

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?

The UK can be considered to be one of the keenest supporters of enlargement. This was the case during the 2004 and 2007 enlargements and remains the case with the enlargement to the Western Balkans, Turkey and Iceland.¹ This support for enlargement derives from the belief that enlargement serves the UK's interests. The official policy line is that enlargement benefits the UK in both economic and political terms. EU enlargement, according to the UK official policy, promotes democracy and the rule of law, but also contributes to securing access to new markets through further expansion of the EU's single market. The fact that enlargement contributes to extending the area of peace and stability in Europe is one of the oft-cited arguments by UK officials. It can also be argued that the UK has been rather successful in promoting further enlargement. For instance, during its 2005 Presidency, negotiations were opened with Croatia and Turkey, candidate status was awarded to the Former Yugoslav Republic of Macedonia (FYROM) and both Serbia and Montenegro and Bosnia entered into Stabilisation and Association Agreement (SAA) negotiations.

Although the UK's attitude can be characterised as pro-enlargement, it can also be noted that after the 2004 and 2007 enlargements, the UK has adopted a more cautious line, with a bigger focus on conditionality in line with changes at the EU level too (see Q4). For instance, the UK has been a strong supporter of compliance with conditions related to cooperation with the International Criminal Tribunal for the Former Yugoslavia (ICTY) in the Western Balkans, alongside the Netherlands. It has also supporter a stronger emphasis on chapters 23 and 24 during negotiations with candidate countries. However, this reflects continuity rather than change in the British attitude towards enlargement since enlargement continues to be seen by the UK as a means, not as an ends in itself in line with British foreign policy pragmatism. In the Balkans this means that anything that might put peace and stability at risk, like proceeding too fast in the case of Bosnia, has been opposed (e.g. the closure of the OHR of the termination of EUFOR Althea presence in Bosnia), even if this undermines Bosnia's integration prospects.

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?

The current balance of competences seems right. This is particularly the case since the UK's position (as described above) is broadly in alignment with that of the main EU institutions (i.e. European Commission), which have pledged a continuous support for enlargement, but with a stronger focus on conditionality. What is more, the EU should ensure that the meritocratic nature of the process of accession is preserved, while taking due account of existing Member States' interests. A (re)nationalisation of the process of accession would only undermine the effectiveness of

¹ In February 2014, a decision was taken by the Icelandic coalition government to officially withdraw the country's application to join the EU.

conditionality and thus the potential for the EU to foster reforms in candidate and potential candidate countries.

Exercise of competence

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

Articles 2 and 49 of the Treaty on the European Union, as well as the 1993 Copenhagen criteria, provide the principles for any further enlargement of the EU. While these principles proved on the whole adequate during the 2004 enlargement, new ad hoc criteria have been added in subsequent enlargements. For example, the Stabilisation and Association Process refers to further specific criteria for the Western Balkan countries: full cooperation with the ICTY, respect for minority rights, the creation of real opportunities for refugees and internally displaced persons to return and a visible commitment to regional cooperation. The EU needs to make sure that these and other additional criteria are clearly justified and communicated to new potential candidate countries in order to ensure that the process remains a fair and credible one.

The process through which a country becomes an EU member has become more complex over time. The use of political conditionality and the subsequent establishment of a complex monitoring procedure were introduced with the Eastern enlargement round in the early 1990s. This monitoring mechanism is managed by the Commission's Enlargement Directorate-General, which acts as a 'gatekeeper'. Benchmarks are set by the Commission in different documents – in the case of the Western Balkans, the Stabilisation and Association Agreements and the European Partnerships. Compliance is also monitored in the regular annual reports produced by the Commission. This monitoring system seeks to ensure the meritocratic nature of the process. In other words, a country's progress should be based on individual merits and compliance with EU conditionality. Yet, political considerations have also played a part in the process, in particular, regarding the opening and closing of accession negotiations (e.g. the opening of accession negotiations with Turkey or Serbia). The politicisation of enlargement sends the wrong message to the applicant countries and weakens the Commission's emphasis on a transparent and a merit-based process and the power of EU conditionality.

The issue of politicisation has run parallel to an increasing nationalisation of the process. This refers to the strengthening of Member States' influence over the EU's enlargement policy as they seek to keep tighter control during the intergovernmental stages of the process, insisting on the use of benchmarks before the opening of negotiating chapters and the inclusion of new conditions in every step of the process. The rising number of bilateral disputes holding up the enlargement process also indicates a stronger role for the Member States in the enlargement process (e.g. the name dispute between Greece and FYROM or the border dispute between Slovenia and Croatia). Whereas a stronger role for the Member States in the process might help increase the credibility of EU enlargement from the viewpoint of the Member States, from the perspective of the candidate countries, EU enlargement policy is increasingly being perceived as a politicised process, where the 'rules of the game' change to suit the interests of the existing Member States. This might undermine the credibility and effectiveness of EU conditionality.

Have lessons drawn from previous enlargement rounds been applied?

The lessons learned from the 2004 enlargement and, in particular, problems with the adoption of the *acquis communautaire* in the cases of Bulgaria and Romania, have led to a stricter application of conditionality by the EU. In general, compliance with rule of law criteria has become more important when assessing the eligibility of countries to join the Union. The 'new approach' to enlargement unveiled by the Commission in 2011 means that more attention will be paid to these issues during accession negotiations. While this does not mean the introduction of new eligibility criteria (as they are already part of the Copenhagen criteria), this development points to a prioritisation of some principles over others, especially when opening and closing accession negotiations.

In line with this new approach to the accession negotiations and lessons from the 2007 enlargement, the EU has also prioritised chapters 23 (on the judiciary and fundamental rights) and 24 (on justice, freedom and security) in the negotiation with candidate countries. This approach has been implemented in negotiations with Montenegro and has also been integrated into the negotiating framework for Serbia. The EU is also keen to deal with these issues before accession. As the 2004 and 2007 enlargements have demonstrated it is before accession that the EU's leverage is the greatest.² For instance, one of the lessons from the 2004 enlargement and the Cyprus issue is that candidate countries should avoid bringing bilateral disputes into the EU when they join. While this approach means that conditionality becomes more rigorous, the addition of new benchmarks and 'goalposts' along the way provides for new opportunities for the EU Member States to block the process as we have witnessed in the past. The new approach to accession negotiations also means that countries are expected to have adopted not only the relevant legislation in these areas, but also to demonstrate a solid track record of implementation.³

5. Has conditionality been effective in ensuring candidate countries implement reforms necessary for EU membership? Please give examples.

The effectiveness of conditionality has been rather mixed. For instance, 2013 provided evidence of the effectiveness of conditionality with the accession of Croatia to the EU on 1 July 2013 as the 28th EU Member State and the momentous political agreement between Serbia and Kosovo negotiated in the spring. As the Council noted in December 2013, both Croatia's accession and the agreement between Serbia and Kosovo 'are a strong and visible testimony of the transformative and stabilising effect of the enlargement and stabilisation and association process.'⁴ The latter led the way to the decision of the European Council to open accession negotiations with Serbia in June, followed by the decision of the Council to authorise the opening of negotiations for a Stabilisation and Association Agreement between the EU and Kosovo. Without the promise to open accession negotiations, this agreement would be unthinkable and hence it provides evidence of the effectiveness of conditionality. This is a remarkable success for European foreign policy and, particularly, for High Representative Catherine Ashton who had invested a lot of personal capital in mediating between the parties in recent years. The agreement means that Serbia accepts that the north of Kosovo

² Schimmelfennig, F. and Scholtz, H. (2008) 'EU Democracy Promotion in the European Neighbourhood', *European Union Politics*, Vol. 9 No.2, pp. 187-215.

³ European Commission, Communication from the Commission to the European Parliament and the Council, p.7.

⁴ Council of the European Union, Council Conclusions on Enlargement and Stabilisation and Association Process, General Affairs Council meeting, Brussels, 17 December 2013.

remains part of Kosovo under Kosovo law, in exchange for extensive autonomy for the ethnic Serb communities in areas such as policing and justice. The deal, however, does not imply a formal recognition of Kosovo's independence by Serbia.

By contrast, lack of progress regarding political reform in Bosnia and Herzegovina and the unresolved name dispute between Greece and Macedonia provide an illustration of the problems which continue to hamper EU enlargement policy. For the fifth consecutive year, the Council delayed opening accession negotiations with the Former Yugoslav Republic of Macedonia because of the name dispute with Greece. Similarly, no progress was achieved in 2013 in bringing a solution to the Cyprus conflict. The UN-mediated talks, which were due to take place in October, had to be postponed because of the banking and financial crisis that affected Cyprus in March. Informal talks between the two Cypriot leaders in November did not yield any results. For its part, the EU continued to insist that Turkey has to implement the 2004 Ankara Protocol and allow Cypriot vessels and aircraft into Turkish ports and airports as a condition to open negotiations on new chapters. In Bosnia, ethnic politics continued to stall the implementation of EU reforms. Ethnic tensions were particularly palpable during the first post-war census which took place in 2013. Bosnian politicians also failed to agree on the implementation of the two key conditions set out in the Roadmap of June 2012, namely, the implementation of the Sejdić–Finci decision of the European Court of Human Rights (ECHR) and the establishment of a co-ordination mechanism to adopt EU-related legislation. For its part, the newly elected Icelandic government decided to put accession negotiations on hold in May 2013. The decision followed the victory of the Eurosceptic Independence and the Progressive parties in April 2013, which was widely seen as a vote against continuing negotiations on EU membership. The decision provides evidence of the lack of the EU's transformative power in cases where the economic costs are perceived to outweigh the benefits of enlargement.

Future options and challenges

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

One of the key challenges going forward is that of 'enlargement fatigue', which has increased in recent years, not just within the EU, but also among the citizens of candidate and potential candidate countries. In the most recent referendum on membership, held by Croatia in January 2012, 66 per cent of the voters supported EU membership and only 33 per cent voted against. However, as was the case with the referenda held by the Central and Eastern European countries, the turnout was very low at 44 per cent. This provides evidence of disillusionment with European accession among the Croatian public and the citizens of the Western Balkans more generally. The results of the 2014 European Parliament elections also provide further evidence of a wider disillusionment with and disengagement from EU politics amongst the European electorate. The EU and the Member States should be working to combat the enlargement fatigue by communicating the benefits of previous enlargement rounds, but also the potential for growth that will result from further enlargement in the candidate countries and the EU as a whole.

Although the enlargement policy does not constitute a significant financial burden for the EU, in the current economic climate, EU Member States will be more cautious about taking more members on board especially if that means increasing economic competition and budgetary disbursements. The euro area crisis has also drawn attention to the lack of convergence between European economies, in particular between the North and the South, and the risks associated to it. This will weight in any

decision to enlarge the EU as it will require more transfers to the poorer economies of the Western Balkans and stronger emphasis on economic governance.

There is however no credible alternatives to enlargement. As discussed in the literature and demonstrated by the failure of the EU's neighbourhood policy, only the prospect of accession to the EU can mobilise governments and societies to undertake costly political, societal and economic reforms.

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

The EU's strategy in the Western Balkans has largely neglected the political impact of EU conditionality on the conflict parties. The reforms promoted by the EU are not just technical reforms, but they promote specific models of political and economic re-organisation. Moreover, EU conditionality also has an impact on the balance of power among domestic parties. In other words, EU reforms usually play in favour of one of the conflict parties by supporting their political agenda. A case in point is the EU-backed police reform in Bosnia and Herzegovina: by promoting a centralised police force, the EU supported the claims of the Bosniak majority which has traditionally championed a strong state. Despite the rhetoric embedded in the Stabilisation and Association Process, in practice, the EU has neglected the 'stabilisation' dimension, focusing instead on the 'association' element of the equation. The European Commission has focused on harmonisation, benchmarking and monitoring mechanisms, while issues of reconciliation and peace-building have barely figured in Commission's strategy documents. Finally, the EU has largely focused on institution-building and improving governance, but has neglected the bottom-up side of the reform process: the strengthening of civil society and social movements, including support to post-conflict rehabilitation, democratisation and local governance, the media, education and social cohesion.

In sum, the EU's enlargement strategy needs to clearly recognise that conditionality has a political impact on the candidate countries to avoid unintended consequences. In particular, the EU's strategy in the Western Balkans needs to pay more attention to issues of peacebuilding and reconciliation, as well as strengthening civil society and other 'bottom up' initiatives.