

To: FOREIGN & COMMONWEALTH OFFICE
[REDACTED]

Re: BALANCE OF COMPETENCES REVIEW: ENLARGEMENT

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EU ENLARGEMENT POLICY & UK INTERESTS

The enlargement of the European Union has an impact on existing member states and new member states, because they share equal rights and obligations to collective action through EU institutions. Moreover, the impact is pervasive, because new member states have the right to participate with existing member states in all the EU's intergovernmental institutions which the UK government regards as the bedrock of exercising national influence. While the UK was one of nine member states when it joined the European Community, it is now more than treble that size. Concurrently, the EU has moved toward an ever closer Union through such measures as the Single Europe Market, the Schengen agreement on the free movement of people, and the creation of the eurozone. Further enlargement would quadruple the size of an EU designed for six member states and reduce more the attention that can be given to individual member state interests, including those of the UK.

As a general principle, the United Kingdom government has favoured further enlargement. It has believed that the increased diversity that comes with a larger membership makes it more difficult to adopt common policies binding on all member states. The experience since the 2004 enlargement, and especially since the eurozone crisis, calls this assumption into question. The various scenarios for strengthening economic governance in the eurozone have significant implications for the UK.

This paper addresses the three sets of questions in the call for evidence: how the EU has run the enlargement process; the impact of EU enlargement on UK interests; and future options and challenges. It concludes by suggesting major reforms to existing EU procedures that the UK could put forward not only in British interests but also in the interest of existing member states wanting to improve the governance of the EU.

The analysis draws on evidence from two international non-governmental organisations, Freedom House and Transparency International, for both of which the author has acted as a consultant. Immediately, it draws on two major research projects of the author: Representing Europeans, funded by the British Economic & Social Research Council and

Small States in the European Union, funded by the Fundacao Francisco dos Santos Manuel, a private Portuguese institution. It also makes use of knowledge gained in conducting more than one hundred surveys in 17 new European democracies since the fall of the Berlin Wall, including 11 new member states and all potential applicant countries. It is written in a personal capacity. None of the above institutions has been consulted about or necessarily agrees with what follows. For further details, see www.cspp.strath.ac.uk.

I HOW EFFECTIVELY HAS THE EU MANAGED ENLARGEMENT?

Since its foundation during the cold war, the EU has never placed geographical limits on membership. It is left to the national government of a non-member state to decide whether to apply for EU membership. It is then up to existing member states to decide whether the application should be given detailed consideration and then whether it should be admitted. Politically, the driving force has been to expand so that the Union is European in geographical extent as well as in name.

It was not until the collapse of the Communist bloc confronted the EU with up to a dozen or more new member states were principles turned into standards to use to evaluate potential members. The criteria adopted in Copenhagen in 1993 emphasized democracy, the rule of law, human rights, a functioning market economy and the administrative capacity to implement the EU's *acquis communautaire*. In addition, individual member states had geographical and historical as well as economic interests prioritizing the admission of particular applicant states. Germany and Austria have interests in the whole of East-Central and Eastern Europe. Nordic members conducted a special assistance programme for their neighbours in Baltic state. Greece had a special interest in Cyprus and Italy as well as Austria in Slovenia. While the UK has had various links with applicant countries, comparatively speaking they are more distant geographically and historically.

The process of adding 13 new member states to the EU has had three parts. After each country applied for membership, there was scrutiny of its existing institutions of governance. The process was managed by European Commission staff tasked to engage in bilateral discussions with each applicant about the extent to which their existing laws and administrative practices were in harmony with the conditions set out under 35 chapter headings. The EU provided money and technical assistance in altering national laws and institutions was given by EU personnel, that of member states, and intergovernmental bodies such as EBRD, OECD, IMF and the World Bank. The British government also had programmes to transfer British expertise to applicant countries. Progress toward meeting membership conditions was periodically reviewed by national governments meeting collectively in the European Council.

At the decision stage, the choice for member states is whether to approve admission or ask for more action to be taken to meet EU conditions, or to suspend further discussion indefinitely. The question of which applicants to admit was met by wholesale enlargement. Ten new member states were admitted in 2004. Bulgaria and Romania were admitted in 2007 on the grounds that they had made progress toward meeting membership conditions for maintaining the rule of law and in the faith that admission would help the new member states to meet these conditions fully.

Problems with the rule of law. The extent to which an EU member state enforces the rule of law is of pervasive importance, not only for its own citizens, but also for its relationship with other member states. Laws provide the framework within which markets can operate freely and fairly. Their abuse in post-Soviet states has been a recurring challenge to UK companies trying to operate there. Laws specify how goods should be labelled to protect health and safety and to show accurately their country of origin. Laws govern the issuance of national passports conferring the right to free movement across EU member states and the control of borders by which individuals from non-member states can enter the EU's territory.

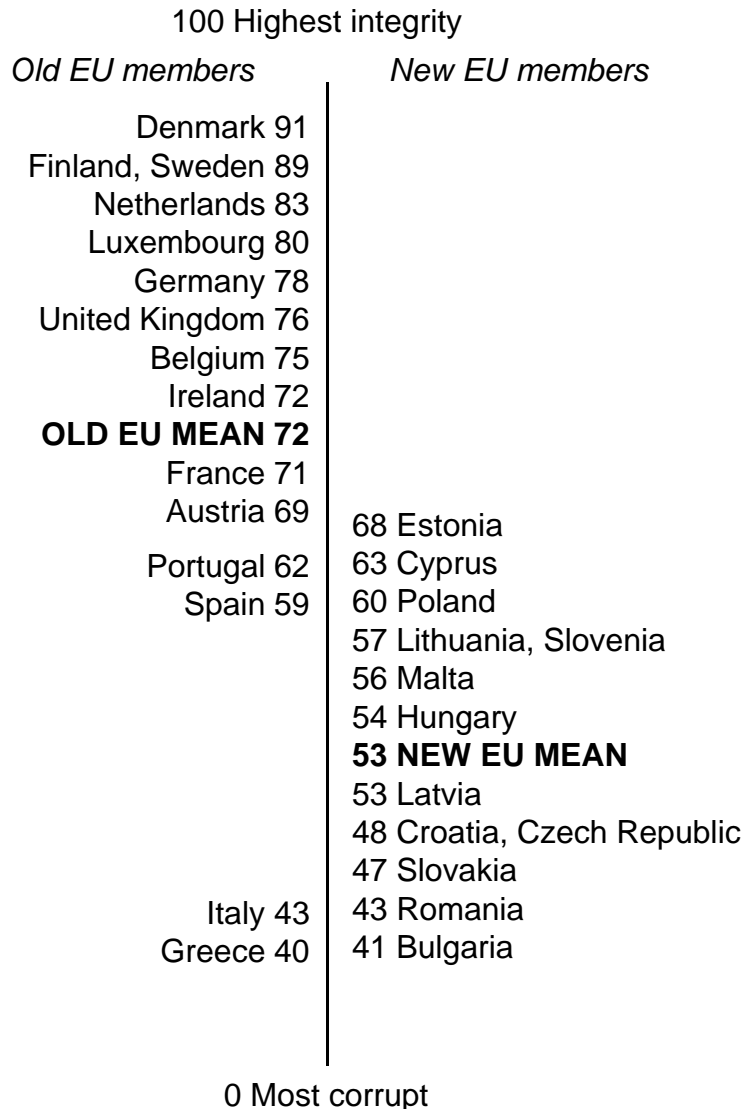
The best known independent evaluation of the application of the rule of law is the Corruption Perceptions' Index of Transparency International (www.transparency.org). Its 2013 evaluation is on a scale ranging from the best observance, 100, to the least, 0. In principle all EU member states could be placed at or near the top. However, this is not the case (Figure 1). After up to a decade after being accepted for admission, the 13 new member states have a mean Corruption Index score of 53. This is 19 points below the mean score for the 15 older member states. The effect is to lower the average integrity rating of member states to 63.

The CPI Index is discriminating in its evaluation of the performance of European states. There is a big variation in the Index rating of Estonia, 68, and Bulgaria, 41. The Transparency International evaluation is consistent with the EU finding that Bulgaria and Romania have misused EU funding provided for economic development and the promotion of social cohesion. Transparency International gives some new member states as much capacity to control corruption as Spain, Portugal or Austria. It finds very wide variation in the control of corruption among older EU member states, such as Denmark, Finland and Sweden as against Italy and Greece. Insofar as corruption and fraud affect the operation of the Single Europe Market and more, this is not due to enlargement, for the problem was already present in Italy and Greece before the Berlin Wall fell.

Hungary's recent constitutional changes that reduce democratic checks and balances have led to demands by Hungarian liberals for the EU to take steps to protect their minority and democratic rights. However, the EU principle's of subsidiarity is

Figure 1. CORRUPTION RATINGS OF EU MEMBER STATES

Transparency International Corruption Perceptions Index



Source: Transparency International, TI Corruption Perceptions Index 2013, www.transparency.org. Accessed 20 June 2014.

interpreted as meaning it should not challenge major re-allocations of domestic power in a member state, whatever turn they take. Its “wrist-slapping” form of sanctions was evident in criticisms of an Austrian coalition government a decade and one-half ago. Whatever the positive impact of conditionality on governments that apply for EU membership, there is little that the EU can do to make new member states deliver on the intentions expressed as a condition of admission. Likewise, it lacks sanctions if a member state takes actions that may restrict freedoms of individuals who are national as well as EU citizens of a troublesome state.

Impact of more members on the UK. Once admitted, new member states immediately enjoy all the institutional rights of old member states, including the United Kingdom. Regardless of population, each participates in EU institutions in which membership is allocated one seat per state. This dilutes the attention that can be given to the national interests of any one state. Thus, the UK now nominates only one of the 28 members of the European Court of Justice and only one of the Commissioners heading the Directorates General where EU policies are prepared. Instead of contributing one-fifth of Members of the European Parliament, UK MEPs are now less than one-tenth of its members and their multi-national party groups combine parties from up to two dozen or more national electorates. Although English is increasingly the language used for policymaking, most policymakers speak English as a foreign language. The geographical balance of Europe has shifted from Western Europe to *Mitteleuropa*.

When the UK was one of nine member states, meetings of prime ministers, national ministers or civil servants monitoring Commission proposals could meet around a dining room table. Each could be recognised for their distinctive characteristics. Given limited diversity, agreements required fewer compromises before arriving at a consensus. Having 28 national representatives around a table simultaneously increases diversity and reduces the opportunity for each member state to have its views considered on its own. Discussions tend to involve compositing national views into one of several different positions which differ in emphasis. Small states recognise that they cannot expect to insist on their national position very often; hence, their best strategy is to work hard at the earliest stages of deliberation to have their chief priorities incorporated in at least one and preferably all of the alternatives that are likely to come forward for discussion and decision.

Enlargement has encouraged discussions by an 'inner circle' of a small number of countries in order to arrive at an initial proposal to be put to a full meeting of 28 national representatives for consideration. Most decisions do not permit veto, compromise is far more frequent than voting, and to obtain a Qualified Majority requires forming a core of support within a 28-member group. At this point, a government that is not part of an inner circle is handicapped in promoting its specific national interests. Challenges of principle are likely to fail because they violate informal norms of consensus.

The division between inner and outer circle countries is especially clear in EU policymaking for economic and financial affairs, because the UK is not a member of the eurozone. While this gives it freedom to make a significant number of decisions on its own, it also excludes the UK from decisions being made that affect a majority of EU member states. Moreover, decisions made within the eurozone, especially about banking, necessarily have a spillover effect on the exporters and the financial and

banking industry of non-eurozone countries, such as the UK.

Enlargement to countries with very substantially lower incomes and employment opportunities than those of older member states has also given new meaning to the EU's commitment to the free movement of peoples within a European labour market. The UK's economic standing and large labour market has attracted hundreds of thousands temporary or long-term workers from new member states. In free market economic terms, this can be seen as an efficient use of resources benefiting the British economy and the cultural differences between immigrants from new member states and the UK are limited. However, immigration to the UK from all parts of the world, including the Indian sub-continent, strife-torn countries producing political refugees, and other continents has made the scale of immigration a politically sensitive issue irrespective of country of origin, and it reduces the scope for the UK government to impose decisions on EU citizens who want to come to Britain to live and work.

II FURTHER ENLARGEMENT AS A CHALLENGE TO EU & UK

In the multi-level system of governance in which the UK is embedded by its signature of successive EU treaties, national interests and the collective interests of EU member states are intertwined. Since the admission of new member states is an irreversible act for the EU, the first lesson from the past decade of enlargements is to pay more attention to evidence and less to optimistic assumptions based on political hopes.

The applicant countries. The dynamic character of EU enlargement is shown by the variety of categories to which potential members can be assigned—and movement between categories during the current year. Eight countries are officially described as countries preparing to join the EU (see www.EC.europa.eu/enlargement): Albania, Bosnia and Herzegovina, Iceland, Kosovo, Macedonia, Montenegro, Serbia and Turkey. Serbia, Montenegro and Albania are in accession negotiations, while Iceland's government has suspended plans for accession, and Turkey currently has other pressing political priorities. Bosnia and Herzegovina and Kosovo are potential candidate countries. In addition, Georgia, Moldova and Ukraine have been granted free trade association status, subject to introducing reforms in existing processes. Armenia, Azerbaijan, and Belarus are described by the FCO call for evidence as 'possible EU members in future'. Of these 14 countries, Iceland is the only one that clearly meets EU conditions for democracy and the rule of law, with a Transparency International rating the same as the UK. However, since it is not an active applicant, the following concentrates on seven countries that the EU has placed in the front rank for enlargement (Table 1).

Table 1. POTENTIAL EU MEMBER STATES

	Freedom House	Rule of Law
Turkey	Partly free	50
Montenegro	Free	44
Macedonia	Partly free	44
Serbia	Free	42
Bosnia & Herzegovina	Partly free	42
Kosovo	Partly free	33
Albania	Partly free	31
Mean	Partly free	41

Sources: Freedom House rating, 2014, www.freedomhouse.org.

Corruption: Transparency International 2013, www.transparency.org;
least corrupt: 100; most: 0.

The admission of a state to the EU implies a recognition of its existing boundaries. The problems in Ukraine are a current reminder of the difficulties of securing a settlement when there is internal conflict. The division of the island of Cyprus into an EU member state and a non-member territory is a reminder of problems arising from the failure of the EU to insist on a firm resolution of boundary problems prior to admitting an applicant country. Six of the seven potential members in the Western Balkans have had their territories caught up in ethnic-based armed conflict in recent years. There are significant spillovers of ethnic Serbs and Albanians across the borders that the EU recognises and unresolved ethnic divisions within Bosnia & Herzegovina. Moreover, Turkey has had a long-running conflict with Kurdish armed groups that spill over into Iraq and Iran. The EU has never had a split state as a member and it is unclear what it would do if a member state became a failed state.

Freedom House evaluates countries on the basis of their respect for civil liberties and political rights (www.freedomhouse.org). Its definition of democracy is thus broader than the presence of more or less competitive elections and is not based on the evaluation of a single election by foreign observers who are not independent of the political priorities of the countries sending them. On its criteria, five countries are classified as partly free and two, Montenegro and Serbia, as free. However, these positive ratings are relatively recent. Neither has yet to demonstrate a long-term commitment to democratic institutions. The need for durability is of particular importance for admission, given the inability of the EU to act effectively if a country starts backsliding in its respect for civil and political rights.

The rating of potential member states on the Corruption of Perceptions Index is

consistently low; the mean is 41. The best rated country, Turkey, 50, is below the mean for new member states admitted between 2004 and 2013 (cf. Table 1 and Figure 1). The other six have ratings close to those of the four worst rated current member states, and Kosovo and Albania are a full notch further below. Thus, if all seven were admitted with on the basis of their current level of corruption, the EU mean would fall of 58 and 14 countries would have a Corruption Index rating of between 31 and 48, while that of the 15 older EU member states would range between 59 and 91. Of course, EU policy is that it would not admit as a member state a country with a very corrupt system of government. However, previous enlargements have led to the admission of states in the hope that entry would be followed by a very substantial reduction in corruption-and this has not happened.

III NEED FOR REFORMS: A 2020 STRATEGY FOR THE UK

Challenges and Options. Accepting by default the current EU practice of pursuing a more is better policy toward EU enlargement is not in the interest of the European Union. The admission of countries that are deficient in meeting its Copenhagen standards would result in an unwelcome increase in the extent of corruption. It would take at face value a few institutional changes as sufficient proof that a country will achieve and maintain civil and political rights by enforcing the rule of law and respecting democratic procedures. The evidence of the past decade shows that there is no guarantee that EU membership creates conditions for achieving a high standard of good governance. Moreover, if a new member state fails to deliver on its intentions, the EU has very weak powers to impose effective sanctions and worse would be the case if a state's boundaries became porous due to ethnic conflict.

Further enlargement would decrease the amount of attention that could be given to any one member state in the continuing deliberations by which new policies are added to the existing *acquis* without the adoption of yet another treaty. Given that the UK's priority for renegotiating terms for membership sets it apart from the mainstream policy of an ever closer Union, would risk a further reduction in the attention paid to specific UK national interests. New member states will be committed to further integration as a condition of membership and usually by the choice of their national government. This is the opposite of the UK priority for putting the brakes on the EU assuming additional powers and seeking to renegotiate its existing terms of membership.

The challenge that this analysis highlights is for the UK government to rethink its current policy of backing European Union enlargement without regard for the impact on British interests. To have any effect on what EU institutions do, measures must be presented as in the collective interest of member states-and interests such as preventing

the spread of corruption, avoiding having to tolerate violation of European standards by member states and reducing the attention given to individual member states can have broad appeal. Moreover, the evidence and reasoning above, consistent with the British reputation for pragmatic evaluation of cases above, may be used to challenge the reductionist or over-optimistic rhetoric that tends to characterize many discussions of enlargement. Because admission of new member states requires unanimity, the UK has the means to make sure its voice is heard only by the threat of vetoing the admission of a candidate country. More constructively, it can seek a review of the EU's balance of competences governing enlargement.

In a European climate where there is an openness to consider reforms that can be of collective benefit to existing member states there are a number of agenda points for improving the process of enlargement and dealing with its consequences.

Avoid making closer ties with neighbouring countries appear to be a stage in gaining EU membership. The existence of a specific reason for cooperation with another country from which EU members benefit is not evidence for moving to the general-purpose status of an EU member state, in which the calculation of costs and benefits for both sides will be different. Military security is an extreme example, for not all EU member states belong to NATO, not all NATO member states are potential EU members, and the criteria for membership and decisionmaking are very different in the two organizations. In the Western Balkans there is a strong case to be made for stabilizing state boundaries, reducing cross-border ethnic problems and reducing corruption. This need not require EU membership. The same three priorities exist in Ukraine today-plus interdependence requiring Ukraine and Ukrainians to balance relations with Russia as well as EU member states. Finland during the Cold War may serve as a better example of balancing such influences than Spain.

Domestic politicization of EU engagement. In eurozone countries, the commitments made to old member states in financial trouble and the commitments made by new member states to join the eurozone will continue to lead to an ever closer Union and in some states to domestic debates about whether eurozone policies are in the national interest. In the UK, a different dynamic has emerged: a fundamental debate about whether it is in Britain's interest to remain an EU member or to withdraw or to pursue a third way policy of achieving EU reforms of benefit to the UK. This means that any review of competences based on the past, whether an EU of 9, 15 or 25, cannot be confidently invoked as a guide to the future. An informed UK debate requires not only a balanced view of the past but also, building on the present as well as the past, to construct scenarios about where the EU is now heading and, in parallel, what this means for the UK, if it remains engaged with the EU as it is evolving or whether it invokes the one certain alternative available, to withdraw from the European Union and

construct such economic and political links with other countries that the British government deems desirable and other countries deem acceptable.

Expand the powers of EU institutions to take effective action against corruption.

Enlargement of the European Union has increased the risk of corruption in the allocation and expenditure of EU funds that are administered by member states and gross inefficiencies that limit the value obtained for EU money spent by member states. At present, neither the European Anti-Fraud Office (OLAF) of the Commission nor the separate Court of Auditors has the power to insist on repayment of misappropriated funds or impose sanctions when it does find evidence of malfeasance. Nor does it have effective investigative and prosecuting powers. The limitations on its powers reflect differences in national traditions in evaluating funding public policies and national political considerations that seek to block action at the EU and the national level. The UK has a good reputation in Europe for effective and honest government that it may use to give a lead in a campaign to strengthen the EU's capacity for effective action.

Open up the enlargement process to more public and political scrutiny. The national interests in admitting particular applicant states is not the same for each member state. However, the consequences—both positive and negative—affect all member states. The pattern of past enlargements, involving sometimes unwarranted assumptions about the realisation of positive change after enlargement, indicate that the EU pressure to maintain engagement in horse-trading to arrive at a consequence for action, which in this case means admitting more member states, can lead to a lowering of the EU's proclaimed standards. Open scrutiny in national parliaments is one means that can be used. Another is the provision for submissions of opinion by international NGOs and those with a stake in applicant countries. An applicant government's plea that it is doing the best it can to meet EU standards is, after all, open to challenge by its fellow citizens on the grounds that it could do better.

Seek a European Council review of the impact of enlargement on role of national governments. Increasing the EU's size by more than four times since its initial rules and practices were laid down will have intended and unintended consequences. The commitment to work across all the languages of member states is an example of ballooning of staff and costs that does not appear cost-effective. The increase in Commissioners and Directorates-General is another that has the political advantage of giving every country one (but not more than one) Commission nominee while increasing the fragmentation of policy responsibilities into multiple DGs. A review of the consequences of growth for the everyday work of the Committee of Permanent Representatives, where the UK is now one of 28 countries represented at each meeting, would require full respect for informal as well as formal changes in behaviour.

Increase resources to develop more European political capital among UK citizens.

The supply of European citizens want to work in Brussels has increased many times with enlargement and with it the competition for posts in EU institutions. The UK is handicapped because its education system does not produce enough educated people fluent in foreign languages and because most high-ranking British people in EU institutions are approaching retirement age and will be replaced by other nationalities. Moreover, the cumulative effect of political discourse stressing criticisms of the EU reduces the motivation for able younger people to gain experience with the EU and those who do so risk being isolated from mainstream British public discourse and vice versa. Concurrently, the countries with whom the Britain deals are increasingly full of people who have European political capital-that is, the capacity to understand both British interests and their own national interests. With more multilateral deliberations about EU powers that collectively affect all member states, there is a need to increase the European political capital of those responsible for advancing British interests.

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