality by introducing stricter application of accession criteria among the current candidate countries. With the 'New Approach' on the issues related to the rule of law, the EU prioritizes these most problematic areas of EU conditionality and places constant emphasis on whether progress has been made. The 'New Approach' is still at a very early stage, but it seems that it faces the same dangers that the EU conditionality has faced before- the domestic challenges in the target countries. Consolidated, efficient states with pro-EU orientated goals will be more likely to respond to the 'New Approach' on the rule of law issues. Countries that lack will and capacity to implement reforms might not benefit from this approach so much, as it does not offer a solution on how to overcome interests of particular institutional and political veto players who are interested in keeping the status quo. In addition, the effectiveness of conditionality depends on achieving behavioural change as without changing political culture in candidates, the formal adoption of laws and institutional structures will not necessarily result in the necessary changes in practice.

The United Kingdom has been one of the strongest advocates for EU enlargement among the EU Member States. However, the serious problems that current candidates face in many crucial policy areas seem to have had a negative impact on the UK's support to enlargement. If the revised conditionality policy fails to initiate necessary reforms in candidate countries, the UK's reluctance towards such countries joining the EU is likely to grow. Granting membership to impoverished countries that are not fully capable of implementing the Copenhagen Criteria is likely to have a negative effect on several UK policies, and it is to expect that additional control mechanisms for new members are to be introduced when they join the EU.

This is particularly relevant to the case of anti-corruption policies where the UK has been at the forefront of legislative initiatives: the UK Bribery Act is on a par with the American Foreign Corrupt Practices Act in terms of its scope and ambition. That there have been very few convictions thus far should not distract from the impact that the Act has had on the compliance culture of businesses active in the UK. By contrast, other EU member states have ground to make up in this respect. The UK has not, yet, been successful in persuading other (both older but particularly newer) EU states to adopt similar legislation but there are clearly good reasons to maintain the pressure on them to do so given the trajectory of policy in the international community.

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

The challenges are both internal (support for enlargement amongst EU citizens) and external (the ability and willingness of candidate countries to meet the conditions for membership). These challenges are extremely difficult to meet.

i. Internal Challenges

Internally, the nature of the debate around enlargement has changed in two fundamental ways that have particular implications for the United Kingdom. Enlargement has changed from being a largely consensual issue with little attention from the public to being an issue that will potentially be more divisive and more visible. This has occurred at the same time as a growing politicization in the UK of

the issue of European integration in general. Enlargement, therefore, has the future potential to become a more divisive issue as it may foster and contribute to the politicization of the EU issue in domestic politics.

Controversies about future EU enlargement are likely to focus on applicants or potential applicants among the post-communist states of the Western Balkans and former Soviet Union. Such an enlargement poses a number of challenges from the perspective of public and elite concerns about the EU integration project which are likely to fuel Eurosceptic sentiments in a number of countries, including the UK. Firstly, given that these countries are likely to be next 'exporters' of migrant labour to longer established EU members in Western Europe, this is likely to raise the issue of EU free movement of labour, concerns about which have been a major driver of Euroscepticism in some countries such as the UK. Secondly, given that these states are likely to be poorer than the EU average they will be net recipients from the Union's budget. This will raise concerns about fiscal transfers, given that future EU enlargement will either involve increasing the size of the Union budget or (assuming a budget of broadly the same size) a shift of resources from richer to poorer states.

The possible expansion of the EU into Turkey also raises cultural concerns about the difficulties of assimilating a large Muslim country into the Union. Opposition to EU enlargement into Turkey has been an important driver of Euroscepticism in a number of existing member states, especially those with large Muslim populations (although it is not an issue of concern in the UK).

In the UK context specifically, it is worth noting that prior to the 2004/7 enlargement into the post-communist states of central and Eastern Europe, EU enlargement enjoyed broad support across the political spectrum including among reformist (as opposed to rejectionist) Eurosceptics. They saw a larger Union both as being less amenable to deeper political and economic integration and a potential ally for UK policies in areas such as free movement of services. The issue of EU enlargement was also one that had very low political salience. However, since the flow of migrant labour to Western Europe (not least in the UK) that followed the post-communist enlargement, given its linkage to the question of free movement of labour and immigration the issue of enlargement has become potentially more highly contested politically and potentially something that Eurosceptics are likely to raise in public debate.

Enlargement is likely to become a policy area in which the UK will play a reduced role. The increased politicisation of the issue through its linkage to other issues such as migration makes it harder for the UK to maintain its historically very supportive stance. And the increased politicisation of the European integration issue in the context of economic difficulties and the resort to plebiscitary politics (exemplified in the debates about possible future referendum) means that enlargement will likely represent more of a challenge than an opportunity for the UK in the future.

A key domestic challenge to future EU enlargement relates to the prospect of national referendums within existing EU members. Although popular votes on the accession of new member states are not constitutionally required in any member state, the likelihood is that future enlargements of the EU will give rise to discretionary referendum commitments. The outcome of such referendums is unpredictable and the mere prospect of popular votes seriously complicates accession negotiations.

The most tangible cases in point are government commitments in France and Austria to referendums on Turkish EU membership. In France, the commitment goes back to President Chirac in 2005 and has just recently been reinforced by President Hollande. As for Austria, the two main parties, both in government, are since 2007 committed to a referendum should the accession talks with Turkey be successful. In both countries it appears politically infeasible for governments not to honour these commitments, not least because of significant pressure from the Eurosceptic right.

The two cases, however, are only the most obvious pointers to the broader challenge of national referendums on future EU enlargement. First, the increasing trend towards discretionary EU

referendum commitments since Maastricht suggests that the accession of new EU members may trigger referendum demands and promises in a number of member states. This will be particularly likely in cases, such as Turkey, which are bound to be controversial in domestic discourse. The rise of Eurosceptic parties in a number of member states, in particular on the far right, further increases the likelihood of such referendums. Referendum demands have become a standard political weapon of Eurosceptic parties against pro-European mainstream parties and put significant pressure on governments to grant such votes. Also, the French and Austrian referendum commitments have set precedents which can be expected to reinforce referendum pressures in other EU member states. Countries which appear particularly susceptible to such pressures include the Netherlands, Denmark, Sweden, Finland, Poland and the Czech Republic. Even in Germany, where national referendums are ruled out by the constitution, there is increasing talk of amending the constitution precisely to allow such referendums on European issues.

Second, the outcome of EU referendums is inherently unpredictable. Such referendums can be characterised as 'second-order' elections which are less about the issues on the ballot than about the domestic politics of the respective countries. In particular, voters are prone to using EU referendums as low-cost opportunities to voice discontent with national political elites. The results of any enlargement referendum would thus depend on contingencies such as the popularity of the government and national electoral cycles. What is more, the binary structure of referendum debates tends to magnify the visibility and influence of Eurosceptic arguments and provides populist parties with an auspicious opportunity structure. Given the rise both in public scepticism towards European integration and in public distrust of political elites, referendum votes that go against the accession of new members are a distinct possibility. As cases in point, opinion polls in France and Austria regularly point to negative referendum outcomes on Turkish EU membership.

Third, it is already the anticipation of domestic pressures towards referendums which would hamper future accession negotiations. This is mainly because the expectation of referendum demands may make governments of EU member states resort to hard-line or obstructionist negotiation strategies. From the perspective of applicant countries, the prospect of national referendums in existing EU members significantly increases the uncertainty of the accession process and may thus undermine their efforts at meeting the membership criteria.

ii. External Challenges

The external factors are rather different from one region to another. In the case of Turkey there are now doubts about its acceptance of EU values, not only in its traditional opponents France and Germany but more generally. There are also doubts about whether the government in Ankara is still serious about its application to join.

The Western Balkans pose a more imminent problem owing to the instability and ethnic strife in parts of the region. While the EU's promise of membership at the Zagreb summit in 2000 undoubtedly contributed to the pacification of the region, the lack of progress towards meeting the accession criteria has led to frustration amongst citizens and the gradual return to ethnic-based policies in some of the countries.

The difficulties which are faced by the EU in the Western Balkans and which may arise in its relationship with its Eastern neighbourhood (Ukraine, Moldova, Georgia) raise the old problem of how the EU can affect the necessary changes in domestic policies and attitudes in third countries to enable them to prepare for accession while not having the necessary tools to achieve this. The attempts to establish some sort of intermediary stage in accession – EEA, potential candidates/candidates etc - have to some extent all failed.

The problems posed by governance of an enlarging EU have also not been solved - too many Commissioners in spite of the Lisbon Treaty, an oversized European Parliament, QMV applying to

more areas. Solutions to these problems really need to be found in the near future not simply to facilitate further enlargements but for the application of good governance in the EU itself.

In terms of the policy implications of future enlargement, the picture is mixed. Regarding EU internal policies, existing or potential candidate countries would be at odds with British interests on budgetary issues. In other areas the candidates would be less enthusiastic “liberalisers” (with the possible exception of Turkey) and probably likely to err on the side of more rather than less integration.

In the field of security and defence integration, further enlargements of the EU will evidently hamper its singularity and cohesiveness. Enlargement could add further pressure for the adoption of enhanced cooperation in this policy area, based, in all likelihood, around the Tervuren Group of 2003. But would the UK want to be part of that? It has not expressed any interest up until now.

The only potential new member state that might be politically and practically capable of giving CSDP a real boost would be Turkey, but its accession process is pretty well stalled at present. Even if it were to get back on track, many further obstacles remain, not least in the form of some existing member states. New member states will bring with them new external borders and potentially new regions and issues for the Union to prioritise; spreading its resources even thinner. With this in mind, Russia is clearly currently showing its anger as what it sees as EU expansionism in Eastern Europe. This time it is the Ukraine crisis that is exposing the real limits of the EU as a security actor as eyes turn to Washington DC and to NATO.

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

As noted in our response to the previous question, the EU (and the UK) faces a major challenge in identifying options which provide an intermediary stage in accession. Changes in the EU itself may go some way to resolving the previous problem. As the EU moves towards a deeply integrated Eurozone (banking union, fiscal union, political union) 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/Eurozone. However as the essential problems lie in the areas of democratic quality and rule of law, both of which will continue to apply to the whole EU and not just the Eurozone, this may not be a real solution to the problem.

One of the unresolved issues in the integration of third countries into the EU and of enlargement itself is that of the tools which are deployed by the member states through the Commission may be inappropriate. The current procedures and structures were developed in the 1990s to deal with enlargement to the countries of central and Eastern Europe which were transitioning from a planned economy to a market economy and from one-party rule to democracy. They included the establishment of a specific enlargement directorate general in the Council and of routine planning procedures such as ‘annual progress reports’ and ‘accession partnerships’. These procedures and structures, while not being perfect, were adequate to bring relatively advanced and relatively entrepreneurial states into the EU.

It is questionable whether the same procedures and structures are ideal for future integration of neighbouring countries into the EU. The procedures and structures being used for the management of the integration of the EU's Eastern neighbourhood are extremely similar to those used in the previous enlargement, although the names are rather different (Association Agenda rather than Accession Partnership). Yet realistically most of these countries, even in the most optimistic scenario, are many years and perhaps decades away from accession. The problem of using similar techniques now to those developed in the 1990s is that they arouse expectations of accession which the EU cannot fulfil (see the problems which have arisen in Macedonia), leading to frustration and

even in some cases regression in these third countries. The problem is that we know that the promise of future accession is the essential element in the creation of an external anchor for reform.

10. Are there any further points you wish to make which are not captured above?

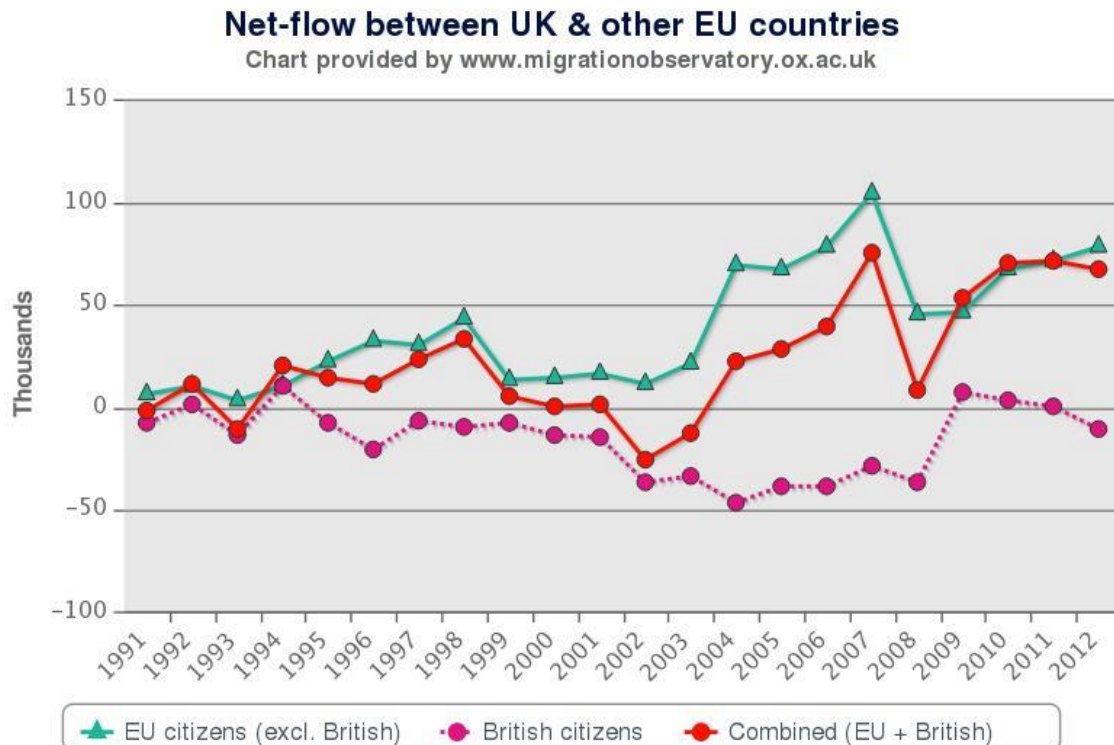
As noted in our response to question one, we wish to highlight two aspects of the way in which EU enlargement has affected UK interests: migration policy and relations with Poland, the largest of the post 2004 accession countries.

i. Enlargement, Migration and UK interests

One of the most significant effects of enlargement has been in the area of migration policy. Since the 2004 enlargement, migration from European countries to the UK has substantially increased. The figure below shows net flows between the UK and other EU countries. The UK has had a positive net inflow for every year since 2004, though this dropped to close to zero in the aftermath of the financial crisis, indicating how EU migration is particularly responsive to labour market conditions.

The UK is now home to 2.2 million non-British EU citizens, of whom approximately half are A8 migrants. EU migration accounts for about 40% of net immigration to the UK.

As well as being unprecedented in its scale, A8 migration is qualitatively different from previous migrations to the UK. A8 migrants are young, well-educated, and the vast majority (88 per cent) are in employment, mostly in low-skill, low-wage sectors such as hospitality, manufacturing, and agriculture and food-processing. Conversely, migrants from the older EU member states are over-represented in high-income, high-skill sectors such as managerial and professional jobs. Unlike previous settlement migrations, A8 migration is highly circular, with many EU citizens moving back and forth between the UK and their country of origin.



Source: Office for National Statistics, IPS estimates

The scale and complexity of post-2004 EU migration makes an assessment of its advantages and disadvantages far from straightforward. A recent meta-study by the Migration Advisory Committee found little evidence that A8 migrants had either increased unemployment among British citizens or depressed their wages. Employers are highly supportive of EU migration and there is good reason to believe that it has contributed towards economic growth by addressing labour and skills shortages at both ends of the labour market.

Allegations about benefit tourism are unfounded. According to the Treasury, EU migration has had a positive net fiscal impact. EU migrants, including A8 migrants, have much lower take-up rates of Jobseekers' Allowance and Child Benefit than British citizens. On the other hand, EU migrants have contributed towards increased demand for housing and there is some evidence that they have put pressure on public services in certain areas.

Overall, the UK has gained a young, educated workforce whose positive contributions to the economy and society have outweighed any negative impacts.

This has not prevented the development of a toxic public debate and a hardening of public opinion on immigration. It is difficult not to conclude that a disadvantage of post-2004 migration has been the opportunity it has provided for anti-immigrant political mobilisation. For this reason, the imposition of transitional controls for future enlargements makes sense, but the Government can and should do more to challenge myths about EU migration, and indeed migration as a whole. Certain policy proposals, for example around tightening access to benefits, are unlikely to have significant effects on inflows and arguably reinforce the false perception that EU migration is a net drain on the UK economy.

The Government should also avoid making promises it cannot deliver, as this is likely further to undermine public trust on immigration, something which polls show is already in scant supply. The net migration target is an undeliverable policy, since neither emigration nor EU immigration is something that the government can control, and one that continues to undermine the UK's interest in attracting people to work and study in the UK.

ii. The UK's relationship with Poland post accession

Following EU eastward enlargement in 2004, although there were considerable differences between Poland and the UK in some crucial policy areas, in many ways it appeared the two countries had a similar approach to European integration and how the EU should develop, so that Britain appeared a strong choice as a strategic partner among the larger member states. Britain was a strong supporter of EU eastward enlargement throughout the 1990s and against the background of deteriorating Polish relations with France and Germany, and particularly as these two countries' political elites became increasingly hostile towards further EU enlargement, the UK (which maintained a pro-enlargement stance) began to appear an attractive partner.

The commonalities between Polish and British approaches to European integration can be seen in a number of areas. Firstly, initially at least in terms of the broader debate between competing models of European integration, Poland appeared – initially at least – to share the UK's instinctive inter-governmentalism and was much more sympathetic to the 'Europe of Nations' approach advocated by the Britain rather than a federal Europe. Secondly, on a wide range of economic and financial questions, Poland also appeared to be more supportive of Britain's liberal reform agenda, rather than the Franco-German idea of a 'social Europe'. For example, Poland supported proposals to liberalise the services market and encourage open and flexible labour markets, while it opposed the harmonisation of tax rates and increasing levels of social regulation. Thirdly, on matters of what kind of foreign policy actor the EU should be and how to institutionalise EU defence and security policy, Poland's position was thought to be closer to that of the UK than either France or Germany. The two countries were, arguably, the USA's strongest allies in Europe, with Poland sharing the UK's

instinctive Atlanticism in foreign policy and strong belief in the continued significance - indeed, pre-eminence - of NATO and the transatlantic alliance. Fourthly, while France and Germany challenged the viability and desirability of further EU enlargement, the UK policy was to maintain a positive attitude towards expansion; although the different countries had different priorities as to what the focus of this should be.

However, although there were important commonalities of approach between Britain and Poland, there were always some important differences between the two countries. In particular, there were aspects of the British 'reform' agenda that were problematic for Poland. Firstly, unlike Britain, which supported a slimmer EU budget, Poland favoured a larger one involving high social transfers and more 'solidarity' from richer to poorer areas, together with an end to the UK's rebate. Poland would lose out from attempts to 'modernise' the EU budget on the lines proposed by the UK: by shifting expenditure away from regional aid towards research and development. In this respect, Poland's approach was closer to a more 'solidaristic' Franco-German vision of Europe based on high social transfers from richer to poorer areas. Secondly, the UK saw the CAP as a way of maintaining inefficiencies in the agricultural sector and favoured its thorough reform in order to overhaul EU financing mechanisms. On the other hand, because of the role that the agricultural sector played in the Polish economy, Poland (like France) supported the continuation of the CAP, which it saw as an important means of developing and modernising Polish rural communities.

Moreover, since the election of the Civic Platform-led government in 2007 Polish European policy has evolved in an increasingly pro-integrationist direction with Poland seen as: keen to locate itself within the 'European mainstream', orientate Polish foreign and security policy more towards Europe and away from the USA, and explicitly support moves towards developing the EU as a German-led federation. At the same time, Britain's increasing distance from the European mainstream and moves by the UK government to restrict welfare benefits to EU migrant workers, with David Cameron singling Poles for particular criticism, has led to a deterioration in bi-lateral relations between the two countries. This is ironic given that free movement of labour and the possibility of Poles being to work in West European EU member states has been the strongest driver or continued high levels of support for EU membership in Poland; and the UK – as one of the few EU member states to immediately open up its labour market - has been the main destinations for Poles migrating to the West post-EU enlargement.