

EVIDENCE OF PROFESSOR DERRICK WYATT QC

CALL FOR EVIDENCE - QUESTIONS ON EU ENLARGEMENT

Preface and summary

My evidence has been written with the aims of the Balance of Competences Review in mind - identifying elements of EU competences and their exercise which might figure in any future reform of the EU.

The UK has been a strong supporter of EU enlargement since it joined the EU. If the EU empowers the UK, both economically and politically (and this has broadly been the view of successive governments), then, other things being equal, a relatively larger EU tends to empower the UK more than a relatively smaller EU. Expansion of the EU's internal market has been of benefit to the UK, and migrant workers have contributed to the UK economy. The accessions of new Member States in which there is a political consensus favouring NATO membership, a free market economy, and good transatlantic relations, have also been regarded by successive UK governments as in UK interests.

In terms of these latter considerations, the accessions of new Member States in 2004 and in subsequent years were in the interests of the UK, but in two specific respects they were not. First, the way in which the Copenhagen criteria were applied led to some new Member States joining the EU before they were ready. Secondly, the 2004 enlargement has contributed to a perception in the UK that the high levels of immigration to the UK in the wake of that enlargement will be maintained unless the UK leaves the EU.

While the Copenhagen criteria require new Member States to show that their authorities are capable of upholding the rule of law and fulfilling the responsibilities of EU membership, assessments by the Commission have concentrated on formal compliance with the criteria and taken insufficient account of the prevailing culture in candidate countries of the civil service, police, prosecutors, judiciary, those who award public contracts, and those active in politics and business. 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 organized crime. EU survey data has shown a significant degree of divergence between tolerance of bribery and other forms of corruption in Member States acceding in and after 2004 and such attitudes in the EU as it stood prior to 2004, with relatively higher degrees of tolerance of bribery and other forms of corruption in the new Member States. It is not in the interests of the UK for new Member States to join the EU before they are genuinely qualified for membership. EU membership requires Member States to remove barriers to trade in favour of a single open market. If some Member States do not in practice comply with internal market rules, for whatever reason (unresponsive law enforcement, inadequate technical expertise, corruption), they secure access to the markets of other Member States while in effect restricting access to their own. Again, in a system where there is increasing EU wide mutual recognition of qualifications and other certificates of fitness or proficiency (including e.g., driving licences) the award of such qualifications or certificates on the basis of favouritism or bribery in one Member State may damage the interests or well being of service recipients and the general public in other Member States.

The EU should adopt an approach to eligibility for EU membership which focuses more on actual progress in remedying weaknesses in governance, political and business culture,

and on actual commitment to the rule of law and opposition to corruption, rather than simply on the adoption of rules and regulations, the setting up of enforcement agencies, the appointment of prosecutors, and the initiation of prosecutions (essential as all these elements are). It should not be sufficient for a candidate country to point to prosecutors bringing prosecutions and securing convictions if in practice the risk of being prosecuted is perceived to be low, and in practice the prevailing culture in the civil service, public sector, government, politics and business is one of tolerating and participating in bribery and other forms of corruption. The EU survey data referred to above reveals a considerably greater tolerance of bribery and other forms of corruption in new Member States than is the case in existing EU members. It is entirely feasible to investigate and report upon the actual state of governance and political and business culture in a particular country at a particular time. Such investigations should be conducted in parallel with developing administrative infrastructure and law enforcement agencies, etc., and a high level of convergence should be required before a new Member State can join the EU. It would be open to the UK to insist that such a high level of convergence had been attained, because the UK's consent is required for the accession of new Member States. No change in EU law would be needed to bring this about.

Accession in 2004 of 10 new Member States with a population of approximately 75 million produced a rapid increase in EU migration to the UK, which had decided not to apply transitional measures to migrant workers from these Member States. There is a widespread conviction in the UK that too many immigrants came too fast for infrastructure such as housing and schools and indeed for all concerned to adapt and cope with the situation. This has been contrary to UK interests because it has caused a widespread belief that the high levels of immigration from the EU of the recent past will be maintained unless the UK leaves the EU. Yet this is not the case. The impact of potential new Member States like Montenegro, Serbia, Albania, Macedonia, Bosnia Herzegovina, and Kosovo would in population terms be relatively small (approximately 19 million in all) and would not all happen at once. It is true that the UK is also a supporter of Turkish accession, and Turkey has a population of 76 million. But British support for Turkish membership does not promise and could not bring about Turkey's early accession to the EU, and it is frankly unlikely that Turkey will ever become a member of the EU. If membership criteria are to be applied more strictly than they have been in the recent past, and I would argue that that is what certainly should happen, new accessions should be regarded as inevitably being some way off, and that is likely to be the case even if negotiations with candidate countries proceed at the same pace as those with the Member States which acceded in 2004 and in subsequent years. Nevertheless, there is a real risk in the UK that the mere prospect of new immigration from new Member States might encourage opposition to the UK's EU membership.

One potentially effective way to address possible public concerns about the accession of new Member States would be for the UK government to make it clear that the UK would insist on adequate transitional provisions being included in any future accession treaties, and to commit itself to taking full advantage of those provisions. There is no reason why transitional arrangements should follow the same pattern as the 7 year arrangements which were adopted for the 2004 and post 2004 new Member States. The UK might insist that, for example, as a condition of consenting to a new accession Treaty, that Treaty must make provision for a 10 year period in which an existing Member State/the UK might apply transitional measures to migrant workers. The application of transitional measures within such a period could be made solely a matter for the existing Member State/the UK to decide, and not dependent at any stage on their being "serious disturbances" in the labour

market of the existing Member State concerned (a current requirement for transitional arrangements).

The UK government might also commit itself to refuse to agree to the citizens of any new EU Member State acquiring the right to work in the UK before 2030, and to include such a commitment in an Act of Parliament. This could not apply to migrant workers from Croatia (population 4.2 million), who already have a contingent right to work in the UK, with effect from not later than 1 July 2020. Such a “2030 commitment” would not affect the UK’s general policy of supporting enlargement, since no new accessions are in any event imminent. But such a commitment could provide much needed reassurance to the UK public that lessons have been learned from the levels of immigration which followed the accession of new Member States in 2004.

Impact on the national interest

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

How has the UK influenced the enlargement process?

I shall deal first with the UK’s influence on the enlargement process. The UK has consistently supported the enlargement of the EU. There are a number of inter-linked reasons for this. If the EU empowers the UK, both economically and politically (and this has broadly been the view of successive governments), then, other things being equal, a relatively larger EU tends to empower the UK more than a relatively smaller EU. Accession of Member States where there is a political consensus favouring NATO membership, good transatlantic relations, and a free market economy, has also been regarded by successive UK governments as in UK interests. The accession of new EU Member States favouring this mix of policies would provide potential “allies” for the UK in EU decision-making on a range of issues, and provide a counterweight to French tendencies to favour management of markets through state and EU regulation, and to protectionism in international trade negotiations between the EU and the rest of the world.

Some UK proponents of enlargement have seen it as being likely to inhibit further economic and political integration. Enlargement has also been seen as contributing to strategic or geopolitical goals such as ensuring economic and political stability and freedom from undue Russian dependence/influence in former soviet bloc countries. It is pursuit of strategic or geopolitical goals which explains, for example, UK support for Turkish membership of the EU.

In summary, the UK has consistently and for decades been a strong driver of EU enlargement, and continues to be so, with the UK supporting the candidacies of Montenegro, Serbia, and, most recently, Albania. UK’s Europe minister reaffirmed UK support for Turkish membership of the EU as recently as March 2014.

Impact of EU Enlargement on UK interests

I would divide the impact of EU enlargement on UK interests into the following categories:

(a) A larger internal market for UK business. This brings access for UK firms to the markets of new Member States along of course with increased competition from firms in those Member States. Successive UK governments, committed to an open market economy, have considered the net effect of this to be beneficial for UK business and consumer interests.

(b) Accession of a number of democratic countries in favour of free markets, NATO, and good relations with the USA, have provided impetus to an EU view of the world favoured by successive UK governments and mainstream public opinion.

(c) Potentially more complex and less foreseeable decision making at EU level. This might in theory lead to the weight of the UK 's influence in decision making being reduced, but if new Member States share the UK's outlook on policy issues the UK's influence might stay the same or be increased.

(d) The EU's assessments of the fitness of candidate countries for membership applied the Copenhagen criteria for the first time to the new Member States which acceded in 2004 and these assessments have tended to give more weight to formal compliance with the criteria than to the prevailing culture in candidate countries in the civil service, police, prosecutors, judiciary, those who award public contracts, and those active in politics and business. In some new Member States commitment to the rule of law and fair dealing is lacking, and those active in administration, government, politics and business are vulnerable to corruption and to links with organized crime. It is not in the interests of the UK for new Member States to join the EU before they are genuinely qualified for membership. I comment further on this point below. Decisions by the EU and its Member States on the accession of new Member States have also paid too little attention to the likely impact of enlargement on public opinion in existing Member States - a consideration linked to what is described as the "absorption capacity" of the EU, and which is identified by the Commission as being principally a problem of communication.

(e) Accession in 2004 of 10 new Member States with a population of approximately 75 million produced a rapid increase in EU migration to the UK, which had decided not to apply transitional measures to migrant workers from these Member States. Bulgaria and Romania, with a total population of about 30 million, joined in 2007. The period for applying transitional measures to migrant workers from these countries expired at the beginning of 2014. Croatia joined the EU in 2013, and transitional measures may be applied to Croatian migrant workers until 1st July 2020. Immigration from new Member States in 2004 and subsequent years has had some favourable effects for the UK in economic terms, increasing employer choice, output, demand and labour flexibility. Professional assessments suggest immigration has been neutral in terms of labour displacement of UK residents when the economy has been doing well, but has caused some labour displacement of UK residents during the recent recession, and in that recession it has seemed unfair to many UK workers that migrant workers are entitled to compete for the fewer jobs which have been available. EU immigration may have damaged the interests of some of the lowest paid by depressing their wages, though it seems that average wages have been little affected. *But the perception and indeed the conviction is widespread that too many immigrants came too fast for infrastructure such as housing and schools and*

indeed for all concerned to adapt and cope with the situation. This has been contrary to UK interests because it has caused a widespread belief that past levels of immigration from the EU will be maintained unless the UK leaves the EU. This belief may yet lead to the UK leaving the EU.

(e) The enlargement of the EU involves budgetary costs to the EU which means budgetary costs to the UK, which makes a net contribution to the EU's budget of approximately £5 billion per year. .

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.

NO SPECIFIC RESPONSE INCLUDED, EXCEPT TO THE EXTENT COVERED ELSEWHERE IN THIS EVIDENCE.

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 not in the interests of the UK for a country to join the EU if it unwilling or unable to undertake the obligations of EU membership. Thus for example, EU membership requires Member States to remove barriers to trade in favour of a single open market. If some Member States do not in practice comply with internal market rules, for whatever reason (unresponsive law enforcement, inadequate technical expertise, corruption), they secure access to the markets of other Member States while in effect restricting access to their own. Again, in a system where there is increasing EU wide mutual recognition of qualifications, and other certificates of fitness or proficiency (including e.g., driving licences), the award of such qualifications or certificates on the basis of favouritism or bribery in one Member State may damage the interests or well being of service recipients in other Member States and the public at large. Numerous other examples can be identified.

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 to endorse the act of accession of a new Member State. Austria and France have said they would hold a referendum on Turkish accession. The UK could adopt further conditions into its law as regards the potential accession of a particular country or of all potential candidates if it chose. One reason for writing such conditions into law would be to reassure a public opinion which has had increasing misgivings about the pace and scale of enlargement in recent years, and which may feel it has been given no clear idea of what the future might hold. I refer below to possible conditions which the UK might adopt. No change in the balance of competences would be needed to enable the UK to adopt such conditions.

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

From the point of view of ensuring that candidate countries are actually willing and able to undertake the responsibilities of EU membership, there is no strong tradition of the EU institutions and the Member States running the enlargement process effectively. Member States, including the UK, have probably given more weight to what might be called strategic political or geopolitical considerations, than to the question whether or not a particular Member State was genuinely equipped to fulfil the responsibilities of EU membership. The 2004 and post-2004 enlargements certainly included some Member States which were not in truth ready for EU membership. Even if laws and institutional arrangements had been put in place which in formal terms fitted them for EU membership, weaknesses in governance culture, vulnerability to corruption, and inability to collect taxes efficiently and fairly called into question their ability in practice to fulfil the responsibilities of EU membership..

It would be unfair to suggest that such problems are confined to new Member States, and that they did not exist prior to 2004. Although a founder Member State of the EU, Italy has long suffered from weaknesses in its governance culture, and an inability to subject complex EU regimes to effective financial management. One example is that of Italy's inability to administer the system of milk quotas (introduced in 1984), which led in practice to large scale exemption from the regime for Italian dairy farmers. The Italian authorities paid the resulting levies, but were unable or unwilling to collect these levies from many of its dairy farmers. This has for many years given Italian dairy farmers a unique (and illicit) competitive advantage over dairy farmers in other EU countries. As of 2013 the European Commission was still claiming that Italian dairy farmers should pay to the Italian State 1.4 billion euros which had been paid by way of levies on their behalf. Yet ex post facto remedies such as this neither truly rectify the competitive disadvantage suffered by dairy farmers in other Member States, nor guarantee that the Italian authorities will deal better with such problems in the future. The success of the EU in practice depends on national authorities being able and willing to enforce EU regimes on a consistent and fair basis. If a candidate country lacks that willingness and ability at the outset its membership should be postponed until it has acquired that willingness and ability: it would be a mistake to expect (as the example of Italy illustrates) that the mere fact of EU membership will, even after many years of membership, rectify weaknesses in the prevailing culture in the public administration at local or national level.

As regards accession procedures, however, it was the accession of Greece in 1981 which set the precedent for giving priority to strategic political considerations over the likely ability of a candidate country to fulfil its responsibilities within the EU. There is a consensus in the literature that Greece was unprepared to join the EEC (as it then was) in 1981.¹The

¹ See for example, George C Bitros, *European Union failures in Greece and some possible explanations*, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2232989, page 4, and generally; Eirini Karamouzi, *The Greek Paradox*, from the book, *The Crisis of EU Enlargement*. <http://www.lse.ac.uk/IDEAS/publications/reports/SR018.aspx>

Commission's opinion on Greece's application noted weaknesses in the Greek economy and the fact that it would make substantial demands on the Community budget, and recommended that membership be delayed to allow for an adjustment period to precede the 7 year transitional period which would run from the time of Greek accession. The Commission, however, did not go so far as to call in question the outcome of Greece's application, noting that:

"Given the avowed aims of the Community in establishing the Association, and Greece's return to a democratic form of government, there can be no doubt, in the view of the Commission that the Community must now give a clear positive answer to the Greek request."

The Council fully shared this sentiment, rejected the delay proposed by the Commission, and endorsed Greece membership of the EEC. The Member States considered that their endorsement of Greece's return to democracy was more important than dwelling on the complex technical question of whether Greece was actually ready to join the EU. If the current criteria applicable to candidate Member States were applied to present day Greece, there must be at least doubts as to whether it would be found to meet those criteria. In particular, Greece continues to display serious weaknesses in governance, political and business culture, and the ability to raise taxes effectively and fairly. These weaknesses no doubt underlie the difficulties Greece has encountered in subjecting complex EU legal regimes to effective financial management. In 2011 and 2012 the combined recoveries/financial corrections for Greece (i.e., financial irregularities) in respect of distribution from the EU agriculture, social and cohesion funds amounted to €710m.² This represented 14% of the total financial irregularities attributed to Member States of the EU in those years (the population of Greece is 2% of the population of the EU). For a further comparative perspective, in the same years the irregularities attributed to Italy were €325m, and those attributed to France were €156m (the populations of Italy and France are each about 13% of the total EU population). For 2011 alone, 41% of the total financial irregularities attributed to Member States were attributed to Greece.

It was however in the accession of Greece, Portugal and Spain that we saw the beginnings of what were to become in 1993 the "Copenhagen criteria". At an earlier European Council in 1978 (also at Copenhagen) the European Council stated that respect for and maintenance of representative democracy were essential elements of membership in the European Communities.³ The Commission's opinion on Greece's application for membership focused on the adjustments which would be needed to the Greek economy, rather than on how well equipped the Greek administrative and legal systems were to adapt to the requirements of EU law. The same is true of the Commission Opinions on the applications of Spain and Portugal - there are references in one or two contexts to the need

² EU Commission, Budget, Financial Report, Annex 4.

³ Hillion, *The Copenhagen Criteria and their Progeny*,
http://www.academia.edu/629354/The_Copenhagen_Criteria_and_Their_Progeny page 5,

to adjust to EU regimes, but the references are fairly general and the emphasis is on economic adjustments. As in the case of Greece, membership of Spain and Portugal was seen as supporting and sustaining democracy in those countries.

In the case of the accessions of Austria, Finland and Sweden, there was more emphasis on the technical and practical aspects of compliance with EU law, and the Commission noted in its opinions on each of these applications that their participation in the EEA agreement with the EU gave them a significant advantage as regards ability to fulfil their responsibilities as EU members.

The Copenhagen criteria adopted in 1993 were adopted with the accession of central and eastern European countries in mind. The applications of countries which were to join the EU in 2004 and subsequently were assessed from the outset in light of their potential ability to fulfil the obligations of EU membership in practice. This would involve candidates demonstrating that legislation would be put in place to implement EU obligations, that administrative and law enforcement agencies and the judiciary would be able and willing to uphold the rule of law, and that steps were being taken to combat corruption. The need to combat corruption was - rightly - a recurring theme in the Commission's 1997 opinions on the applications of candidates.⁴

I suggested above that the enlargements of 2004 and post 2004 included new Member States which were inadequately prepared for EU membership, and that one reason for this was that the Commission and the existing Member States gave more weight to what might be called strategic political considerations, than to the question whether or not a particular candidate was genuinely equipped to fulfil the responsibilities of EU membership. Balancing the two is of course a political question. But admitting new Member States which are not actually equipped to fulfil the responsibilities of membership, even if done for reasons which are considered to be justifiable, can have continuing adverse effects on the functioning of the internal market, on the operation of other EU policies, and on the effectiveness of the financial management of EU funds. And once a Member State has joined the EU, the best opportunity for rectifying such deficiencies has been lost. Perhaps some lessons of the past have been learned, but others not. The lesson that specific criteria relating to the readiness of public authorities in candidate countries to fulfil EU obligations should be identified and applied has been learned. As has the lesson that criteria must cover not only the formal adoption of laws, but also the organization and efficiency of the public administration including law enforcement agencies, and their resistance to corruption. But perhaps one lesson which has not yet been quite learned is that putting in place and maintaining effective law enforcement agencies, and an effective administrative infrastructure, which are not readily corruptible, and, more generally, achieving a prevailing culture in governance,

⁴ For example "corruption remains a source of concern..." (Opinion on Poland's Application, page 14); "There is no evidence of significant corruption [in the public service]..." but "Efforts to combat corruption need to be more effective.." (Opinion on Slovenia's Application, pages 21, 108, 115); "...public confidence in the administration has gradually waned...Problems of corruption have gained a higher profile over the years.." (Opinion on Hungary's Application); "...much still remains to be done in rooting out corruption" (Opinion on Romania's Application); "Corruption is a serious problem in Bulgaria...Considerable discretionary power and a lack of clarity in allocating responsibilities and powers among civil service departments has allowed corruption to take hold easily...Considerable efforts must be made to combat corruption" (Opinion on Bulgaria's Application, pages 14, 19).

politics and business which favours the rule of law and rejects corruption, takes time. The EU and the Member States have not always been ready to allow the process enough time, and in some cases they have agreed to the premature accession of Member States. It seems to be fairly generally acknowledged that Bulgaria and Romania, in particular, were admitted before they were sufficiently well prepared for EU membership.

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.

There have been some real successes in equipping candidate countries for the 2004 and post 2004 accessions. Most receptive to and enthusiastic for compliance with EU criteria and standards have been members of what might be described as a class of “modernising professionals”, which includes politicians, economists, lawyers and university teachers, who have perhaps received undergraduate or post graduate education in western Europe or the United States, sometimes as beneficiaries of scholarships, such as for example Chevening or British Council Scholarships. This group includes lawyers with expertise in EU law and Human Rights law, and more broadly includes “modernisers” who see EU membership and EU law (with its rules on for example on fair and transparent public procurement) as a potentially reforming tool in their own countries. The recently appointed Croatian judge to the European Court of Justice was appointed in a genuine competitive exercise and is an established and respected expert in EU law. The expertise possessed and propagated by these modernising professionals has almost certainly facilitated formal compliance with EU obligations in some new Member States, and has certainly done so in Croatia. But professionals such as these may not be completely representative of the societies in which they live, and while they may seek change in those societies, such change cannot take place overnight.

Some of the new Member States acceding in 2004 and post 2004 had not achieved in practice the changes in governance and business and political culture hoped for by existing Member States and necessary for effective implementation of internal market rules and other EU policies. That this is the case is demonstrated by EU survey data which deal for example with public belief in the acceptability of doing favours for public servants in order to receive public services, and the belief that using connections and bribery is the easiest method for obtaining some public services. See the following extracts from the *2013 Special Eurobarometer Survey on Corruption*:

“Respondents in the twelve Member States that joined the EU in or after 2004 (NMS12) are more likely than those in the fifteen Member States that were EU Members prior to 2004 (EU15) to think it is acceptable to do a favour in order to get something that they need from the public administration or public services (35% vs. 23%, respectively). At national level, the Member States where respondents are most likely to think that it is acceptable to perform a favour in return for something they want from the public administration or public services – and where a majority hold such a view – are Slovakia (68%), Hungary (60%), Lithuania (54%) and the Czech Republic (53%). These countries are followed by Latvia (48%), Greece (38%) and Croatia (36%). Indeed, one in ten respondents in Slovakia and Hungary (both 10%) think that it is always acceptable to perform a favour in order to get

something from the public administration or public services, compared with the EU average of 3%.”

“The belief that bribery and the use of connections is often the easiest method for obtaining some public services is most widespread in Greece (93%) and Cyprus (92%), followed by Slovakia, Croatia (both 89%) and Lithuania, the Czech Republic, Italy and Slovenia (all 88%). At least eight in ten respondents also agree in Bulgaria, Spain, Poland, Romania and Latvia. In four countries the majority of respondents ‘totally’ agree that such methods are often the easiest ways of obtaining certain public services: Cyprus (64%), Slovenia (58%), Croatia (53%) and Lithuania (51%).”

These extracts confirm that what I refer to above as weaknesses in governance and business and political culture are not confined to 2004 and post 2004 new Member States, but exist in the intake of previous enlargements. Similar scores for Greece Italy and Spain as for a number of the latter new Member States suggest that once the “surveillance” period of pre-accession is superseded by actual EU membership, governance and business and political culture problems will not automatically come right. The predominance of 2004 and post 2004 new Member States in the above extracts is nevertheless significant, and indicates serious deficiencies in the readiness for EU membership of a number of new EU Member States. As much as possible should be done before accession, and not enough was done prior to the accession of some of the 2004 and post 2004 new Member States. As I note above, even if laws and institutional arrangements had been put in place which in formal terms fitted them for EU membership, weaknesses in governance and political and business culture, vulnerability to corruption, and inability to collect taxes efficiently and fairly must call in question their ability in practice to fulfil the responsibilities of EU membership.

6. How effective has EU financial and technical assistance been in helping candidate countries prepare for EU membership? Please give examples.

NO RESPONSE INCLUDED.

Future options and challenges

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

The UK has been and is a prominent and strong supporter of enlargement, and has recently (in 2013 and 2014) confirmed its support for the accession negotiations of Montenegro, Serbia and Turkey, and for Kosovo opening EU Stabilization and Association Agreement negotiations with the EU. The UK supports Albania’s application for EU membership, and Albania was given candidate status on 24 June 2014. One challenge for the EU but more particularly for the UK is to reconcile the strategic political aims of EU enlargement - a stable and coherent economic and political bloc committed to open markets, NATO and constructive relations with the USA - with the impact of yet more new Member States and their citizens on an internal market in which people as well as goods services and capital are free to move.

The impact of large scale immigration from new Member States has contributed significantly to euro-scepticism in a number of EU countries including the UK. The population of the 2004, 2007 and 2013 new intakes of Member States totals more than 100 million. The impact of potential new Member States like Montenegro, Serbia, Albania, Bosnia Herzegovina, and Kosovo would in population terms be relatively small (approx 17 million in all and approximately 19 million if Macedonia is included) and would not all happen at once. But the UK is also a strong supporter of Turkish accession, and the accession of Turkey (population 76 million) *and* the candidates and prospective candidates referred to above would collectively add up in population terms to close to the 2004 and 2007 intakes all over again. The situations are not of course comparable. For one thing, the accession of Turkey is unlikely to happen soon, if at all. British support for Turkish membership does not promise and could not bring about Turkey's early accession to the EU. If membership criteria are to be applied more strictly than they have been in the recent past, and I would argue that that is what certainly should happen, new accessions should be regarded as inevitably being some way off. Even if accession negotiations proceed at their normal pace no new accessions are imminent. Nevertheless, there is a real risk that in the UK, the mere prospect of new immigration from new Member States might encourage opposition to UK membership of the EU.

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

The EU's approach to enlargement would be improved if assessment of compliance with membership criteria were to include increased emphasis on progress in remedying weaknesses in governance, political and business culture, and on actual commitment to the rule of law and opposition to corruption, as well as on the adoption of rules and regulations, the setting up of enforcement agencies, the appointment of prosecutors, and the initiation of prosecutions (essential as all these elements are). It should not be sufficient for a candidate country to point to prosecutors bringing prosecutions and securing convictions if in practice the risk of being prosecuted is perceived as low, and in practice the prevailing culture in government, politics and business is one of tolerating and participating in bribery and other forms of corruption. The *Eurobarometer* survey cited above has shown an unacceptable degree of divergence between tolerance of bribery and other forms of corruption in Member States acceding in and after 2004 and such attitudes in the EU as it stood prior to 2004, with relatively high degrees of tolerance of bribery and other forms of corruption in the new Member States. It is entirely feasible to investigate and report upon the actual state of governance, political and business culture in a particular country at a particular time, as the *Eurobarometer* survey and numerous other surveys demonstrate. Such investigations should be conducted as part of the assessment of compliance with the Copenhagen criteria, and a high level of convergence should be required before a new Member State can join the EU. It would be open to the UK to insist that such a high level of convergence had been attained, because the UK's consent is required for the accession of a new Member State. No change in EU law would be needed to bring this about.

9. What future impact might EU enlargement have on UK interests? How might any positive impacts be enhanced or disadvantageous impacts be addressed?

The future might bring some potential strategic political gains of the kind referred to above in this evidence as regards free markets, NATO membership, good transatlantic relations, and perhaps providing an alternative to closer links with Russia. But likely gains in the short to medium term are potentially much less significant than as regards the 2004 enlargement. Serbia (7.2 million) does not want EU membership to weaken its links with Russia, and it does not seek NATO membership. Montenegro (0.6 million) does seek NATO membership. Turkey's accession negotiations are stalled, and there is no prospect of Turkey joining the EU in the short to medium term, if at all.

The main likely impact on UK interests of future enlargement is that even the *prospect* of that enlargement might provoke further anti-EU sentiment in the UK based on concerns that further enlargement would bring with it immigration on the scale of the post 2004 immigration from new Member States, or at any rate immigration at a high level. There is no objective factual basis for seeing this as a real possibility. Immigration into the UK which occurred in 2004 and subsequent years was in part a consequence of a decision by the UK government of the day not to take advantage of transitional provisions for free movement of persons. This meant that the UK was for a number of years virtually the only available EU destination for migrant workers from the 2004 new Member States. It is highly likely that a future UK government would take full advantage of any relevant transitional periods. In any event, the populations of any likely new Member States are small. All this notwithstanding, possible public concerns about potential immigration from potential Member States should be addressed.

One potentially effective way to address possible public concerns about the accession of new Member States would be for the UK government to make it clear that the UK would insist on adequate transitional provisions being included in any future accession treaties, and to commit itself to taking full advantage of those provisions. There is no reason why transitional arrangements should follow the same pattern as the 7 year arrangements which were adopted for the 2004 and post 2004 new Member States. The UK might insist that, for example, as a condition of consenting to a new accession Treaty, that Treaty must make provision for a 10 year period in which an existing Member State/the UK might apply transitional measures to migrant workers. The application of transitional measures within such a period could be made solely a matter for the existing Member State/the UK to decide, and not dependent at any stage on their being "serious disturbances" in the labour market of the existing Member State/the UK, as is current practice for transitional arrangements.

The UK government might also commit itself to refuse to agree to the citizens of any new EU Member State acquiring the right to work in the UK before the year 2030, and to include such a commitment in an Act of Parliament. This could not apply to migrant workers from Croatia, who already have a contingent right to work in the UK, with effect from not later than 1 July 2020. Such a "2030 commitment" would not affect the UK's general policy of supporting enlargement, since no new accessions are imminent. But such a commitment could provide much needed reassurance to the public that lessons have been learned from the levels of immigration which followed the accession of new Member States in 2004.

General

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

NO FURTHER POINTS.

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