SELECT COMMITTEE ON THE EUROPEAN UNION
EU Enlargement
Written evidence

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This submission addresses the following questions:

1. Does the EU have a strategy for enlargement?
2. What are the criteria for evaluating the success of enlargement?
3. How should we evaluate the last round of enlargement?
4. Are the Treaty provisions for enlargement, and the Copenhagen criteria, adequate?
5. What sense can be made of ‘absorption capacity’ as a parameter for enlargement?
6. What is the significance of ‘enlargement fatigue’?
7. What alternatives to EU membership can be offered to other European countries?

I am a Senior Member of St. Antony’s College, Oxford, Senior Adviser at the European Policy Centre, Brussels, and Honorary Director-General of the European Commission. My evidence is based on personal experience of 40 years as a senior adviser and administrator in Whitehall and Brussels, in the course of which I participated in every round of EU enlargement from 6 to 27 (see biographical note at end). This submission expresses my personal views, not those of my previous employers.

1. Does the EU have a strategy for enlargement?

Although the European Commission produces a Strategy Paper on enlargement every year, and the European Council mentions enlargement in the conclusions of most of its meetings, the EU does not have a strategy for enlargement in the sense of a deliberate plan for future expansion. The EU has never encouraged other countries to join, and has sometimes discouraged them from applying. The EU’s policy for enlargement is fundamentally reactive rather than pro-active. The main driver for expansion is pressure from neighbouring countries, not some kind of imperialist ambition on the part of the EU.

In this respect it is interesting to compare the experience of the United States of America. In the 19th century Americans considered that ‘our manifest destiny [is] to overspread and to possess the whole of the continent which Providence has given us for the development of the great experiment of liberty and federated self-government entrusted to us’ (J.L. O’Sullivan, 1845). By contrast, European ideologues, even those who envisage the development of a United States of Europe, have rarely considered enlargement as ‘manifest destiny’. On the contrary, commentators who view ‘widening’ as an obstacle to ‘deepening’ tend to see enlargement as a threat to the aim of ‘ever-closer union’.

2. What are the criteria for evaluating the success of enlargement?

What is a good enlargement? This question receives insufficient attention in analyses of enlargement policy.

Evidently it would be naive to evaluate success by reference to the number of countries joining, or the speed of their accession. In my view, the correct approach for evaluation of
the policy is two-fold: a first group of criteria which apply for the period before enlargement and a second group for the period after accession:

- For the pre-accession period, the criteria are similar to those that apply to foreign policy in general: enlargement policy may be considered successful if it enhances:
  - security, stability and prosperity both for the EU and for the neighbouring countries concerned.

- For the post-accession period, enlargement may be considered successful if it allows:
  - the harmonious integration of new members, without disrupting the situation of existing members;
  - the continued functioning of the EU’s institutions and policies, and the satisfactory development of the EU.

None of these criteria is simple to apply: the criteria for the period after accession are particularly difficult to evaluate, but they are also the most important test for enlargement policy. The fact that there is no consensus among member states on questions such as the long-term development of the EU helps to explain why member states have such differing views on the desirability of enlargement. It is commonly thought that supporters of expansion (typically, the United Kingdom) want to hinder integration and weaken the EU, while opponents of expansion (typically, France) want to safeguard acquired positions. Although these caricatures are false, they show how widely attitudes to enlargement policy can differ.

The distinction that I make between the two groups of criteria serves to explain why the common assertion that ‘enlargement is the EU’s most successful foreign policy’ is not correct. Enlargement is a ‘foreign policy’ for the EU only to a limited extent – that is, until the moment of accession. After that, it ceases to be a foreign policy. Since enlargement shapes the EU’s basic identity by modifying its membership, it would be more appropriate to describe it as an ‘existential’ policy.

3. How should we evaluate the last round of enlargement?

The last round of enlargement, which brought in 12 new members in 2004 and 2007, was the most important expansion ever in terms of the number of new member states – though we should remember that in relative terms the increase in the EU’s population and economy was less important than with the enlargement of 1973.

Judged by the criteria defined above, there is no doubt that the last enlargement was a considerable success. In the pre-accession period it assisted the peaceful transition in Central and Eastern Europe to democracy and a mixed economy. Post-accession experience with the new member states has been largely positive for the EU: they integrated rapidly into the system, the institutions have functioned as well (or as badly) as they did when there were 15 members, and the EU’s policies have continued to develop.

Expansion did not result in paralysis of the decision-making system; although the new partners have proved difficult on some issues, they have not been more obstreperous than old members. It was not the new members who killed the Constitutional Treaty and delayed the Lisbon Treaty, but France, the Netherlands and Ireland whose peoples said ‘no’ in referendums. Although dissatisfaction with EU enlargement is sometimes cited as a reason
for the results of those referendums, it was certainly not a main reason, as was shown by opinion surveys conducted at the time.

The forecast, common in the 1990s, that the accession of the Central and East European countries would encourage the EU’s trend towards ‘differentiated integration’ or ‘variable geometry’ has not proved correct. Most new members have joined the Schengen area, some have already joined the euro, and most of the rest plan to do so when the present problems of the eurozone are resolved.

But the last round of enlargement was a failure on certain counts. The accession of Cyprus without the hoped-for reconciliation between its Greek and Turkish communities was a disappointment; it brought into the EU a divided island. The premature accession of Bulgaria and Romania, with poor governance in the fields of justice and corruption, has created problems not only for those countries but for the EU as a whole.

4. Are the Treaty provisions for enlargement, and the Copenhagen criteria, adequate?

Article 49 of the Treaty is procedural in nature, while Article 2 lists basic values applicable to all member states and in practical terms adds little to the conditions set out in the Copenhagen criteria. One criticism that may be made of Article 49 is that the phrase ‘Any European State... may apply to become a member’ gives no definition of what ‘European’ means in geographical terms. But it would be impractical and undesirable to attempt an official definition of the EU’s ultimate borders: impractical since there is no consensus on this question among member states, and undesirable because defining the borders now would demotivate those excluded, and diminish the leverage for those included.

The Copenhagen criteria, which were originally designed for the Central and East European countries, have become the template for all non-member countries entering the accession process. It is sometimes considered that the criteria are the manifestation of a ‘civilising mission’ to spread higher standards to neighbouring countries; in fact the EU introduced them not for reasons of altruism, but to avoid the risk of introducing new members who would disrupt the functioning of the EU.

Manifestly the Copenhagen criteria are aimed at countries with lower levels of political, economic and administrative development than the EU, and in this sense they are not so relevant for countries with generally higher levels. They were not in fact employed for the EFTA applicants Norway and Switzerland in 1993-94, but they have been applied to the EFTA applicant Iceland, mainly to ensure uniformity for the other countries now in the accession process.

Since the Copenhagen criteria were defined, their application has been the object of detailed interpretation by the EU institutions, and in this sense the criteria have been progressively refined. In some cases this has substantially extended the initial concept: for example, under the political criteria applicant states are expected to settle frontier disputes with neighbours (though this was not applied in the case of Cyprus); and to cooperate with the ICTY (International Criminal Tribunal for the former Yugoslavia). The emphasis on different aspects of the criteria has also changed: ‘good governance’ (effective public administration and judicial system, measures to combat corruption, etc.) is now increasingly emphasised.
In my opinion the Treaty provisions and the Copenhagen criteria are largely satisfactory; they provide sufficient flexibility and scope for interpretation, so that the EU can adapt its enlargement policy to different situations and individual cases.

5. What sense can be made of ‘absorption capacity’ as a parameter for enlargement?

The European Council at Copenhagen in 1993 declared ‘The Union’s capacity to absorb new members, while maintaining the momentum of European integration, is also an important consideration in the general interest of both the Union and the candidate countries’. Attempts to interpret the meaning of this have not been entirely successful.

In a report in 2006 the Commission deconstructed this concept in the following way (COM (2006) 649, Annex I): ‘the capacity of the Union to maintain the momentum of European integration as it enlarges has three main components: institutions, common policies, and budget. The Union needs to ensure that its institutions continue to act effectively, that its policies meet their goals, and that its budget is commensurate with its objectives and with its financial resources’. It argued that all three elements will be satisfactorily handled for future enlargement. Although this was a reasonable attempt to provide a practical interpretation of the notion, it was not officially accepted by EU member states; the Council of Ministers neither approved nor disapproved it.

Personally I think that the expression ‘absorption capacity’ has a strange connotation: the object is not to ‘absorb’ (dissolve?) new member states, but to integrate them; it would surely have been better to adopt the expression ‘integration capacity’. Anyhow, I consider that absorption capacity remains a kind of ‘undefinable flying object’ circulating in debates on enlargement policy, which may be appealed to as an argument for delay if and when desired. But it would be impossible to obtain consensus on its definition, so it is hardly worth investing more time and effort in the attempt.

6. What is the significance of ‘enlargement fatigue’?

In the years following the enlargements of 2004 & 2007 the phrase ‘enlargement fatigue’ was often used for reluctance to proceed with further accessions. Since the EU’s numerical increase from 15 to 27 members was the largest that it ever experienced, this was hardly surprising. In my view, however, the significance of the phenomenon will be less in coming years, for a number of reasons:

- What was described as ‘enlargement fatigue’ was reinforced by ‘treaty fatigue’ resulting from the repeated delays and rejections of the Constitutional Treaty and the Lisbon Treaty.
- The dimension of the next enlargement - Croatia in 2013 - will minimal; no other enlargement in the past, with the exception of Greece in 1981, has consisted of the accession of a single country.
- There will never again be another enlargement of the dimension of EU-15 to 27; after Croatia, the number of European states remaining outside the EU will be (at most) 17, and for most of them the prospect of EU membership is very distant.
7. What alternatives to EU membership can be offered to other European countries?

The EEA (European Economic Area) is the closest form of relationship that the EU has ever created with non-member countries. Under it, Norway, Iceland and Liechtenstein have full access to the Single Market and in return accept the direct applicability of EU laws. Under 'decision-shaping' procedures, they have access to committees preparing EU legislation, and the right to submit comments, but they have no access to the EU's decision-making process in the Council or the Parliament.

These countries enjoy a high degree of integration with the EU, but it falls short of membership, whose defining characteristic is a voice in the EU institutions. This type of relationship continues to be satisfactory for Norway (and for Switzerland, whose bilateral agreements with the EU have similar effect) but Iceland has taken the decision to seek EU membership. In effect, the EEA is a kind of waiting-room for countries that are qualified for EU membership, but do not yet wish to take it up.

For the countries of Eastern and South-Eastern Europe, the EEA is not a viable model, for it requires a high level of economic and administrative development. In any case, what they want is full EU membership. When the EEA was suggested informally to Poland and other applicant states as an alternative in the 1990s, they preferred membership. A similar logic underlies the attitude of countries such as Ukraine, which under the Neighbourhood Policy are offered the long-term prospect of a relationship analogous to the EEA.

One can devise many different formulas for a relationship with the EU that falls short of full membership; when I worked in the Commission, I was asked on a number of occasions to design such a product. The problem is that, in general, there is no real market for the product, since most European countries do not wish be satisfied with 'second-class' status.

30 November 2012
1. Samantha Currie is a lecturer in law at the University of Liverpool. Her area of research expertise is migration in the context of European Union (EU) enlargement. Her PhD thesis (2007, Liverpool) examined the socio-legal status and experiences of Polish migrants in the UK and in 2008 she published a monograph entitled *Migration, Work and Citizenship in the Enlarged European Union* (Farnham: Ashgate) which further considered the legal framework shaping the experiences of migrants from ‘new’ Member States in light of the 2004 and 2007 enlargements.

2. This submission will focus most specifically on the issue of labour migration to and from new Member States. By drawing on insights gained in the context of the 2004 (‘EU8’) and 2007 (‘EU2’) enlargements it aims to provide perspectives on key free movement issues, particularly the impact of legal rules on citizens of the new Member States, relevant to future EU expansions. In order to examine labour migration fairly comprehensively it will first consider the framework of the free movement of workers before turning attention to relevant issues pertinent to the freedom to provide services, in particular the cross-border posting of workers.

**The Free Movement of Workers**

**Transitional Free Movement Arrangements in the Old Member States**

3. Prior to the 2004 and 2007 enlargements, attention had been paid in the literature and media to migration ‘push factors’ such as the significant ‘east-west’ wage differentials and high unemployment rates in (some of) the CEE accession states. The relevant accession treaties then contained transitional arrangements on the free movement of persons similar to those set out in earlier accession treaties (e.g. on Greece, Spain and Portugal in the 1980s). Thus, old Member States were entitled to derogate from the free movement of workers, specifically the provisions of Union law that grant EU citizens access to the labour markets of other Member States, in respect of nationals of the new Central and Eastern European (CEE) accession states during the transitional period.

4. EU migrant workers gain their entitlement from Article 45 of the Treaty on the Functioning of the European Union (TFEU) (previously Article 39 EC). In contrast, the free movement rights of self-employed persons, whose entitlement flows from Article 49 TFEU (previously Article 43 EC), were left unscathed. As such, the distinction between migrant ‘workers’ and the ‘self-employed’ has been pertinent during the operation of the transitional restrictions. In Case C-161/07 *Commission v Austria* [2008] ECR I-671 the Court of Justice of the European Union (CJEU) made clear, when interpreting national rules aimed at targeting “bogus self employment,” that old Member States are not entitled to extend the scope of transitional restrictions beyond the free movement of workers so as to stray unlawfully into the realm of establishment. The CJEU therefore confirmed that the transitional restrictions on free movement, as derogations from a fundamental freedom, should be interpreted narrowly.
5. Following the 2004 enlargement, a variety of rules were implemented in the old Member States in light of the permitted derogations in the accession treaties. These ranged from the strict stance of Germany and Austria, where labour market access for EU8 nationals was extremely restricted, to the more open approaches of Sweden, Ireland and the UK, where the labour markets were considerably more accessible. In the remainder of the old Member States a variety of different transitional regimes were put in place, including work permit systems, bilateral agreements, seasonal permits and quotas. The Commission reported in 2006 (COM(2006) 48 final) that migration from the new to the old Member States had not been significant enough to have adversely affected the labour markets of the old Member States. Furthermore, the positive effect of EU8 migration was emphasised, with the point being made that such mobility had helped to alleviate skills bottlenecks across the old Member States whilst not impacting negatively on employment rates of nationals. Throughout the course of the transitional period applicable to EU8 nationals (which finally expired in 2011) several of the older Member States gradually relaxed their labour market rules, with only Germany and Austria maintaining restrictions until expiry of the permitted transitional rules.

6. Following the 2007 enlargement, the majority of the old Member States took advantage of the chance to impose transitional mobility restrictions on EU2 nationals (Sweden was the only old Member State to offer open labour market access initially). The UK and Ireland did not continue with the open labour market approach that had applied to the EU8 and instead implemented work permit systems. Clearly, the global economy was altering in 2007 and the then impending economic crisis can be seen as having directly influenced those Member States imposing transitional restrictions on EU2 citizens. Conversely, and unsurprisingly, most of the EU8 Member States did open their labour markets to EU2 citizens (only Hungary declined to do so).

A Closer Look at the UK Approach

7. In order to work lawfully in the UK from 2004 an EU8 citizen was required only to find work and register their employment on the Worker Registration Scheme (WRS). Because of the ‘open’ policy it adopted the UK is perceived as having been generous to nationals of the EU8. The requirement to register on the WRS was generally not considered to be a particularly onerous burden despite a compulsory £90 fee for registration (the registration system was out in the Accession (Immigration and Worker Registration) Regulations 2004 SI 1211). However, the ‘open’ labour market policy was accompanied by certain other bureaucratic rules, for example requiring re-registration in the event of a change in occupation. Restrictions were also placed on the residence entitlement of those EU8 migrants who, for whatever reason, ceased to be employed in the UK or otherwise did not comply fully with the WRS requirements. These registration and residence rules were linked to changes to the test determining entitlement to various welfare benefits (pursuant to the Social Security (Habitual Residence) Amendment Regulations 2004 SI 1232). Benefit claimants in the UK are required to be both habitually resident and ‘lawfully resident’ which, for EU8 nationals, meant they must either be in work and registered or have built up 12 months of continuous and registered work.

8. The UK WRS rules had a particularly harsh impact on individuals who had remained continuously in work but had not been registered throughout the whole employment period. This was the case in Zalewska v Department for Social Development [2008] UKHL 67 which involved a woman who had worked in Northern Ireland for over 12 months but, after
changing employer mid-way through the period, was unaware of the need to re-register. Consequently, when she later experienced difficulties she was denied access to income support on the basis that not all of her work had been registered on the WRS. This is significant because the principle of non-discrimination on grounds of nationality under Union free movement law is expansive. Those exercising free movement rights under the EU treaties are entitled to access a range of social and tax advantages under the same conditions as nationals of the host Member State (Regulation 492/2011 on freedom of movement for workers within the Union OJ [2011] L141/2). Furthermore, the principle of proportionality is central to the application of Union law and, consequently, national rules implementing EU law must be proportionate to their aim.

9. In Zalewska the Appellate Committee of the House of Lords, by 3:2 majority, upheld the decision of the Court of Appeal in Northern Ireland and were satisfied that the UK rules were compatible with EU law and the terms of the transitional arrangements. The majority were not convinced that any aspect of the UK’s “generous” and “wide open” policy could be understood as having a disproportionate impact. They utilised a limited application of proportionality that did not take into account the personal circumstances of the claimant, the actual aim of the WRS (i.e. to monitor EU8 migrants) or the legitimate scope of the transitional arrangements as set out in the accession treaties. Therefore, although EU8 citizens benefited from being able to access the UK labour market, the finer detail of the law can be seen to have left some in undesirable situations despite their continued employment. It would have been preferable to ensure that employers, who committed an offence by employing an unregistered EU8 worker, were suitably punished as opposed to the more vulnerable worker.

10. A considerable number of EU8 citizens took advantage of the WRS in the aftermath of enlargement, with numbers starting to reduce from 2008-9. For example, from March 2007-2008 there were 215,000 WRS applications; whereas, from March 2008-2009 there were 141,000. Evidence suggests that the migrants were predominantly young and contributed to the economy by taking hard-to-fill jobs, whilst placing a few demands on the welfare system (Home Office UK Border Agency, Accession Monitoring Report May 2004-March 2009, 2009).

11. Despite the generally positive conclusions about the contribution of EU8 migration to the UK, it seems that there were certain localised infrastructure-related effects, such as: pressure on language schools, increased school admissions, and competition for privatised housing. These concerns, along with the altered economic circumstances, influenced the government in imposing limits on the movement entitlement of EU2 citizens.

12. EU2 citizens who wish to access the labour market are required to be granted a worker authorisation card. In essence, such cards can only be obtained by those who have been granted a work permit under the national immigration rules (Accession (Immigration and Worker Authorisation) Regulations 2006). EU2 citizens are ‘tied’ to the job for which the card has been granted and have no general access to the labour market. Between January 2007 and September 2007, there were 3820 applications for accession worker cards. Again, numbers reduced more recently with just 570 applications being received in the first quarter of 2009 (Home Office UK Border Agency, Bulgarian and Romanian Accession Statistics, 2009).

13. The current government has already announced that Croatian citizens will be subject to transitional free movement restrictions following accession in 2013. The current rules will continue to apply so, effectively, Croatian citizens will remain categorised as third-country

**Free Movement of Workers: Conclusion**

14. Citizens of the EU8 and EU2 faced a variety of different legal regimes on labour market access from the old Member States. Although the scope of the rules differed from Member State to Member State, all national rules sought to put in place a framework that would be of optimum benefit to the Member State’s labour market and economy. Across the old EU, the general trend has been that citizens of the new CEE states have filled gaps in the labour market that were otherwise unfilled by nationals. Interestingly, there is some evidence that those Member States imposing the strictest transitional restrictions have actually gained substantial numbers of CEE migrants with an irregular employment status (COM (2008) 765 final). In this regard, the unavailability of lawful migration routes for EU8 and EU2 citizens may have served to divert people into the shadow economy.

**The Freedom to Provide Services: Posted Workers**

**The Status of Posted Workers**

15. Whereas the standard transitional restrictions focussed on the free movement of workers, there is also scope for accession state citizens to move across borders as posted workers. Such workers are not true migrant workers exercising rights pursuant to Article 45 TFEU; instead, they are posted by a service provider exercising rights flowing from Article 56 TFEU. Importantly, the transnational provision of services is largely outside the scope of the transitional arrangements. Only Germany and Austria are permitted to impose certain limitations on posting from new Member States in this area under the terms of the accession treaties.

16. Posted workers are those who, for a limited period, carry out their work in the territory of a Member State other than the State in which they normally work. They do not exercise a personal right to move and their presence in a host Member State is for a temporary period only. They have no access to the labour market as a whole and are obliged to return on expiry of the posting. As such, they have significantly less opportunity to integrate into the host society than “true” migrant workers. The applicable legal framework is set out in Directive 96/71, the Posted Workers Directive ([1996] OJ L18/1). The Directive covers the situation where an undertaking established in one Member State wins a contract to carry out work in another Member State and posts its own workforce to the territory to carry out the work.

17. It is notoriously difficult to present accurate numbers of posted workers within the EU, however the Commission has estimated that around one million workers are posted each year by their employers from one Member State to another (SWD(2012) 64 final).

**Particular Posting Concerns in the Context of Enlargement**

18. Enlargement of the Union has brought specific concerns about posting, particularly in the old Member States, to the fore. Much of the unease surrounding the transnational provision of services in the enlarged and economically diverse EU relates to the notion of social dumping and the potential for service providers in new Member States to take advantage of...
cheaper compliance costs to win contracts in the old Member States. As a consequence of lower wages in new Member States, labour cost differentials continue to persist. This issue, and the related matter of how far trades unions are entitled to take action to protect national workers, has received significant attention following the CJEU’s interpretation of the Posted Workers Directive in a line of cases beginning with Case C-341/05 Laval un Partneri Ltd [2007] ECR I-11767.

19. The CJEU limited the national rules that can be extended to posted workers to those laid out in accordance with the methods stipulated in the Directive and restricted the scope for host Member States to impose additional employment conditions beyond the minimum standards of the Directive (under Articles 3(1), 3(7) and 3(10) of the Directive). Furthermore, it subjected trades unions’ opportunities to undertake collective action in an attempt to protect national workers to an application of the proportionality principle. Consequently, the CJEU’s decisions have been heavily criticised by many actors in the old Member States. Trades unions have clearly been particularly critical, both at the national (especially old Member State) and European level.

20. Posted workers themselves are at risk of being placed in vulnerable situations and of their rights being undermined. Evidence suggests that workers from the EU8 and EU2 posted to old Member States, particularly in the construction sector, are susceptible to working long hours for the same level of wages that national workers receive for working much shorter hours. There are also frequent reports of poor living conditions right across the old Member States (Clark, Regulation and Enforcement of Posted Workers Employment Rights (May 2012) (European Commission Grant Agreement VS/2010/0630).

21. There are problems with enforcement of the current rules on posting. The increased relevance of flexible subcontracting chains involving companies established in different Member States can serve to undermine the posted workers’ rights and render enforcement difficult (Jorens, Peters and Houwerzijl, Study on the protection of workers’ rights in subcontracting processes in the European Union (June 2012) (Project DG EMPL/B2 – VC/2011/0015).

22. The Commission is currently very active in this area, having commissioned a number of reports into different aspects of posting and the legal framework since 2010. The Commission seems to have dismissed the idea of wide scale reform of the law and instead earlier this year it published a proposal for a Directive on the enforcement of Directive 96/71 (COM(2012) 131 final). This seeks to raise awareness of the law and implement harsher sanctions to aid its enforcement. Should this proposal enter into force posted workers in the construction sector will have an enhanced level of protection as a result of the mechanism of joint and several liability contained therein. Posted workers in other sectors, however, will not be afforded this extra protection.

23. The law remains unsettled and there is little consensus amongst business enterprises, trades unions and representatives of posted workers as to the most effective way to proceed. However, given that the CJEU’s interpretation of the Directive seems set on the course established in Laval, and that the Commission is avoiding any radical overhaul of the framework, it is unlikely that far-reaching change will be brought about. The posting of workers by its nature raises sensitive issues relating to social dumping and worker protection, and such concerns will inevitably be heightened in the context of EU enlargement whilst wage levels across the Member States remain so variable.
Posted Workers: Conclusion

24. The situation as regards posting is unsatisfactory from a range of different perspectives. In particular, trades unions are unhappy about the restrictions placed on their ability to take action to protect national workers in the event of a “contentious” posting from an enterprise in a new Member State. The Commission’s proposal for a Regulation on the exercise of the right to take collective action (COM(2012) 130 final), which was withdrawn in any event due to opposition expressed by a number of national parliaments under the “yellow card” warning system, did little more than codify the case law of the CJEU in judgments such as Laval and Case C-438/05 Viking-Line [2007] ECR I-779. As such, it did little to placate the unions who continue to seek an actual social progress protocol to be incorporated into the treaties. Moreover, posted workers themselves remain vulnerable to experiencing poor working conditions and abuse without access to adequate remedies and sanctions against employers. The enforcement directive would take some steps forward in this regard, most notably in construction, but does not represent an especially radical development.

14 November 2012
Written evidence from Andrew Duff, MEP

The Case for Associate Membership

1. As the Select Committee is aware, there is a timely new debate on the enlargement policy of the European Union, a debate that deserves to be as large as possible. The European Parliament will vote its own resolution on the matter (Kopppa Report) in its forthcoming November plenary session. It will adopt fresh perspectives on enlargement in reaction to two important factors – namely, the financial and economic crisis of the Union itself and the difficulties in which the current round of enlargement finds itself immersed.

2. If the EU survives the present crisis it will emerge in a different and much more federal form. There will be a fiscal union run by a federal economic government. Such radical change is already envisaged and begins to take its shape in the form of the banking union. Other features, notably the appointment of an EU treasury secretary, will be sharpened in the run up to the next elections to the European Parliament in May 2014 and the subsequent election of the new European Commission. Under the ordinary treaty revision procedure (Article 48(2-5) TEU), a Convention is destined to take place in spring 2015 whose main task will be the installation of the federal political union. It is important that all candidate states are made aware of the likely changing nature of the Union which they aspire to join. The Treaty of Lisbon is no longer the benchmark.

3. One should not dissemble about the problematic nature of the current and probable future applications for EU membership. None of the countries of the Western Balkans have yet reached that quality of a modern democratic member state which is a prerequisite for membership of the Union. None are free of security problems with their neighbours. All will require a longer time for deeper preparation for EU accession than was available for Romania or Bulgaria – or, for that matter, Croatia. The accession process of Turkey has stopped because of the intractable problem of Cyprus. Neither the ruling party nor the opposition parties in Turkey appear to be truly dedicated to achieving full EU membership, and there is in any case no prospect of an agreement among the EU’s member states about accepting Turkey as a full member.

4. The path to future enlargement will not be smooth or rapid. While a stronger EU will be better equipped to cope with the entry of new members, the threshold for those joining goes up. That being said, it is in everyone’s interests that the European Union continues to deepen its own integration in order that it may provide for all Europe a pole of stability, liberty and prosperity. There is a similar imperative for the Mediterranean. A European voice in world affairs will never be heard unless the EU is allowed to succeed in its mission at home and abroad. So it is wise to exploit the increasingly federated nature of the Union to introduce more sophisticated multi-tier arrangements than it has enjoyed so far.

5. In the Treaty of Lisbon we inserted a new clause, Article 50 TEU, which allows for the secession of a member state. This was a natural refinement of the constitutional order of the Union at a moment when it decided to take a significant, if incomplete, step in the federal direction. Member states have the sovereign right to choose not
to continue their membership as and when the Union as a whole takes on new forms and has new competences conferred upon it.

6. At the next general revision of the treaties, foreseen for 2015, I propose that the Convention adds a new clause which establishes a formal category of associate membership of the Union. This would logically appear between Article 49 TEU (accession) and Article 50 (secession). Article 49a could read as follows:-

1. Any Member State or any other European state which respects the values referred to in Article 2 and is committed to promoting them may notify the European Council of its intention to become an associate member of the Union. The negotiations shall be conducted by the Commission on the basis of a mandate agreed by the Council, after consulting the Parliament.

2. The conditions of associate membership and the adjustments to the Treaties on which the Union is founded shall be the subject of an agreement between the Member States and the Associate Member State. The agreement shall be concluded on behalf of the Union by the Council, acting by a qualified majority, after consulting the Commission and after obtaining the consent of the European Parliament. The agreement will enter into force once it has been approved by the Member States and the Associate Member State in accordance with their respective constitutional requirements.

7. Such an associate membership requires fidelity to the values and principles of the Union (Article 2 TEU) but not adherence to all its political objectives as laid down in Article 3 TEU (which include the euro), nor, of course, the duty to engage in all its activities. Participation by the associate member state in the EU institutions would necessarily be limited.

8. Associate status would well suit four categories of European country:-

- states which aspire to full membership but which need time and stability to meet the Copenhagen criteria and to assimilate the acquis communautaire;
- states which choose not to become full members but which require a secure and durable partnership with the EU;
- Norway and Switzerland, dissatisfied at their current arrangements;
- existing member states of the EU which prefer relegation.

9. For some, associate membership would be a spring board for full accession; for others, a long stay parking place; and for yet others a decent alternative to leaving the Union altogether. The form and conditions of the associate membership would need to be negotiated on a case by case basis, and would of course be determined by the dynamics of whether a state was coming or going. But the European Union has proved itself over the years capable of great constitutional ingenuity, and it is reasonable to assume that, given the political will to work together for the good of all Europe, satisfactory arrangements could be made to suit all circumstances.

5 November 2012

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5 I have written about the potential of associate membership for the UK in On Governing Europe, Policy Network, 2012.
Written evidence from the Embassy of the Republic of Bulgaria

I. What is the impact that joining the EU has had on Bulgaria economically, socially and politically?

Prior to its accession, Bulgaria had faced many difficulties with regards to the political and economic reforms needed in order to meet the EU membership criteria. The strong political will and the broad public support have both played significant role in the smooth overcoming of the challenges of Bulgaria’s accession to the EU (and NATO).

Bulgaria’s EU accession has been so far and still is a successful positive endeavour. It strengthened the democratic stability in political terms, and brought a greater significance and prestige in terms of the country’s international standing. Economically Bulgaria became part of the biggest market in the world, benefiting from the free movement of goods, capital, services, and people.

The membership has facilitated the spread of democratic values, improved the quality and efficiency of the public administration and the protection of citizens’ rights, led to increased possibilities for free movement and travel within the EU, increased weight in the decision-making at EU level.

Since becoming an EU Member-State, Bulgaria has actively participated in the decision-making process on EU level. During the first 5 years of membership up until January 2012 Bulgaria has participated in the discussion and adoption of over 500 directives, over 3 000 regulations and over 200 decisions. Actions have been taken to transpose over 2 200 EU directives into the Bulgarian legislation.

In the 5 years of membership so far Bulgaria has achieved a level of much greater inter-institutional coordination in preparing its national positions. The pre-accession process and the EU membership have contributed for the enhancement of the various administrative units’ capacity to coordinate policies among each other.

1.1. Trade integration and the flow of foreign direct investment (FDI).

The development of trade, transfer of capital, technology and management methods, as main catalysts of economic integration, bring great potential to less developed countries to catch-up with the more developed ones. The economic integration has had a positive effect on the Bulgarian economy and capital its markets by abolishing trade barriers and restrictions on the free movement of workers.

Bulgarian enterprises had to minimise their spending costs and increase their production due to competitive pressure of market forces within the EU. The liberalisation of trade improved the international competitive position and investment rating of Bulgaria. It led to an increase
Written evidence from the Embassy of the Republic of Bulgaria

of FDI to 9 bill euro in 2007 (corresponding to 30% of the GDP at that time), and had a positive impact on the labour market and the overall competitiveness of the country.

1.2. The benefits or pitfalls for small and medium-sized enterprises (SME).

Compared with the total number of EU enterprises, the SME sector in Bulgaria corresponds to its average value. However, the SME sector has created more jobs – 75.7% of the overall number (the average value for EU – 67.4%) and added value – 61.9% (EU – 58.1%). Within the SME sector there are fewer microenterprises in comparison to their overall number in the EU, which create fewer added values than microenterprises in the EU. However, their contribution to employment is similar, as they are bigger, which is part of the general characteristics of SME sector as a whole.

SMEs in Bulgaria very often operate in the trade sector (more often than the SMEs in the EU) where their share is 46% (the average value for EU – 30%). However, only 33% of jobs and 27% of added value belongs to the trade sector, which leads to the conclusion that this sector is characterised by small and relatively low-productive enterprises. SMEs in the industrial sector and construction have relatively higher share regarding employment and added value. The Bulgarian SMEs are less developed in high technology sectors and knowledge-intensive services compared to the SMEs in the EU. Their shares of the overall number enterprises are respectively 1% and 17%, and the average values for the EU are 2% and 28%.

1.3. The benefits for consumers.

The benefits for Bulgarian consumers after EU accession come from the harmonization of the legislation in the area of consumer protection and the opportunities of the Single market based on free movement of people, goods, services and capital. The impact of the advantages for consumers should be considered more in terms of quality and could be outlined as follows – higher level of protection of their economic interests; higher consumer and health standards and safety-related measures; better representation of their interests at individual and collective basis; larger choice of products, services and suppliers, as well through cross-border purchases. Bulgaria now participates in all existing consumer information networks at EU-level.

Networks such as – SOLVIT network; the European consumer centres network “ECC-Net”; the Consumer Protection Cooperation system in line with Regulation EC 2006/2004 on consumer protection cooperation between national enforcement authorities in the area of unfair commercial practices; RAPEX (rapid exchange of information on non-food products); FIN-NET (complaints about cross-border financial services); the rapid alert system in case of food risks; the network for the surveillance and control of communicable diseases; the European Centre for Disease Prevention and Control; the European judicial network.

1.4. Accession’s impact on wages and living standards in “new” Member States.

EU membership and the related positive changes helped to improve living standards. Purchasing power parity (GDP per capita) of the Bulgarian population, which determines the average wealth of the population in material terms, has increased in the period 2001-2011 from 30% up to 45% of the EU average (in real terms), according to Eurostat. Yet, 19.5% of
the population are living on incomes below the poverty line, according to a survey of June 2012.

1.5. Macro-economic discipline.

Bulgaria maintains a high level of macroeconomic stability and budget discipline. Despite the unfavourable economic conditions as a result of the crisis, Bulgaria has managed to reduce its budget deficit, as required by the Excessive deficit procedure (EDP).

The national fiscal rules are now enshrined in the State Budget Law, passed by the Parliament in early 2012. They imply a reduction of government costs by 40% and budget deficit to 2% of GDP. In March this year Bulgaria also signed the Treaty on stability, coordination and governance.

Due to the conservative behaviour of Bulgarian banks, the financial sector remains stable and profitable during the crisis. The reduction in credit growth and the growing number of non-performing loans (loans which remain overdue for a period of more than 90 days) did not affect significantly the banking system.

1.6. Labour migration to and from new Member States.

All studies of the European Commission and of individual Member States have shown the positive effect of labour migration and in particular the movement of work force within the EU. Freedom of movement, as part of the Treaties, cannot be made conditional. The mobility in the EU as a whole has not brought any serious difficulties at the European labour market. Bulgarians have played a positive role in the economies of the host countries, by contributing with qualifications and by working in spheres where there was a necessity of filling the labour shortages.

Statistical data shows that the number of Bulgarian workers in UK has had low impact on the British labour market and they did not pose a threat for creation of imbalances. Bulgarians in the UK labour market have positive added value, do not replace British citizens and are mainly employed in sectors with labour shortages. Influx of workers from Bulgaria when restrictions are lifted is highly unlikely due to the current economic conditions and also given that those wishing to move abroad have done so already.

Bulgaria is implementing a balanced policy on labour migration and integration of immigrants, complying with the country’s commitments as an EU Member State.

2. What geopolitical impact the EU’s decision on further enlargement might have, and how this might affect Bulgaria?

- The Western Balkan region is central to the foreign policy of Bulgaria.

In a meeting held in September this year with our ambassadors in the region, the work on an updated a short and medium-term vision for the Bulgarian contribution to European and Euro-Atlantic integration of the Western Balkan countries was initiated.

- Bulgaria has working mechanisms for sharing its experience and expertise in the field of European and Euro-Atlantic integration.
Bulgaria has signed bilateral memorandums with all of the Western Balkan countries.

**Overall remarks on the enlargement process:**

- In order to maintain the credibility and the transformation power of the accession process, the EU should keep its firm commitment to the European future of the region.
- The challenges in the Eurozone underline the importance of further consolidating economic and financial stability and supporting reforms and growth in the enlargement countries. The enlargement policy is a tool to this end and the current difficulties facing the EU should not weaken the dynamics of the enlargement policy. Addressing the risks of instability is a matter of joint interest. A stronger and enlarged Union is better placed to respond to the current challenges.
- Strict compliance with membership criteria, including the development of good neighbourly relations and inclusive regional cooperation remain the cornerstones of the enlargement process. Support for the own-merits-principle.
- Particular attention should be paid to human contacts and networking cooperation. Isolation leads to nationalism, xenophobia and slow economic development.
- Good neighbourly relations are a key factor. Solving problems and unresolved conflicts should be based on the European values and the strict conditions for membership. Particular efforts should be made to overcome the accumulated prejudices.
- The Western Balkan countries all face serious economic challenges. Support for economic and social development is clearly needed. In that respect the role of IPA and the regional networks should be strengthen.
- There is a need to “unlock” the economic potential of the region.

The economy of the region of 25 million people is just at 1.5% of the EU economy.

- The absence of an infrastructure connecting the region is a major obstacle.
- Greater attention should be paid towards the region due to the changes in the global geopolitics, the growing role of Turkey, energy corridors, debt crisis, the Arab Spring (immigrants from Syria).

**On the individual Western Balkan countries:**

- We welcome the assessment of the EC on the progress made by Croatia and look forward to its accession to the EU in 2013. Croatia has to keep up the momentum of reforms in order to fully comply with all requirements by the date of accession.
- Montenegro has registered significant progress in the last year which laid the ground for opening accession negotiations. In line with the new approach we look forward to the opening of chapters 23 and 24.
- As regards Turkey, we have to keep up the pressure and support for EU-related reforms. The respect of fundamental rights is a source of concern. We support EC
positive agenda, as well as the opening of new negotiation chapters as long as Turkey meets the established conditions. Continuing the on-going cooperation and dialogue on foreign policy issues is of common interest.

- The prospect of visa liberalization for Turkish citizens depends on the fulfillment of a number of criteria, among them the implementation of readmission obligations and effective border management, strengthening of bilateral cooperation. We expect Turkey to take steps for the establishment of a tripartite contact centre between Bulgaria, Greece and Turkey in relation to police, border and customs cooperation and joint border patrols.

- We welcome the progress made by Serbia during the last year. Moving toward the next phase of the integration will depend entirely on the ability of the country to deliver and to implement the expected reforms, including the normalization of the relations with Kosovo.
- We expect results from the new political process that began with the meeting of Dacic – Taci on 19 November 2012.
- We welcome the end of the supervised independence Kosovo. Now Pristina should continue with the EU agenda reforms. We consider the SAP as the proper framework for the European path of the country. Bulgaria supports the decision for launching the visa dialogue with Kosovo.
- We believe that Member States that do not recognize Kosovo’s independence should have a constructive approach to the Commission’s proposal to enter into negotiations with Kosovo for a SSA (Stabilization and Association Agreement).

- We support Albania’s efforts to achieve progress on the EU integration path and we are confident that the country is taking the necessary steps to accelerate the integration process. We would support granting Albania a candidate status if the fulfilment of the 12 priorities continues. The parliamentary elections in 2013 are essential in this respect.

- We support the European perspective of the FYROM and believe that progress in the European integration process depends entirely on the fulfilment of necessary criteria, including good neighbourly relations. However, we are concerned with the growing nationalistic rhetoric and irredentist claims by institutions and media in Macedonia. Bulgaria expects that a new bilateral document be signed building on a 1999 Intergovernmental Declaration in which both the Republic of Bulgaria and the Republic of Macedonia committed themselves to non-intervention in internal affairs and limiting the negative propaganda.

- The lack of progress in the European path of Bosnia and Herzegovina is disappointing. We hope that the political elites of Bosnia and Herzegovina will find mechanisms to overcome the current institutional crisis and to bring the state back on track of its European integration as a united country.

3. **Whether the Government and the people of Bulgaria are satisfied or disappointed with the EU membership?**

52.6% are satisfied with the country’s membership in the EU, but believe that Bulgaria is still far away from what has been expected.
A tenth (10.5%) consider that life has become better as a whole since Bulgaria joined the EU.
Written evidence from the Embassy of the Republic of Bulgaria

The unsatisfied are about a third (28.9%) – according to them our country has been burdened by restrictions that hamper its development.

A small number of the interviewed (7.9%) do not find a difference between the current situation and the period before 2007.

According to a recent survey by Eurobarometer 55% of the Bulgarian nationals have confidence in the EU institutions.

4. **How the Cooperation and Verification Mechanism (CVM) is functioning in practise, and whether and why it continues to be necessary?**

After Bulgaria’s EU accession the CVM proved a useful instrument in support of the efforts of the Bulgarian authorities to carry out the needed reforms in the judicial system, the criminal justice as well as in the internal security and public order sectors. Now the reforms are irreversible.

The legal framework underwent profound reform. As a result of it, strong and independent institutions have emerged. The civil society, NGO sector, business organisations and media have played an increasingly positive role in applying strong pressure for effective implementation of the new legislation and constant focus on the results.

In the last 5 years since the launch of the CVM, focus has clearly shifted from the adoption of the legal framework to its practical implementation and, as a result, the achievement of tangible results. Convincing results have been achieved in all areas under verification that are highly appreciated by both the Bulgarian society and the European partners.

The Bulgarian authorities have always considered the recommendations of the European Commission under the CVM with an uppermost attention and have used them as a starting point for the development and the implementation of the respective policies.

5. **Whether the right lessons have been learned from the 2004 and 2007 accessions in order to improve enlargement process on both sides?**

As in other policy areas, in the area of the enlargement the EU has taken measures to face up the new challenges. One of the most recent examples is the adoption of the “new approach” in the area of Justice and Home Affairs, which aims to improve the quality of the preparatory work in these important fields by applying clearer benchmarking, linked to supportive and corrective measures.

Another example is the Instrument for pre-accession assistance (IPA), where the EU has committed to improve the link between the financial assistance, the policy priorities and the results achieved, as well as to simplify procedures.

27 November 2012
Written evidence from the Embassy of the Republic of Croatia

Question 3. For new Member States, what is the economic and social impact of EU membership on a) the country, b) regional areas, and c) its citizens? You may wish to comment on the following:

i. Trade integration and the flow of foreign direct investment;
ii. The benefits or pitfalls for small and medium-sized enterprises (SMEs);
iii. The benefits for consumers;
iv. Accession’s impact on wages and living standards in ‘new’ Member States;
v. Macro-economic discipline; and
vi. Labour migration to and from new Member States.

1. Croatia expects to benefit economically from EU accession. Joining the Single market comprising approximately 500 million consumers will widen the area of economic cooperation and the scope of trade integration. Moreover, the increasing economic integration and the expected inclusion in the Single market have already, through accession negotiations and the resulting fulfillment of numerous obligations, significantly impacted and prompted systemic institutional reforms necessary for the creation of a stable domestic business and economic environment.

2. The EU has, as have some other large world economies, suffered from the effects of the economic and financial crisis. Some of the progress will hence by default be halted on its account, but the indicators show that it will still be more beneficial for a country like Croatia to be a part of the EU, rather than facing the challenges alone. The ESM and fiscal consolidation have ensured a robust EU response to the crisis and Croatia remains confident that its entry will come at a time of renewed strength.

3. It is expected that the freer movement of goods, services and capital will increase the overall level of economic activity and thus also positively influence employment rates. The implementation of institutional reforms undertaken for the sake of harmonisation with European standards is expected to increase economic growth rates. For example, the average additional growth rates in new member states amounted to 1.75% from 2000-2008. Also, the average GDP per capita in new member states grew from 40% of old member’s average in 1999 to 52% in 2008, thus clearly showing a reduction in income disparity and improvement in standard of living. As far as price indices are concerned, EU accession is not expected to impact prices in any significant way – the estimated rise amounts to 1.4% per year. The reforms and the resulting stable and viable business environment are also expected to positively impact on the growth of foreign investment. The labour migration to and from other member states is expected to be relatively small in scale.

4. Croatia is aware that the competitiveness of its economy will depend on the fostering of entrepreneurial spirit, investment in technology and education, the ability to adjust to new business practices, overall efficiency and successful marketing. The country will thus continue to implement the necessary reforms, especially in order to increase efficiency of public services, further improve the judiciary, strengthen the rule of law and nurture a
Written evidence from the Embassy of the Republic of Croatia

stimulating business environment and competitiveness. Croatia firmly believes that the Single market provides countries, especially smaller ones such as itself, with significant opportunities and remains the best available instrument for fostering economic growth and stability.

5. The EU has traditionally been Croatia’s most significant trading partner (the 2010 figures show that 61.1% of Croatia’s total exports went to the EU, while 60.2% of total imports were from EU), which means that the economic forecasts for the EU are of utmost significance for Croatia. The current discussions inside the EU about the future course of the European project, particularly in the areas of finance and economics, will determine Croatia’s development as well. Although the recovery of EU member states depends primarily on national fiscal and economic policies, it can be argued that EU membership has helped the new member states to experience quicker recoveries than non-EU members who faced similar problems.

6. Some difficulties are expected in the shape of financial expenses dictated by regulatory and institutional adjustments in certain areas, such as environment, higher education, state aids. For example, environmental protection and the achievement of necessary standards will require large-scale infrastructural investment. However, the costs of this nature are not to be considered as negative aspects of EU accession – they are investments which will ensure a safer and more stable living and business environments, creating the conditions for future development. Other challenges are expected in the sectors of economic activity which are less well prepared for the competitive nature of the European common market. Therefore, areas such as fisheries and agriculture will likely experience short-term costs that will be higher than benefits in the immediate post-accession period. However, the financial and other resources that will be available to these sectors after accession will help with achieving the necessary restructuring and better preparedness of economic subjects for withstanding the EU market forces and generating competitiveness.

7. The direct financial impact thus far indicates that Croatia would be a net recipient from the EU budget (the total payment appropriations for the second half of 2013, following Croatia’s expected accession date of 1 July, 2013 amount to €374.3 million, while Croatia’s contribution should be €267.7 million). Of course, the dynamics of payments to Croatia from the EU budget and various structural funds also depends on the absorption capacity the country will demonstrate. This is an issue on which Croatia has made significant improvements through the use of pre-accession funds.

8. Concerning the possibility of joining the Eurozone, it is not yet possible to say when this may happen. Croatia first needs to, upon entering the EU, demonstrate its readiness by fulfilling the Maastricht criteria.

**Question 5. Is Croatia satisfied with their accession process and the arrangements in place for them to join the Union?**

1. Croatia has undergone a lengthy but thorough, and above all useful, process of accession. It began with the conclusion of the Stabilisation and Association Agreement with the EU in 2001, continued with the application for EU membership in February 2003 and the subsequent granting of candidate status in 2004. The accession negotiations were
Written evidence from the Embassy of the Republic of Croatia

officially launched on 3 October 2005 and concluded on 30 June 2011. Croatia’s Accession Treaty was signed on 9 December 2011 and ratified by the Croatian parliament on 9 March 2011. Croatia is expected to become the 28th EU member state following the completion of the ratification process in all MS (15 have currently done so, while additional 4 have completed parliamentary ratification and are due to deposit relevant legal instruments, bringing the effective total of MS ratifications to 19).

2. Croatia’s negotiations were one of the longest in the Union’s history (having lasted for nearly 6 years). But instead of looking at the duration of the process, Croatia views this as a useful tool for ensuring that systemic reforms were undertaken in all necessary areas. It was always the goal to conduct the necessary changes because of the well-being of Croatia’s own citizens, not simply as a dictate from Brussels. EU accession and negotiations also provided a strong unifying platform across the political aisle, with the goal of EU membership having enjoyed the support of all major political parties and therefore having contributed to the maturing of Croatia’s political system. Through this process, the europeanisation effect on political parties became clearly visible, by forcing all of those parties wanting to retain a role in the country’s political life (including the right-wing ones) to support Croatia’s EU path.

3. The process had taken longer than in previous enlargement waves partially because of the lessons learned on the EU side as to how detailed the examination of readiness, legal harmonisation and implementation of obligations needed to be in order for a new acceeding state to be considered as fully prepared. Croatia’s negotiations were thus not only one of the lengthiest ones, but also had a significantly wider scope, as well as a much more detailed methodology. Croatia was thus set (and has fulfilled) a total of 127 benchmarks for opening and closing the negotiating chapters, as well as certain sub-benchmarks. The total number of benchmarks thus fulfilled is more than 400. What these numbers mean in practice is a series of adaptations, reforms and (legal and institutional) activities and changes undertaken. All of these required tangible, specific and consistent results and deliverables in the process of harmonisation with the acquis communautaire and its implementation. During negotiations Croatia has therefore adopted 370 laws and 1133 by-laws to align its legal system with that of the EU. Croatia has also amended the Constitution (in June 2010) for the same reason.

4. By having undergone a robust, detailed and strictly monitored process, Croatia has ensured that its political, legal and economic systems are fully in line with what is expected of an EU member state. The fulfillment of all the necessary obligations and reforms has made Croatia a viable and trustworthy partner in the EU family, through the achievement of irreversible progress in transforming the country into a stable democracy characterised by rule of law and encompassing a fully functioning market economy.

5. The ongoing pre-accession monitoring undertaken by the EU institutions and MS guarantees that the remaining tasks will be accomplished by the date of accession. Croatia has welcomed such monitoring as a valuable instrument which will help to eliminate any need for post-accession monitoring mechanisms, thus enabling Croatia to be on an equal footing with the other member states.

6. Croatia is satisfied with the preparatory participation in EU business through its status as an observant state and participant in the Information and Consultation Procedure. These mechanisms are of crucial importance for preparing Croatia’s institutions and officials
with regards to EU institutions, allowing them to familiarise themselves with the working practices of EU institutions and participate in the decision-making process, thus enabling Croatia to efficiently function as a new member state from the very date of its accession.

7. Croatian representatives are therefore already taking part in Council meetings at all levels (with the exception of those dealing with candidates and potential candidates under SAAs, the EEA Agreement and in the context of the enlargement process). Conversely, twelve Croatian MEPs already benefit from observer status in the European Parliament. Participation in EU institutions and bodies has manifold benefits, with the main ones being: learning about EU work practices/establishing important contacts; being treated as equal partners; ability to provide inputs in areas of particular interest for Croatia.

**Question 9.** What might be the broader geopolitical impact of further enlargement, or of not admitting additional states who wish to join? How might the European neighbourhood be affected by the EU’s decisions on enlargement?

1. From Croatia’s point of view, the policy of enlargement remains one of the best tools to widen the area of stability, security and prosperity in Europe. The historical track record of enlargement strongly supports this. It is our belief that the inclusion of additional states, based on clear and consistent criteria, can only be beneficial for the EU as a whole, as well as its individual member states. The notion that democracies do not fight each other remains increasingly relevant and has been proven by the successful expansion of European integration.

2. Croatia’s own neighbourhood is certainly an area which has already benefitted from the effects of European integration, in political, legal and economic sense. Croatia strongly supports the expansion of the EU to all the countries in the region of South-East Europe, seeing it as an issue of strategic importance. We will continue to provide advice and assistance on these countries’ path to closer EU integration. Croatia is already working closely with these countries on expert and technical levels, sharing its experiences from the accession and negotiation processes. Such support is proving invaluable, since Croatia’s experience was markedly different than that of the countries in previous enlargement waves and will form the blueprint for the future. In this way, regional cooperation is also being strengthened, providing an additional reason for nurturing enlargement as a stabilising tool.

**Question 11.** Is ‘enlargement fatigue’ setting in for a) the Union as a whole, b) individual Member States, or c) candidate countries? How can such ‘fatigue’ be gauged, and should the EU be working to combat it?

1. From the perspective of Croatia as an acceding state, due to become an EU member state on 1 July 2012, it can be said that enlargement fatigue is not present within the country. This can be supported by the fact that 66% of voters voted in favour of accession at the national referendum held in January 2012 (a constitutional obligation forming part of the accession process). Croatia for the most part still believes that enlargement is a positive policy of the EU, one that enables the spreading of security and prosperity to the potentially less stable parts of the continent and provides all with a
common stake in a stable (political and economic) future. Integration is thus not to be viewed as being achieved for its own sake, but as an instrument of positive change.

2. Of course, it is also a fact that public opinion regarding the EU and accession sometimes oscillates and responds to various outside factors. The falling percentage of support in comparison to the very beginning of negotiations was expected, as was the case in all other countries who had entered the EU before Croatia. The more citizens learn about the EU and are faced with the complexities of its inner workings, the more the numbers fall. It is important to note that, in Croatia's case, it was also clear that the steepest dips in support were directly linked to situations when Croatia's negotiating process was being used by individual member states to resolve bilateral issues at the expense of progress in EU accession. However, all this being said, the general trend is still one of optimism and overall support, because the citizens recognise the reforms being undertaken as a guarantee of a more ordered society, stable political system and resilient economy.

3. As for the enlargement fatigue being felt inside the EU and its current member states, it is undeniable that it is indeed visible in some. Differences persist among MS with regard to attitudes towards enlargement (some are more supportive of it than others, on principle). Additionally, the dominant topics in the Union today pertain more to the financial crisis and ways of dealing with it (and putting into place safeguards for the future, thus necessitating a discussion of the desired path to be taken) than enlargement as such. The discourse inside the EU has shifted somewhat away from enlargement and more towards new systemic issues such as deeper fiscal integration and a possible need for a deeper political union in order to deal with new financial and economic challenges.

4. However, it seems unlikely that enlargement will in any major way be scrapped as an important EU policy. It may be partially taking a back seat in the light of the financial and economic crisis, and it is probably also affected by the perceived slowness on the part of current and impending candidate countries (coming after Croatia) to manifest imminent readiness for membership. Enlargement fatigue is thus conditioned both by the existence of more pressing problems concerning the functioning and institutional set-up of the EU, as well as by objective circumstances. Nonetheless, the EU is unlikely to abandon enlargement as a useful instrument for spreading and entrenching a common set of values, rule of law, economic and political stability across the European continent.

**Question 14. Have the lessons from previous enlargement rounds been learnt to improve the processes of enlargement?**

1. Croatia is very well placed to confirm that lessons from previous rounds of enlargement have deeply impacted all subsequent rounds. As the large 2004-2007 wave has strongly influenced the changes introduced as part of Croatia's accession process, so will the lessons learned from Croatia's negotiations be applied to the current and future candidate countries for EU membership.

2. Croatia's own negotiating process has been very different from what previous candidate countries have experienced. The topical division among chapters was more detailed, as was the scope of each chapter. In order to ensure a more closer monitoring of obligations' fulfillment, as well as to ensure that their implementation begins earlier on in the process, the system of benchmarks was instituted. This ensured tight controls by the
Written evidence from the Embassy of the Republic of Croatia

European Commission and the member states over deciding when Croatia was ready to open and close chapters. Certain strategies and documents, other than the newly adopted laws, which Croatia had to produce were required to be much more detailed and were judged according to more detailed criteria than before.

3. Generally speaking, the scope and methodology of negotiations had undergone such significant changes following the 2004-2007 wave of enlargement that both Croatia and the European Commission had to learn by doing in many ways. It also meant that Croatia could not fully benefit from relying on experiences and advice of countries who had negotiated with the EU before it.

4. However, the fact that Croatia has taken the more difficult path now means that its experiences will be highly relevant for any current and future candidate/acceeding state. Croatia thus finds itself in the unique position of being able to share its expertise with these countries and is actively doing so. For example, in addition to daily cooperation on expert levels among civil servants, Croatia has provided its neighbours with the full translation of the *acquis communautaire* (around 180,000 pages of translated materials, worth approx. €6 million, which Croatia financed entirely from its own national budget).

5. Not only does Croatia believe this is its obligation in order to help its neighbours and promote regional co-operation, but it also considers this a matter of national interest. By sharing its hard-won expertise, Croatia is helping to strengthen the stability and prosperity of the region and thus creating a more desirable and secure environment for itself. Moreover, given its own experiences in the accession process during which it was faced with the attempts by some member states to introduce bilateral issues as part of accession negotiations and thus unjustifiably stall EU accession, Croatia is determined to avoid such pitfalls. Croatia has thus adopted (in October 2011) a parliamentary *Declaration on the promotion of European values in South-East Europe*. The document reiterates Croatia’s firm belief that open bilateral issues should not hinder the progress in EU accession and confirms that it will continue providing its support and assistance to its neighbours in the region on their EU paths.

12 November, 2012
Written evidence from the Embassy of the Republic of Serbia

**“Enlargement of the European Union”**

**Resume**

The EU is facing numerous challenges in this decade, and its development can be described as decisive for the future.

The assumption is that the current EU institutional crisis can mark a long-term economic and political stagnation, both from the perspective of the EU member states and its institutions, as well as the rest of Europe i.e., the countries of the region (the so-called Western Balkan countries).

It is also assessed that the Western Balkan region has been affected much worse than expected. At the same time, keeping the course of the European enlargement policy, in such complex times that we live in, as well as in the future, implies numerous challenges for countries of the Western Balkans. For some time now it has been openly spoken of the EU “enlargement fatigue”, and this subsequently stresses the need for EU institutional and identity consolidation after the last two enlargement processes.

Economic realism is certainly in favor of EU enlargement, but obviously it is necessary to ensure timely harmonization of strategic targets of some of the individual member states, as well as the capacity of the EU for new enlargement. In any event, the EU, in addition to overcoming its problems, faces a period when it will have to demonstrate and implement more coherent common policies and co-ordinate most important priorities, at least for a new five-year mandate of the European Commission (2009-2014).

Although there are numerous possible outcomes for the EU, the general trends can be sustained and on the basis of these, the problems with which we are faced nowadays can be defined. The focus of this paper is to contribute some answers to the question in which direction could the abovementioned processes go, in order to ease and overcome the financial crisis and growing Euro-scepticism, as well as how the ongoing challenges are reflected on the EU’s enlargement policy,

**Key words:** crisis, consolidation of the EU institutions, vision, Enlargement challenges, Balkans region, the Republic of Serbia

**Principles behind the enlargement**

1. Do Articles 2 and 49 of the Treaty of the EU provide the right principles for any further enlargement of the EU?
2. The Copenhagen criteria expand upon these principles to provide a more detailed framework for eligibility to join the EU. Do these criteria fully encapsulate the principles behind the EU enlargement?

The European Union’s enlargement policy serves the strategic interests of the EU in terms of stability and peace, security and conflict prevention, and as the basic postulate of creating the EU in general. As it is known, the EU enlargement policy is one of the
"most powerful" means of the EU, based on the principles of strengthening commitments, fair and strict conditionality and establishing better communication with the public, combined with the ability of the EU to integrate new members from the Western Balkans⁶.

However, the period of the nineties, during the negotiation process with the candidate countries and the accession of 12 new member states, was probably a moment of great enthusiasm for EU integration. Nowadays, the situation is considerably different. We are faced with those advocating the slowing down of the enlargement process and insisting on stricter conditions for EU membership. In our opinion, this approach may impede the integration processes and regional stability. One of the reasons, by far is the challenge posed by the global economic crisis, the scale and consequences of which are yet to be seen. The other one is that strict conditioning, on the basis of an individual fulfilling of the Copenhagen Treaty criteria and other requirements defined by the EU, may have counter effects and long-term implications on the citizens of the Western Balkans.

Such a challenge requires European and regional response. On the basis of common values and common interests, the EU and its neighbours can be more efficient in coping with current challenges. The Republic of Serbia is fully committed to the European integration processes, based on the fair partnership with the EU, as the best way of achieving security, prosperity and lasting peace in the region. We are of the view that acceleration of European integration and regional economic cooperation are the key mechanisms for the successful achievement of the political and economic priorities, and the only way to contribute to more prosperity and growth opportunities, as well as to increase connectivity of the transport and energy routes through joint efforts. The opening of negotiations on the EU membership process will intensify in the best way the cooperation and interconnections between Western Balkans region and EU member states and will have a strong impetus for overall growth, inflows of foreign direct investments, regulation of economic system and continuation of reforms and development of the region as a whole.

The impact of EU membership on new Member states

3. For new Member states, what are the economic and social implications of EU membership for a) Member states, b) regional areas, and c) citizens?

Comments about trade integration and the flow of foreign direct investments

It is unlikely that the experience of the Central European countries can be replicated within the countries of the Western Balkans, when the process of their integration into the EU produced a large wave of investments. Although, there is also an obvious connection, looking at Western Balkans region, between strengthening relations with the EU, the European integration processes respectively, and the influx of investments. That is influenced by the fact that integration of a country into the EU, means adjusting its

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⁶ Besides the well known “Copenhagen” criteria which were applied to the countries that are joining the process of integration with the EU (political, economic and acquis communautaire), a fourth criteria was introduced (Article No. 49) – necessary assessment of the EU’s ability to accept new members, representing an external requirement for the countries in the process of pre-accession, depending on the conditions, position and the mood of the European Union, as a whole, at the time.
Written evidence from the Embassy of the Republic of Serbia

economy and society according to the regulations of the EU. Through harmonization of the laws and negotiations about different chapters of the EU _acquis communautaire_, there is a continuous improvement of the business environment and legal certainty, which then influences the increase of trust of foreign investors regarding the investments in a specific country.

In this respect, the European Commission (on 10 October 2012), has published the regular annual report on the progress of the candidate countries for EU membership, whereby pointing out that Serbia had achieved progress in 26 out of 33 chapters in the field of harmonizing its legal system with that of the EU.

Even though the obligation to harmonise the legislation of Republic of Serbia with the _acquis communautaire_ was assumed only by the signature of SAA in 2008, the Government had initiated organised harmonisation by its annual action plans since 2003, which were transformed into the National Programme for Integration. Within the process of preparations for the implementation of the SAA, gaining of candidate status and the preparations for negotiations on EU membership, Serbia adopted its National Programme for Integration into the EU (NPI) in 2008 – a programme of activities of the Government of Serbia for 2012 that was designated as the year of Serbia's readiness to start the EU accession negotiations. The implementation of the NPI insofar observing legislation planned for adoption in the period from July 2008 to 30 September 2012, the NPI was fulfilled 80% (884/1 103). Of the 225 planned laws, the National Assembly adopted 195 laws or 87%.

9. What might be the broader geopolitical impact of further enlargement, or of not admitting additional states who wish to join? How might the European neighbourhood be affected by the EU's decision on enlargement?

   Global action and internal challenges inside the EU itself, and EU member states, will be a priority for a long time to come, aiming to pre-set economic recovery of the Union. Before the EU lies a period in which it will have to demonstrate and enforce a more coherent common policy, and, at the same time, jointly determine and coordinate the most important priorities. Economic “realism”, of course, supports EU enlargement policy, but it is obvious that it is also necessary to time-align achieving the strategic goals of individual member states and the strategic goals of the EU, in order to enable new capacity expansion, while the priority of the citizens, in the long term, is going to be dealing with unemployment and maintaining their standard of living. In any case, in the next five to ten years, depending on the conjectures in the EU aimed at overcoming the economic and social situation, and in an atmosphere of a certain saturation with the EU's enlargement, the Balkans will be the focus of EU efforts to enhance the relations in the region, settle disputes over the borders and to pacify the relations between the states of concern to the extent that is acceptable by the EU.

   The consequences of a possible delay of EU enlargement would be significant both for the Balkan countries and the EU. It is certain that the economic loss of the Union would be negligible, due to the fact that partial market integration with the countries of the Western Balkans already exists, apart from membership. The risks of the regional expansion delay would be high. The small Balkan countries with limited markets and poorly organized economies, low living standards, and modest relations with the “newly emerging economies from Asia and Latin America – in the near future, do not provide
Written evidence from the Embassy of the Republic of Serbia

sufficient assurance that they could maintain economic stability, their own, or regional. All of this is the reason for the EU to deeply consider whether these countries can be admitted to the membership as a group.

Leaving Western Balkans countries outside the EU for any unpredictable reason would be more risky and more expensive than its entering the Union. As a proof of that, the European Commission presented (on 10th October 2012) its annual Report - Strategy and Main Enlargement Challenges document 2012-2013, making the preliminary estimates that Serbia’s accession to the EU would have a limited overall impact on EU policies and would not affect the Union’s capacity to maintain and deepen its own development.

The appetite and capacity for further enlargement

10. What impact should the ongoing economic and financial crisis, particularly in the euro area, have on further enlargement?

Economic stagnation and adverse financial effects on the EU level, particularly due to poor economic parameters in a certain number of member states, can lead to a spiral of long-term public debt, budget deficit, a general softening of the overall performance of the EU, being dependent on programs to overcome the financial crisis. Future growth of unemployment looks high (with a tendency to increase further), showing that possibilities for job offers and preservation of the industrial potential will pose a challenge even to the economically strongest countries in the EU.

It is also estimated that the Western Balkans region has been affected by the economic and financial crisis far worse than expected. The Western Balkans has been for a long time faced with a number of economic and political issues that might affect security, stability and economic prosperity in the region. For most of the Western Balkans, the main priority is to perform much better economic environment, as well as to manage state administration on local and regional levels. Unemployment still remains high, and further reforms are needed in the areas of employment and social policy. A significant increase in the current account deficit, recorded throughout the region, increases the risk of future macro-economic problems and challenges multiplying under the influence of the financial crisis. Plus, there has been a decrease in the influx of foreign direct investment in Serbia in the last two (2) years owing to the economic crisis.

So, it is quite so possible that political and economic situation within the Eurozone, could have the effects or repercussions on the EU enlargement policy, having in mind that the EU is the main trading partner of the Republic of Serbia (out of the total trade of Serbia with the world, 56% of trading is performed with the U, 17% with the CEFTA Member States, 10% with Russia, and 4% with China). Owing to signing of CEFTA 2006, Serbia has provided the access to the regional market. The EU and CEFTA present the most important markets for the goods originating from Serbia.

7 Since 2001 and onwards 17 billion euros of foreign direct investments arrived in Serbia. Out of the said amount, up to 60% of investments have come from the EU countries, further confirming the high degree of economic integration between Serbia and the EU.
The other problem, determined by the financial and economic crisis, could be correlated with the EU budget challenges and costs level of enlargement/expansion in the future, i.e. projection of the next EU budget period, from 2014 to 2019. That period could be characterized by the changes, turbulence and possible adjustment of the financial system to new conditions. The focus is on the financial resources which the EU budget can handle, with direct implications on the future course of the expansion, in which the majority of the EU members could pursue their own interests.

In this period of economic uncertainty, one thing is sure — countries of the Western Balkans have witnessed progress in regional processes, consolidation of stability and cooperation in our region, whereas the most of the countries have achieved advances towards EU membership. This trend should be continued until all the countries of the region have joined the EU, in spite of all the economic and financial difficulties currently preoccupying the EU, and the European perspective of the Western Balkan countries’ accession should not be neglected or simply put aside. EU enlargement policy’s transformation power accompanied by open door approach should provide an additional impetus for serious structural reforms that need to be undertaken and provide for long term political, economic and social stability in Serbia and the rest of the Western Balkans.

11. Is “enlargement fatigue” setting in for a) the Union as a whole, b) individual Member states, or c) candidate countries? How can such fatigue be gauged, and should the EU be working to combat it?

For a long time, there was talk of "enlargement fatigue", which emphasized the necessity of consolidation of both the institutions and the identity of the EU after the last two largest enlargement "waves" (ten member countries in 2004 and 2007 when Romania and Bulgaria were officially admitted). To add to this “fatigue”, the growing bilateral territorial or minority rights disputes within the EU also posed a threat to the entire further course of the European integration process.

Actually, the entire political-economic situation with EU enlargement policy was disrupted by more then tree mentioned reasons: EU as a whole, the individual interests of the EU member states, and situation in EU candidate countries. Of equal importance is to underlying the new coming factors that could also have a far-reaching impact to the problem – citizens are feeling more and more distant from the process and the "EU project" itself. General dissatisfaction with the economic situation of citizens within the member states, massive strikes of trade unions and students, drastic budget cuts, curtailment of benefits and socio-economic allowances, have further burdened the functioning of the EU. The results of the elections of the European Parliament (in June 2009) showed in the best way that the proponents of Europe (Euro enthusiasts) are facing major challenges, which means fighting against the apathy or negative opinions about the EU, and EU enlargement as well. Also, the ratification process during the admission of new members in national parliaments of EU member states, which will be a large undertaking, and to ensure its success it will be necessary to significantly change the voters' opinion and to create an environment that is more favourable than the one existing today.
A decline in the voters' interest to vote is evident, primarily due to the growing economic crisis, an uncertain future, lack of understanding of the way the EU institutions are functioning and the impact on the nation's problems, partial political saturation, and the numerous affairs which have involved some political figures at different levels. In that regard, a sharp decline in the support for future enlargements has been noticed, among the EU member states and candidate countries (Western Balkan) as well.

So, it is therefore in our interest to find responses to the questions as to how, and in which direction could those processes go, in order to overcome the financial crisis and a growing Euro-scepticism over EU’s enlargement policy. At the time of global changes in the 21st century, it is more important than ever to develop a positive vision of the EU’s future. That implies defending the achievements of the past, and, at the same time, developing new European interests and responsibilities for the Enlargement policy. The issue of thinking over further expansion of the EU boundaries, the level of integration, and deepening of collaboration between the countries, must have been in the focus of EU’s development for years, with all the risks and benefits of complex socio-political implications on EU enlargement.

The EU capacity to absorb new states should remain high. Realistic, sound and accountable communication activities towards EU member states citizens should try to explain all the benefits of common market as well as risks of disintegration and its consequences on economic and political sustainability of individual member states in ever more globalized and competitive world.

14. Have the lessons from previous enlargement rounds been learnt to improve the process of enlargement?

In order to prepare and adjust for EU membership, the Republic of Serbia, as an official candidate state for EU membership, acknowledges the lessons from the previous enlargement rounds (accession of 12 new member states). There are positive examples of the countries which managed to use the EU accession as a transformation tool in order to increase their own competitiveness and improve standard of living for their citizens by providing them with security based on strict respect for rule of law, better conditions for economic development and adoption of EU acquis and standards. However, there are other not so positive examples as well.

Special attention, among other, was placed to the case of Bulgaria and Romania, having in mind that there is still a certain amount of caution inside the EU, as regards the possibility of repeating the case of Romania and Bulgaria, which, according to the prevailing opinion in the European circles, joined the EU without meeting all the necessary political and economic criteria. Besides, it is well known that the "slow down" or "conditioning" the process of European integration had occurred after each "wave" of enlargement. Plus, the reasons for the occasional restraining of some EU member states related to the speed of further enlargement and broadening of the region, are not limited only to the so-called Western Balkan countries, but also to Turkey.

Having that in mind, the Republic of Serbia has continued to work hard in an array of reform processes, placing special emphasis on the adoption of laws and by-laws, as well as on the implementation of the already adopted norms and rules. The government of Serbia is fully prepared for the decision of the EU to open the negotiations for EU membership, and to accelerate European integration process, having
in mind the capacity and capabilities of the state administration. Fight against organized crime and corruption, introducing the rule of law, protection of human and minority rights, regionalism and decentralization, dedication to further enhancement of market economy, free trade and business environment as within the EU single market, cooperation with the civil society were, and will continue to be, the focus of our endeavours. On the part of the EU, Serbian results on the reform agenda and the acceptance of the acquis of the Union, are clearly recognised. And, finally, it is not solely because these are entailed by the EU reform agenda, but rather due to the awareness of our society that these changes and improvements are necessary to move forward.

14 November 2012
**The Desirability/Inevitability of Further Enlargement**

- **Transformative Power of Enlargement**
  Long considered as the “most successful EU foreign policy,” enlargement is one of the most important tools of the European Union to bring peace and stability to the Continent, helping to spread the values and principles of democracy, human rights and the rule of law. Most recently, it has helped the EU earn the Nobel Peace Prize.

  “Enlargement” is a very particular policy; while through “enlargement” a third country slowly transforms into a “member”, the EU itself also transforms by adding to its members, and benefiting from the total of its sum. This reciprocal transformation process is at the root of mutual empowerment, for the EU and for the new members alike.

  In the case of Turkey, both Turkey and the Commission agree that the accession process has contributed to the overall improvement of democratic standards as well as to the present strength of the Turkish economy, providing, as in the case of other candidates, the momentum for and expediting political and economic reforms. The perspective of membership, while providing an added incentive to undertake comprehensive reforms in Turkey, has added to the country’s standing among international economic actors as a viable partner for trade and investments. The political pull-over effect of Turkey’s candidacy in its region is also a point that should not be overlooked.

- **Enlargement, **sine qua non** **for the Self-confidence of the Union**
  The raison d’etre of the Union as a peace project through an economic union has served the needs of its founding members as a most viable remedy to the ills of the Post-World War II era. Now, more is needed. Enlargement is a way to further strengthen the Union.

  It is possible to argue that following the Union’s enlargement to several central and eastern European countries under extraordinary political conditions after the end of the Cold War, recognized as a “political necessity and historic opportunity” at the 1995 Madrid European Council, a growing general scepticism about further expansion has slowly crept into the political and social fabric of the EU. While the reasons for and the degree of this scepticism vary from country to country and may depend on the policies of particular Government in power in a given EU member, the current economic crisis has fuelled this negative sentiment. Despite the increasing populist tendencies to stem further enlargement once Croatia joins in 2013, the official EU position favours continued enlargement.

  In the words of the Commission:

  “At a time when the EU faces major challenges and significant global uncertainty and gains new momentum for economic, financial and political integration, enlargement policy continues to contribute to peace, security and prosperity on our

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continent...At the same time, enlargement reinforces the Union’s political and economic strengths. By exercising leadership through its enlargement policy, the EU can reap the benefits of a stronger and more united continent, also demonstrating its continued capacity as a global actor.”

The EU, in order to have a decisive global reach must be well-equipped on all levels: political, economic, social, cultural resources will all be important determinants in an increasingly interdependent web of international relations.

While all present candidates will make certain contributions to one or more of these areas, **Turkey** is the one candidate able **to bring considerable added-value** to the Union on all these accounts. Turkey plays a key role in the achievement of the EU’s goal of a more powerful, secure and stable future.

Consider the following:
- Turkey enjoys a unique strategic position in its region for geographical, cultural and historical reasons. It is an active player and a credible mediator/facilitator in critical areas such as the Middle East, South Caucasus, Central Asia, the Black sea basin, Mediterranean and the Balkans. Turkey’s EU accession will strengthen the influence of the EU as a global actor, increase its credibility within the Muslim world by confirming that it is not an exclusive “Christian Club” but rather a union of democratic values and send a powerful message to the world that a “clash of civilizations” can be avoided.
- Turkey is not where East and West are divided but where East and West come together. Thus, Turkey’s accession will constitute a great opportunity for the EU to prove itself as a peace project.

**The Credibility of the Accession Process:**

- **Sustainability**
  The policy of enlargement must be pursued in a sustainable manner. This means that the accession process should not only be based on the obligations of the candidates in order to enter the Union, but that it must also be conducted by the EU in a principled and just way.

- **Objectivity**
  The question of “ politicized” versus an “objective” accession process is today the one essential aspect of the enlargement policy’s credibility.

Celebrated as it is, enlargement policy has had its shortcomings which have put into question its credibility, even its legitimacy. Based on past experiences with some candidates’ less than desirable level of preparedness after entry, doubts about further expansion have led the Union to embark on modifications in enlargement methodology, whereby the overall end result has been an increase in the Member States’ control over the conduct of the policy. These adjustments, however, have largely translated into a means for the EU countries to slow down the pace of enlargement (like the introduction of “benchmarks” and a new emphasis on “absorption capacity”).
The Commission’s 2006 Enlargement Strategy brought new principles to enlargement policy, among them “rigorous and fair conditionality”. The European Council endorsing the Commission’s new approach agreed that “the enlargement strategy based on consolidation, conditionality and communication, combined with the EU’s capacity to integrate new members, forms the basis for a renewed consensus on enlargement.”

The “new consensus” on enlargement provided the EU with more opportunities to hold up, slow down or direct the negotiation process. Increased control by Member States has also led to unpredictability in the negotiations for the candidates, as the reasons for the member countries for holding up the negotiations do not always relate to lack of compliance with accession criteria by the candidates.

The use of accession negotiations, by EU member countries as leverage in bilateral disputes/issues is a way of “changing the rules of the game while playing”, with the serious end consequence of abuse of the enlargement process for domestic political gains. As such, benchmarking methodology creates an unpredictable process, which undermines the credibility of the enlargement policy and consequently its effectiveness.

The blockage by France of some 5 chapters in Turkey’s accession process – based on the argument that these chapters are too closely related to membership - is a case in point.

Again as regards the negotiations with Turkey, several screening reports have been blocked without any new criteria being suggested by some opposing member states. As a result, Turkey has remained uninformed as to what it is expected of her to open the chapters in question.

The relative vagueness with which the EU treats some key pre-accession criteria, notably in the area of political criteria, appears as another potential problem in the accession process. The economic pre-accession criteria fare much better in this respect. For instance, the definition of what constitutes a market economy is quite clear. This difference is particularly evident in the case of Turkey, where the EU is almost always more ready to give credit Turkey’s economic performance in comparison to the substantive reforms undertaken unabatedly during the past decade.

- **“Absorption capacity”**
  The idea that the Union must be able to welcome new members yet maintain the impetus of European integration is not entirely new; the idea that enlargement should not hamper the attainment of the objectives of integration has been in EU rhetoric even as far back as the first enlargement of the EEC, as a linkage that all candidates should commit to respecting the acquis. Yet today, it is more ambiguous than ever. “Absorption capacity”, also known as “integration capacity” is referred to by member states as a possible means to hold up or question the eventual accession of a candidate country, thereby creating an added environment of doubt as to the desirability of membership.
This leads to the artificial misconception that enlargement by definition is a process that holds back further integration. The notion of “absorption capacity” is at worst a determinant in the member states’ decision on whether or not to enlarge the Union or, at best, a safe haven for politicians to influence or direct public opinion regarding a candidate country.

“Too large” has long been a popular, populist and overused rhetoric in both political and public domain in Europe by Turkey-sceptics. After the 1993 Copenhagen European Conclusions some in the EU have attempted and to some extent, managed to codify this misguided argument within the context of “absorption capacity”, now redefined as the “integration capacity.” Such preconceived generalizations should not be allowed to discredit the true merit that is found in enlargement.

Consider the following in the case of Turkey:

- Turkey’s accession will increase the size of the European internal market, as well as the competitiveness of the EU in the global market.
- Currently, Turkey is the sixth largest economy in Europe and sixteenth in the world. Turkey, with industrial goods amounting to over 90% of its exports, is the seventh largest trade partner of the EU.
- The Turkish economy is Europe’s fastest-growing sizable economy and will continue to be so. According to OECD forecasts, Turkey will be the second-largest economy in Europe by 2050 and it will become the “engine of growth” for the EU.
- All the projections of the EUROSTAT imply that Turkey’s dynamic economic growth will continue in the short and medium term. Turkey’s economic performance, whose free market economy has proved to be well functioning, should be considered as an indicator that Turkey will take economic burden off of the EU, even sharing the potential costs of recovery that will be needed as a result of the Euro zone crisis.

**Strengthening of the EU through Enlargement**

- **A Defining Enlargement**
  Each enlargement inevitably and inexhaustibly redefines the Union in terms of international relations, security, geo-political reach, economic dynamism, issues related to justice and home affairs, last but not least, in institutional structure and budgetary demands/resources.

  The need for a defining enlargement for the EU has never been more urgent than now. The accession process must go on and it must take on a new dimension with the entry of a large and strong country to address the many current challenges requiring enhanced multilateralism.

  A country like Turkey with its unique geostrategic location, cultural richness and strong economic potential is a much needed asset to the Union. While it is true that the entry of Turkey into the EU will be unlike any other before it, it will also bring the most vital added-value to the Union today exactly because of this and render it a truly global actor. This membership will prove a “win-win” situation for both parties. This is evident in a variety of fields such as politics, security, foreign policy, economics and energy, not least in the social and cultural spheres.

  Consider the following:
Turkey represents the new centre of gravity in the geography stretching from the Balkans to North Africa. Her location at the centre of the “Eurasia” makes Turkey a key strategic ally of the EU. Her close historic ties and relations with the Balkans, the Caucasus, Central Asia, and the Middle East, provide her with the necessary prowess to contribute positively to the shaping of the EU policies towards these regions.

Turkey can provide Europe with an opportunity to strengthen its diplomatic clout. Turkey’s membership will strengthen the EU’s credibility and the legitimacy of the EU’s normative power not only in the neighbourhood but also beyond.

Turkey has significant potential to help the EU in the fight against international terrorism, illegal immigration, trafficking in drugs, arms, human beings and criminal activities of all kinds.

Over 70% of the crude oil and natural gas reserves of the world are located in the regions surrounding Turkey. The EU’s current energy dependency rate exceeds 50% and it is expected to reach 70% by 2030. As a part of big scale energy projects already operating and in progress in its region, Turkey will significantly strengthen EU’s energy security by helping to diversify its energy supplies.

Turkey is one of the richest countries of the world in renewable energy resources (5th in geothermal, 8th in hydroelectric). Turkey’s accession will considerably help the EU increase the share of renewable sources in its energy consumption.

With its active labour force of around 25 million people, Turkey is the 4th largest labour market in Europe. Possessing the youngest population in Europe, with a good level of education, while aging populations threaten the competitiveness of EU economies, Turkey will contribute to labour markets and social welfare systems in the EU members.

In recent years over 100 thousand young Turkish people returned to Turkey to take jobs.

• **“Zero-prejudice” for Full Integration**

Effective global power can only be wielded through continued progressive dialogue between cultures, in a matrix of “zero-bias” and “zero-prejudice” towards all religions and communities. The EU must prove that the values of liberty, democracy, rule of law and respect for human rights are the principles it truly lives by; a clear proof of this will be an inclusive EU, one which not only tolerates but owns up to and cherishes all religions, all cultures.

Turkey with a predominantly Muslim population, a candidate country respecting and adhering to the core values of the EU that continues to see merit in joining the EU, will be an invaluable source of inspiration for the spread of these values to a larger geography.

This will also help strengthen the sense of belonging of Muslims living in the EU to the very societies that at times run the risk of alienating them on cultural grounds.

All these are important aspects of a larger integration process in and around the EU, the full and complete realization of which will be achieved with Turkey’s membership in the EU.

• **New Perceptions on Enlargement as a “Game Changer”**

The current economic crisis coupled with the threat of financial collapse of some EU member states has triggered a debate about the economic, social and political
“finality” of the Union. Against this potentially unfavourable background for the case of enlargement in general and the case of Turkish membership in particular, it is necessary to reflect on possible “game changer” aspects of enlargement.

The change of perception now needed on the part of the EU is to take into account the current conditions, present in both the EU and in a given candidate, especially if the negotiations have been going on for a long time. In other words, while the accession rules remain as they are – and are applied in a fair manner to the candidate country – the new realities must be considered to allow for a just and viable accession process to continue.

Consider the following in the case of Turkey:

- Since the start of the accession negotiations in 2005, the country has recorded tremendous economic success. Turkish economy has gone a long way to be a stable, efficient and competitive market economy and the degree of stability maintained over the last decade allows Turkey to introduce long term targets and planning of actions.
- Turkish economy grew at a rate of 8.5% in 2011 whereas the EU economies recorded growth rates of 1.5%, and 0 or minus in the last 3 quarters.
- According to OECD projections, between 2012-2017, with an average rate of 5.2%, Turkey will record the highest levels of annual growth rate among all OECD countries.
- The rate of public deficit to GDP which was 4.5% in 2011 in the EU, was 1.17% in Turkey.
- The total rate of public debt to GDP in the EU countries was 85.5% whereas in Turkey the figure was around 30%.
- Despite the economic crisis in the EU, constituting 37% of Turkey’s trade, Turkey managed to bring its balance of payments deficit down to 7.5% from 10%.
- Turkey, an aid-receiving country until 2004 provided “official development aid-ODA” in 2011 exceeding $1.3 billion. (In 2011 Turkey was the one OECD country which increased its ODA with the highest percentage – 38 percent increase over the year of 2010.)

• “Enlargement Fatigue” versus “Pre-accession Fatigue”

The oft-used argument of “enlargement fatigue” may lead to “pre-accession fatigue”, causing a mutually destructive pattern to set in bilateral relations as well. Some in the EU already assume that following the accession of Croatia, “enlargement fatigue” will be there to stay within the EU.

Considering the relentless search for a new balance in global economy and in geopolitics, given the historical transitions taking place regionally, those EU countries perceiving enlargement as a potential drain on resources, need to shift their focus and find ways to reach out to the candidates still willing to join.

Turkey has an efficient and vibrant democratic political system, a dynamic and young society, a robust free market economy, and a social tradition apt at reconciling all aspects of modernity with cultural traditions. Such a candidate whose contractual relations with the EU foresee eventual membership going back half a century, but where the trust of the people in ever joining the Union has today dwindled to a record low of 17%, must not be alienated from the EU at this critical moment of truth for our collective welfare on the global arena.
• **Soft Power**
  Last but not least, the world is today a much more complex and interlinked place where the nature and reach of soft power of countries may well determine their global standing. The EU is no exception, may even be more dependent on soft power in achieving its larger political and economic goals given the limits of its decision-making structure.

  Turkey’s membership is a case in point where enlargement will enrich and inject the EU with diversity and dynamism. Turkey is a member of the UN, NATO, OSCE, OECD, the Council of Europe, the OIC, BSEC and other regional and international organizations, has strategic partnerships with countries like the USA and is well poised to enhance the soft power of the EU at all levels.

• **Ultimate Global Reach**
  Enlargement has always been a success story. While the members tend to take for granted the achievements of the past decades, the candidates see the benefits and opportunities enlargement bestows upon a country. As the EU still lacks a full global dimension in the political field, an all encompassing enlargement would provide such an element. Nevertheless, we also feel that the Lisbon Treaty needs to be fine tuned to make the EU’s structures work in a speedy and practical manner in an EU that comprises around 30 members.

*12 November 2012*
INTRODUCTION

1. The European Integration Committee of the Croatian Parliament submits this memorandum as the evidence to the Select Committee on the European Union of the House of Lords in order to provide the perspective on enlargement policy from the point of view of an acceding country.

2. The Republic of Croatia signed the Accession and Stabilisation Agreement with the European Union in 2001. In 2003 Croatia submitted its Membership Application and was granted the status of the candidate country in 2004. Accession negotiations were opened in 2005 and closed in 2011. Accession Treaty was signed in December 2011 with the Croatian membership date set to be 1st July 2013.

3. During the Croatian pre-accession process twelve new Member States joined the European Union, but their accession process was notably different. Croatia is the first country on which the new system of negotiations that included benchmarks within the negotiation chapters was applied. Croatia is also going to be the first Western Balkans country to join the Union, which puts it into a unique position towards the entire Region.

PRINCIPLES BEHIND ENLARGEMENT

4. On the level of principles, Articles 2 and 49 of the Treaty of the European Union provide foundation for all the future enlargements. While it is true that these principles are further elaborated through the Copenhagen Criteria, they remain on a highly general level. Detailed principles behind the enlargement are contained in the negotiating framework set up for each candidate country. Negotiation chapters with their benchmarks, on the other hand, contain detailed guidelines for the accession.

5. Basic principles of enlargement are set very widely and might therefore be somewhat misleading. It is important for all the countries with aspirations to join the European Union to understand that the accession process is lengthy and demanding. Complete harmonisation of the national legislative system with the Acquis Communautaire is required before it can be determined that the country complies with the principles of the European Union.

6. The principles set in the Articles 2 and 49 of the Treaty of the European Union as well as the Copenhagen criteria should therefore be considered as minimum requirements for joining the European Union. Further conditions are negotiated with each of the interested countries individually in order to address their specific issues and areas where most efforts are needed. While negotiating frameworks may in principle be similar for all the candidate countries, individual approach is necessary to assure the quality and sustainability of the harmonisation process.

THE IMPACT OF EU MEMBERSHIP ON NEW MEMBER STATES
7. Croatia is near the end of its accession process during which it has undergone fundamental reforms. The country changed significantly thanks to the reforms implemented as a part of the accession process. These reforms are the most valuable gain for Croatia because they are irreversible. This is particularly true when it comes to the judiciary system. Even though some work still remains to be done in that area, reforms of such volume and scope would not have been possible in such a short period of time had there not been for the incitements from the European Union. Courts have become truly independent and major improvements were made in the area of combating corruption. Implementation of the reforms, not only in judiciary, but in all the other areas as well, was not done having the goal of joining the European Union in mind, but for the benefit of Croatia and its citizens.

8. Communicating the European Union to the citizens has proven to be one of the most important but also the most difficult tasks. Recent survey shows that while the popular support of the European Union in Croatia is quite high, insufficient informedness remains a problem. In the midst of the current economic and political crisis of the European Union, raising support for the Union and promotion of its benefits presents a particularly challenging task. It is however a task that must not be avoided because only well informed citizens can assure the sustainability of the implemented reforms.

9. Joining the European Union is not a goal in itself to Croatia. On the day of the accession one part of the work will be finished but new work will only begin. The accession process also served as preparatory phase for the assumption of the new tasks. Implemented reforms must be sustained in order to guarantee a country will be able to function within the European Union and actively contribute to it.

10. Having all that in mind, there is no reason for Croatia not to be satisfied with its accession process. A problem has however occurred that should be addressed for the benefit of future enlargements. On several occasions bilateral issues emerged as a setback in the accession process. It is Croatia’s firm stance that bilateral issues should stay bilateral and not influence the dynamics of the accession process. Croatia has therefore obliged itself not to bargain with bilateral issues when it will be in position to decide on negotiations and accession of other countries to the European Union.

THE IMPACT OF ENLARGEMENT ON THE UNION

11. Enlargement is a challenge for the European Union, as it brings the element of uncertainty to the well-tuned system. However, the European Union does benefit from enlargement. The most important consequence of the united Europe is the overall stability of the continent. From the initial economic union of six countries the European Union turned into a major factor of political and economic stability, not only on its continent, but in the entire world. In terms of political influence and credibility, the European Union will only grow stronger as it welcomes new member states.

12. The European Union will enjoy specific benefits from the Croatian membership. This is most notably true when it comes to the new system of accession negotiations that was implemented in Croatia for the first time. With the conclusion of the negotiations, it can be stated that the system was successful and will in the future negotiations serve as a guarantee of the candidate countries’ preparedness to join the European Union. Future negotiations should therefore be somewhat easier and perhaps more predictable.
13. Croatian experience showed that the areas of justice and basic citizens’ and human rights should be put in the centre of the negotiation process. The results of this finding are already visible, as Montenegro opened its accession negotiations with the Chapter 23 – Judiciary and Fundamental Rights. Keeping chapters opened for a longer period of time, particularly the demanding ones such as Chapter 23, contributes to the transparency of and the support to the enlargement policy.

THE APPETITE AND CAPACITY FOR FURTHER ENLARGEMENT

14. Aware of the certain “enlargement fatigue” striking not only Member States, but some of the candidate countries as well, Croatia encourages keeping the enlargement policy high on the European agenda. Provided that they meet the required criteria, all the interested countries should be allowed to join the European Union, otherwise the consistency of European Union principles stated in the Articles 2 and 49 of the ToEU will come in question. The European Economic Area, European Neighbourhood Policy and the “privileged partnership” may offer viable alternatives only to those countries that do not seek full membership, such as Norway or Switzerland. Countries that applied or show intention of applying for the full membership should be given the opportunity to become Member States.

15. Croatia is particularly interested in the region of the South East Europe, or the so called Western Balkans, where the perspective of the full membership is seen as the best guarantee of future stability. Mechanisms such as the EEA, Neighbourhood policy and privileged partnership could only be used as interim solutions in expectance of full membership in this region.

16. As a soon to be Member State, Croatia is determined to serve as a bridge between the European Union and the Western Balkans. We have already provided specific technical assistance to the countries of the region by ceding the Croatian translations of the Acquis Communautaire. A Centre of Excellence was recently founded in the Ministry of Foreign and European Affairs comprising of the former members of the Croatian negotiating team that will provide their expertise to all the interested sides. Croatia also offers Agreements on the European Partnership to any country that might be interested. Agreements have so far been signed with Montenegro and Moldova. All of the aforementioned mechanisms are in place to show that Croatia will not keep its accession experiences to itself. The potential of learning from Croatia should be used and hopefully all the countries of the region will accept this kind of partnership.

17. Croatia believes the on-going economic and financial crisis should not impact the willingness to further enlarge the European Union. Firmer fiscal discipline should be imposed to prevent future economic instabilities that might originate from the possible new Member States, but the benefits of the enlargement should not be overshadowed by the prospect of economic and financial pitfalls.

CONCLUSIONS

18. The Enlargement Policy is a particularly important instrument of the overall stability of the European continent. Strong political will must be displayed, both from the side of the European Union and the potential future Member States, in order to keep the momentum of the enlargement.
19. Croatia hopes to be a “success story”, proving the difficult reforms are possible to implement when the European Union Membership is set as a national priority. Joining the European Union should however not be the ultimate goal of the reforms that are implemented as a crucial part of the accession process. The ultimate goal is the creation of a country capable of dealing with global challenges.

20. Upcoming Croatian membership in the European Union brought added value to Croatia, the region it belongs to and the European Union as a whole. The added value for Croatia is a truly reformed country that emerged from the accession process, Croatian membership in the European Union will bring a strong stability factor and reform incentive to the region of the Western Balkans, and the European Union profited from the implementation of the new negotiation system while gaining a completely prepared new Member State. With the consistent implementation of the membership criteria, there is no reason to believe that future enlargements will not bring additional benefits to the European Union.

12 November 2012
Written evidence from the Czech Republic, Ministry of Foreign Affairs

Principles behind enlargement

Answers to both 1 and 2: Yes

The impact of EU membership on new member States

Point 3 – The Committee may wish to consider some of the following studies: *Five Years After: European Union Membership and Macro-Financial Stability in the New Member States* (IMF Working Paper WP/09/xx, Martin Čihák and Wim Fonteyne); *Further Reforms are Needed to Reap the Benefits of the Enlarged Internal Market* (paper at the Conference on EU Enlargement 5 Years After, Prague, 2 March 2009, Jens Arnold, Peter Höller, Margaret Morgan and Andreas Wörgötter); and *Cyclical Dimensions of Labour Mobility after EU Enlargement* (paper at the Conference on EU Enlargement 5 Years After, Prague, 2 March 2009, Alex Ahearne, Herbert Brücker, Zsolt Darvas, Jakob von Wiezsäcker).

Point 5 – The prevailing feeling in the Czech Republic about the EU membership is the general satisfaction. The membership has been perceived as a positive force behind changes in economic and foreign trade performance and economic and political governance. Obviously, the EU membership does not mean a goal in itself but continuous efforts to meet the standards and make a good use of it.

The impact of enlargement on the Union

Point 6 – The Committee may wish to consider some of the following studies: *Five Years After: European Union Membership and Macro-Financial Stability in the New Member States* (IMF Working Paper WP/09/xx, Martin Čihák and Wim Fonteyne); *Further Reforms are Needed to Reap the Benefits of the Enlarged Internal Market* (paper at the Conference on EU Enlargement 5 Years After, Prague, 2 March 2009, Jens Arnold, Peter Höller, Margaret Morgan and Andreas Wörgötter); and *Cyclical Dimensions of Labour Mobility after EU Enlargement* (paper at the Conference on EU Enlargement 5 Years After, Prague, 2 March 2009, Alex Ahearne, Herbert Brücker, Zsolt Darvas, Jakob von Wiezsäcker).

Point 9 – The EU enlargement, one of the most successful EU policies over the years, continues to contribute to peace, security and economic prosperity in Europe. The incentive of the EU membership proves to serve as a tranformative power in aspirant countries. The change in the overall enlargement strategy to the effect of closing the doors for aspirant countries may arguably lead to adverse and serious geopolitical and security setbacks in parts of Europe.

The appetite and capacity for further enlargement

Points 10, 11 and 13 (the following text is based on a recent discussion paper elaborated by Europeum, the Institute for European Policy in Prague, on the occasion of the Prague Enlargement Forum in October 2012) –
The process of the EU enlargement cannot be blamed for the ongoing economic and financial crisis. The reality of the European Union in 2012 is that the forward looking strategic thinking in the EU is driven mainly by the Union internal developments that have evolved in the past two years in the wake of the sovereign debt crisis, and to that end it tends to focus on the issues of the future of economic and monetary union. The brief overview of strategic papers from recent period underpin the waning importance of the enlargement for the EU, which is, to some extent, understandable. Unlike the grand European project that the enlargement was a decade ago, currently it is merely conferred to the “unfinished business” of the perspective accession of the countries of Western Balkans and the strongly contested issue of the accession negotiations with Turkey. This can be explained by several broader considerations. Firstly, the process lacks strong advocates at the EU level, both at the level of member states and personalities. The 2004 enlargement was seen much more in symbolic, even idealistic terms as a necessary step towards bridging the divisions that emerged across Europe as a result of the Cold War, as a historical duty or obligation and as such was often portrayed by the EU leaders. Perhaps this has enabled the politicians in the EU to sell this story to the public, although the public support remained significantly lukewarm in many Member States. This idealistic and symbolic rhetoric is, however, not present in the current political discourse. It is difficult to make this argument in relation to Turkey. But even where it could be convincingly made, such as in the case of Western Balkans, it is not happening at the rhetorical level to boost the process politically. Another possible explanation is a failure to accompany the inclusion of more countries with necessary structural changes in the EU. This trend is especially evident since the failed referenda on the Constitutional Treaty in France and the Netherlands in 2005. The grand project of EU Eastern enlargement was accompanied by not least as grand a project of drafting the European constitution. After the failure of the process, the abyss between the “deepening” and “widening” has increased even further. No matter how much disputed the link between the two processes could be by academics and think-tankers, it is still central to thinking of many policymakers across Europe. The failure of the EU to deliver on one side of the coin (in this case deepening) automatically results in a perceived need to slow down on the other side too (in this case on enlargement), with the fear that otherwise the Union as a whole risks strong paralysis. Many have hoped that the atmosphere will grow more favourable after the Lisbon Treaty has been finally adopted, by which the widening – deepening dilemma was supposed to be – at least for the time being – settled. But the outbreak of the debt crisis proved that the framework provided by the Lisbon Treaty by far does not represent a stable and durable solution for the internal EU issues.

The debate about „enlargement fatigue“ is legitimate, although it may seem a bit academic. What counts is progress on the ground. The process as such is given and supported by the Lisbon Treaty.

Why the enlargement process should continue – 4 principle arguments

1. The idealistic argument: Europe whole and free

Despite the fact that the concept of “Europe whole and free” comes mainly from the US strategic thinking, viewing this as a way of making Europe part of a solution, not a problem for US foreign policy, it was fully taken on board by the European decision-makers during and after the Cold War. But also the concept of “Europe whole and free” corresponds to the original raison d’être of the European Communities. Even though the European

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9 The title of the speech of President George Bush in Mainz in May 1989.
integration started as a West-European project, the founding treaties had a pan-European ethos. On paper, they allowed for the inclusion of any European country, which upholds democratic values. After the end of the Cold War, the supporters of the EU eastern enlargement pointed out to the original pan-European idea of the West-European integration project (EC/EU) and successfully promoted the idea that the winners of the Cold war (the West) have a political and moral duty to support the democratization and reintegration of the new democracies in the Central and Eastern Europe. Today, the EU needs to revive this moral dimension if it wants to accomplish its mission of bringing peace and security to Europe.

2. **The transformative argument: making most of the EU soft power**

There is a relatively strong consensus that out of the EU foreign policy toolbox, enlargement is the most effective tool at EU’s disposal. In other words, there is no better way for the EU to pursue democracy and human rights\(^\text{10}\) than through enlargement policy. Because unlike in other areas, in the process of preparation for membership the EU disposes with a very intricate set of tools to set the transformative agenda (determining the negotiating chapters of the acquis, setting up national action plans, screening), implement it (through the process of the adoption of acquis) but also to monitor it.

3. **The geopolitical argument: nature does not like vacuum**

The 21\(^\text{st}\) century has marked a new era of polycentric world with new rising powers and increased global competition for geopolitical and economic influence and resources. The benefits of the EU enlargement are clear. The enlarged EU is more dynamic and carries more weight when addressing issues of global importance. The geopolitical costs of non-enlargement are quite high. The disillusioned candidate countries may lose interest in the accession. Moreover, they may start look for alternative models that could provide economic growth and development without too much of EU flavour (in this respect, it has become fashionable to speak of Singapore model, or even Chinese model). The power vacuum caused by the lack of determination on the EU side opens ample opportunities for other rising actors to step in. They will compete with the EU by offering an alternative in terms of economic benefits, investments and the model of economic development with much less emphasis on democracy and rule of law. In case of Western Balkans, Europe should not take its influence for granted: other emerging players such as Russia, Turkey or even China are already stepping in and if the EU is not able to steer the process of integration forward, it might lose its clout even in its immediate vicinity. In case of Turkey, the EU risks losing an ally in a fragile, but important region. Turkey, disappointed by the lack of European perspective, will develop a more assertive foreign policy which may not be in line with the EU priorities. The founders of modern Turkey have been inspired by European modernity, secularism and nationhood. Today, we risk that the disillusioned Turkey will cease to identify itself with Europe and its values.

4. **Economic argument: benefits not only for the newcomers**

The EU enlargement has been considered a success also from an economic point of view. The impact of the upcoming enlargements on the EU is somewhat hard to assess because of the lack of clear-cut timeline for the accession, as well as the overall economic development

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\(^{10}\) According to the Article 21 of the Treaty Establishing the European Union, the EU supports the following principles and values in international relations: democracy, human rights, universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, principles of equality and solidarity
in the EU. While the overall impact of the accession of Western Balkan countries or Iceland is likely to be limited due to the small size of their economies (even compared to EU-10 accession), the accession of Turkey could potentially have a significant impact on the economy of EU-27+.

Some guidance can be found in the impact assessment of the 2004 enlargement on both the EU-15 and the acceding countries. The positive effects on the acceding countries is beyond doubt: accelerated GDP growth, trade volumes increasing several fold, foreign investment influx, increasing employment, improvement of infrastructure thanks to access to structural funds have led to increasing living standards across EU-10. However, a positive impact on the “old” EU can also be observed. It is estimated that 2004 enlargement added some 0.5 – 1% additional GDP growth in EU-15. The extension of the EU single market thus enables the companies from the current EU states to exploit better economies of scale. The growing demand for goods and services in the accession countries as they grow richer increases the export potential of businesses in the former EU. For instance, the British exports to Poland have more than doubled since the Polish accession. The entry of the new businesses from the acceding countries to the single market increases the overall competition that inversely leads to increased competitiveness of EU companies on a global scale. Foreign direct investment originating in the “old” EU in accession countries in a long run leads to increasing flow of interest profits and dividends, contributing to the improvement of current account balance of payments in the former EU members and increases their GNP. The influx of labour from the new members helps to tackle the labour shortages in the EU, especially in times of economic growth: many of the current candidate countries have young, dynamic population which can help sorting out a chronic problem of ageing population in Europe. The often articulated fear of “relocation” of business from “old” to “new” EU has also proven incorrect: on the contrary, the investments of companies in the new members helps to reach out to new markets.

Point 12 – There seems to be no real alternatives to full membership once a country embarks upon the process of accession to the EU. Politically and technically, it is a well defined process where clear and strict rules are adhered to. The full membership is the only viable and fair outcome of the accession negotiations between the EU and a candidate country.

Suggestions given as possible alternatives (EEA, ENP, privileged partnership) should not be deemed as real and permanent ones to full membership. Although they may not be viewed as contrary to full membership (EEA and especially ENP as a kind of stepping stone), they are different paths compared to the enlargement process.

Point 14 – Yes. Strengthening the rule of law and democratic governance is essential to the process. The lessons learnt highlight the importance of an increased focus on these areas. The improvements in these areas help dealing with common challenges such as the fight against corruption and organised crime. By doing so, it simultaneously addresses issues of direct concern to citizens in the EU and aspirant countries. The agreement on the so called „new approach“, adopted by the General Affairs Council in December 2011, represents the lesson learnt.

Point 15 – Czech Republic has never held a positive view of the notion of „absorption capacity“, at least from a political perspective. Given the circumstances, we take on „absorption capacity“ strictly in terms of the European Council conclusions from December 2006, i.e. „that EU institutions function effectively and that EU policies are further developed and financed in a sustainable manner“.
1. The dynamics of the EU enlargement dossier

1.1. Enlargement has always been part of the DNA of the European Union (EU), since its very first expansion to the United Kingdom, Ireland and Denmark in 1973. Having grown over the years from 6 to 27 member states via 6 different rounds of enlargement, the EU has now another set of countries wanting to join. The Union has made a political commitment to enlarge further to Turkey, to the countries in the Balkans, to Iceland\(^\text{11}\) and, on the basis of Article 49 of the Treaty on the European Union, any other ‘European’ country may apply for membership on the basis of the Copenhagen criteria\(^\text{12}\).

1.2. But since 2005 enlargement policy has been endlessly challenged to keep a high profile on the EU’s agenda and to reap successes. ‘Enlargement fatigue’ became a staple sentence to interpret the negative outcomes of the French and Dutch referenda on the Constitutional Treaty, despite the fact that opinion polls at the time showed that the ‘no’s were only marginally a reaction to the ‘big bang’ enlargement of 2004. The famous ‘Polish plumber’ had as much attention as little real impact in terms of numbers or opinion-shaping among European citizens.\(^\text{13}\)

1.3. The largest EU expansion, which happened to Central and Eastern Europe (CEE), Malta and Cyprus, and saw no fewer than 10 new countries become members in 2004, followed by two more in 2007, did not hamper the overall efficiency of EU decision-making either, not even during the five years in which it functioned on the basis of the Nice Treaty; the Lisbon Treaty was managed to be negotiated subsequently; and the new diversity within the Union was accommodated. Nonetheless, ‘enlargement fatigue’ has become a scapegoat for a range of deeper problems and stumbling blocks in the EU, giving a new understanding to the ‘widening versus deepening’ dichotomy which characterised the debate prior to the 2004 enlargement round. The accession of Bulgaria and Romania in 2007 is widely perceived as having been carried out too quickly and not preceded by adequate preparation, especially with regard to justice reforms and anti-corruption policies. Five years into their membership, the two countries continue to be subject to the Cooperation and Verification Mechanism (CVM) – an

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\(^{11}\) Turkey, which tabled its first application in 1987 to what was then the European Economic Community, was accepted as a candidate country in 1997 and started accession negotiations in 2005. The states of the Balkans were offered a prospect of accession at the Thessaloniki Summit in 2003. Of these, Croatia and the former Yugoslav Republic of Macedonia (FYROM) were granted candidate status in 2005; Croatia has since completed its accession negotiations in 2011 and is expected to join the EU on 1 July 2013, while FYROM has not yet started accession talks. Montenegro opened negotiations in June 2012, Serbia was recognised as a candidate country in 2012, Albania has applied for membership in 2009 and has received a qualified positive opinion from the Commission in 2012, and Bosnia-Herzegovina has a Stabilisation and Association Agreement with the EU but is still not in a position to apply for membership. Kosovo under United Nations Security Council Resolution 1244 is beginning to institutionalise relations with the EU but its membership prospects depend on its independence being recognised by all EU member states. In 2009, Iceland applied to join the EU, started accession talks in 2010, and is likely to terminate the accession process in a short period of time, after which the issue of membership will be subject to a referendum in the country.

\(^{12}\) Copenhagen criteria, first defined in 1993 and reinforced in 1995, require countries wishing to join to have: i) stable institutions guaranteeing democracy, the rule of law, human rights, and respect for and protection of minorities; ii) a functioning market economy and the capacity to cope with competition and market forces in the EU; and iii) the ability to take on and implement effectively the obligations of membership, including adherence to the aims of political, economic and monetary union. In addition, the EU’s capacity to absorb new members while maintaining the momentum of European integration is also an important consideration in the accession process.

\(^{13}\) Special Eurobarometer Survey (2005) on the future of the Constitutional Treaty found that for only 6 % of the Dutch and 3% of the French voters, enlargement was the reason to reject the new treaty. Moreover, in the case of France, people’s anxiety was related to the EU’s further expansion to Turkey rather than enlargement in general. See http://ec.europa.eu/public_opinion/archives/ebs/ebs_214_en.pdf, last accessed on 12/11/2012.
unprecedented instrument created as a means to ensure the post-accession sustainability of specific EU-driven reforms in both cases. To date, recurrent problems with corruption, organised crime and the functioning of democratic institutions in Bulgaria and Romania fuel EU’s “enlargement blues” but increasingly also mistrust among member states, as demonstrated, for instance, by the recent decision to link Bulgaria and Romania’s entry into the Schengen area to their progress on the CVM.

1.4. Similarly, developments in other ‘new’ member states have been the cause of preoccupation regarding the health of European democracy. By 2007, countries like Poland, Slovakia, Hungary, and the Czech Republic appeared to take a ‘populist turn’, suddenly calling into question the hitherto linear reading of democratisation: which presumed a cumulative and irreversible progression of the CEE democracies from transition to consolidation. Fast-forwarding to present day, against the backdrop of the crisis, the incidence of threats to EU’s democratic principles and values has increased, not only in the new, but also in the older member states. Indeed, these developments need not be interpreted as consequences of enlargement. Rather, they are a manifestation of a much broader set of dynamics which is having an impact on the enlargement process. This experience has led to refining the tools and policies the EU is pursuing in the Balkans, as the next section on lessons learned will explain.

1.5. Other issues which have been affecting the enlargement process are related to the ongoing economic crisis. On the EU side, with the future of the euro – and indeed of the Union – hanging in balance, expansion features way down the list of priorities. If anything, enlargement is now more easily politicised in the national arena of the member states, where parties with an overall populist, Eurosceptic and anti-immigration discourse can harness social discontent in the currently difficult economic context to strengthen European citizens’ uneasiness about the potential consequences of further EU widening.

1.6. In the Balkans, the story is analogous to the rest of Europe. Most Balkan countries were hard hit by the economic woes in the Union – the region’s main trading and investment partner. Before the crisis the Balkans growth rates stood at about 5-6%, while in 2012 they are closer to 1%. With high unemployment rates, decreasing European investment flows, declining remittances, and the exposure of the region to Greece’s travails and to a troubled banking sector (half the banks of the Balkans are controlled by Greek and Italian banks), the goal of EU membership has been losing lustre among people and seems to be breeding populist – rather than pro-European or reformist – politicians in the Balkans (as seen recently in Serbia).

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16 See, for instance, Rupnik, Jacques (2007), “Is East-Central Europe backsliding? From democracy to populist backlash”, Journal of Democracy, Volume 18, Number 4, pp.: 17-25; all contributions to this special issue of the journal are dedicated to this topic.
19 Gallup Balkan Monitor polls show that the popularity of the EU in the region has been declining but is still respectable, around the 50% mark at the low end. While the very rationale of joining the EU – when the Union appears economically weakened and politically fragmented -was brought into question in the accession referendum of Croatia in January 2012, the result was clearly in favour of membership even in this notoriously Eurosceptic Balkan country.
1.7. In this sense, rather than undermining the convergence narrative between the EU and the Balkans, these developments test the model – not unequivocally exemplary – that the Union is exporting to the region. They also foster the Balkan’s image problem among member states, which was initially created by the particularities of the region, and was already playing a role in curbing the EU’s appetite for expansion before the crisis. Anxieties related to security, unresolved statehood issues and domestic ethnic, political and economic tensions in the Balkans are at least partly responsible for the member states’ ‘wait and see’ or ‘go slow’ approach to further enlargement. They have also exposed the limits of the Union’s transformative power. Unlike in the economic field, the EU had no predefined recipe on how to deal effectively with the war legacies of the Balkan region. Sticky internal/bilateral issues have earned the Balkan aspirants the label of ‘difficult cases’, and continue to push the European Commission to resort to much ingenuity in order to keep the process going.

1.8. Overall, a combination of concerns related, on the one hand, to internal EU developments in an increasingly complex economic climate and, on the other hand, to regional and country-specific issues, has prompted the ‘creeping nationalisation’ of the (pre-)accession process. The Council, rather than the Commission, is increasingly setting the benchmarks and conditions for progress. In 2009, for example, when Albania submitted its application to the EU, Germany indicated that it would wait for the approval of the Bundestag before asking the Commission to formulate an opinion on Albania’s application. In December 2011, when the Council needed to respond to Serbia’s application for membership, to which the Commission had already given a positive – if conditional – avis, the Council delayed the answer to March, requesting from Serbia to further fulfil the conditions set. Berlin’s decision arguably reflected preoccupation over the situation in Northern Kosovo. In February 2012, Serbia’s candidature was again put in jeopardy by Romania’s demand to add a new condition regarding the Vlach minority in Serbia – a request that did not meet support among the other members of the General Affairs Council.

1.9. These examples illustrate that the member states are using more entry points to control the accession process, which makes the whole initiative more unpredictable. In turn, in the region, this raises doubts over the EU’s commitment to enlargement, with consequences on the EU’s credibility and ability to exercise leverage to promote the reforms it deems necessary for the transformation of the region.

2. Lessons learned and not learned

2.1. In view of these recent experiences, the EU, and most specifically the Commission, has learned a number of lessons which have been incorporated into the EU’s renewed enlargement strategy. First, the (pre-)accession process has a much stronger focus on good governance criteria – maintenance of the rule of law, independent judiciary, efficient public administration, the fight against corruption and organised crime, civil society development, and media freedom. While there still is scope for improving policies in these fields to ensure a
Written evidence from the European Policy Centre

depth democratisation process, the shift in emphasis does represent a change in gear as a consequence of the 2004-7 enlargement rounds.\textsuperscript{23}

2.2. Second, Croatia’s negotiation process has made it evident that all the above-mentioned are difficult areas of reform, which cannot be effectively addressed in just a few months’ time. For this reason, the EU now favours getting an early start on the toughest negotiation chapters – such as Chapter 23 on Judiciary and Fundamental Rights and Chapter 24 on Justice, Freedom and Security. In June 2012, Montenegro was the first country to start its EU accession talks precisely with these two chapters and, in their turn, the remaining Balkan aspirants will have to conform to the same course.

2.3. Third, in order to improve implementation, the method for applying the conditionality has become more exacting, by tying any steps forward more closely to actual results. New mechanisms were introduced, for instance: opening, intermediary and closing benchmarks; safeguard clauses to extend monitoring; more routine procedures to suspend negotiations; and the requirement for countries to demonstrate a solid record in the undertaken reforms. And the EU is now adamant about dealing with any pending issues prior to accession, when it had learnt that its leverage was most robust.

2.4. Last but not least, the EU has expanded its toolkit to include more ingenious tactics aimed at helping with internal/bilateral impasses in the region. The logic was to circumvent the big political elephants obstructing countries on their EU track by focusing short-term attention on technicalities that can instead move forward the reform agendas of such aspirants. Illustrative in this regard is the case of the former Yugoslav Republic of Macedonia (fYROM), which was recognised as a candidate in 2005, was considered fit to start negotiations in 2009, but since then saw its accession negotiations repeatedly blocked by the ‘name dispute’ with Greece. In March 2012, the Commission launched a High Level Accession Dialogue with fYROM, which allowed the country to make good progress on a number of priorities, thereby enabling the Commission, in October 2012, to make a stronger case to start accession negotiations with Skopje notwithstanding the name issue. In other words, the Commission is trying to help in solving any issue that can provide an alibi to continue blocking fYROM’s accession talks. The Structured Dialogue on Justice with Bosnia-Herzegovina, which kicked off in June last year, is a further example of this new approach.

2.5. Other ways in which the Commission is tightening its oversight and pressure on reforms and domestic changes is through the early screening process, for instance with Albania, towards which the Commission issued a 12-point plan to help the country overcome the two-year stalemate due to polarised government-opposition relations.\textsuperscript{24} These initiatives also reveal a degree of intrusiveness in the internal affairs of these states, albeit on the basis of an understanding with the receiving country.

2.6. These strategies have achieved: i) a strengthened focus on rule of law, governance and democracy-related issues which is meant to help the Balkan states not just consolidate their democratic achievements but also to become ‘good’ future member states and, equally important, ii) have kept the process of enlargement moving on a step-by-step basis rather


\textsuperscript{24} Stratulat, Corina and Vurmo, Gjergji (2012), “Opportunity knocks: can the EU help Albania to help itself?”, EPC Policy Brief, European Policy Centre, Brussels: March.
than through grander initiatives. This has defused potential tensions within the Union over enlargement and has partially acted as a shield to some of the incursions and opposition on behalf of member states in the process.

2.7. However, the long-term sustainability of the Commission’s newfound tactics is questionable. The member states remain able to stall enlargement at numerous stages of the process, and the number of disputes within the Balkans and between countries in the region and existing or future EU members stays high. In the previous round, such clashes did occur, for instance, between Italy and Slovenia. Also, Croatia’s negotiations were blocked for a year because of a disagreement with Slovenia over the Gulf of Piran. The ground for these instances to multiply is fertile and the opportunities for them to hijack the accession process plenty. Slovenia is raising further bilateral issues with Croatia; FYROM’s relations with Greece are made acrimonious by the name issue, recognition of minorities and other issues; Bulgaria too has raised a number of matters with FYROM. The ethnic mosaic of the region, which does not match with its internal borders and other unsolved consequences of the dissolution of Yugoslavia, means that these disputes have the potential to disrupt the enlargement process. This could be compounded by the fact that the ‘regatta approach’ to the Balkans’ enlargement, whereby countries in the region can enter the EU at different points in time, can allow, at least in principle, every new member state to block the accession of one of its neighbours.

2.8. Central and Eastern Europe after the Cold War had a similar mosaic. But in that case, the EU sponsored an initiative through which each and all countries signed bi- and multilateral agreements with their neighbours on mutual recognition of minorities, borders and good neighbourly relations prior to starting accession negotiations. Although the Stabilisation and Association Process launched after the war for Kosovo put regional cooperation as one of its requirements for the Balkans, the enlargement process in itself is bilateral and cannot include such conditions. Furthermore, the EU itself has no common definition of a ‘minority’, no legislation in the field and no acquis on border issues – thus it does not have the leverage to change the status quo through the current policy formats.

2.9. Alongside this ‘not learned lesson’, there is a further aspect that relates to the far broader process of EU integration. While the 2004-7 waves of enlargement did not bring what was expected or feared by some — a paralysis of the decision-making process — developments in some countries did put the spotlight on the state of democracy within the Union and the lack of tools available to monitor and influence internal developments once countries join the EU. Recent political events in Hungary and Romania have made it all too clear that democratic achievements are reversible and there is not much the EU can do when backlashes happen.

2.10. Democracy is forever work in progress. If the EU is to assimilate this lesson, it will have to get better equipped to defend its democratic construction. In the aspirant countries, the EU has yet to redress the ‘executive bias’ of the integration process, which still prevents crucial democratic actors, such as national parliaments and local authorities, civil society organisations and the media in the Balkans from being effectively socialised and involved in their country’s EU membership effort. As seen in the case of the CEE enlargement, whenever policy consensus occurs at the expense of politics, with little awareness or input from the grassroots.

of society, national leaders get a free card to put any spin they want on Brussels-related issues (and be convincing at that): shifting blame or taking credit, as it suits them. The Union must therefore continue to interfere in the domestic functioning of democracy of its future potential members, beyond economic and judicial issues, as a kind of preventive medicine against any serious EU digestion problems once these countries step inside.

2.11. Internally, the EU-wide anti-corruption reporting mechanism that will produce the first reports in 2013 or the ‘justice scoreboard’ proposal of Commissioner Viviane Reding to annually rank the rule of law in the member states are only the initial timid steps in building a proper strategy and capacity for action at European level. Making sure that the best democratic practices expected from the Balkan countries are also followed in the EU, including by its older as well as newer member states, will benefit the EU and its leverage on outsiders. In this regard, aside from specific issues such as corruption, the manner in which the member states learn to deal with their shared sovereignty and to manifest intra-EU cooperation and solidarity will go a long way to demonstrating what integration is about.

3. **Beyond the Copenhagen criteria**

3.1. The Copenhagen criteria are not the only source of EU standards for the accession of the Balkan countries; the conditions are in the *acquis*, in Council Conclusions setting higher standards and making additional requests and in the Treaty of Lisbon, which states that additional conditions for accession can be set by the EU, through the European Council. This sets the bar for accession higher than in the past (though the *acquis* is a consequence of further integration within the Union), and potentially makes it possible to raise standards further during the process. Indeed, there have been discussions in Brussels on the opportunity of changing the Copenhagen criteria. So far, such temptations have not been translated into political action: the argument proposed by Romania to add the treatment of the Vlach minority on the issues to be assessed before granting Serbia candidate status was rejected by the other EU members. It cannot be excluded, however, that such temptations may return in the future.

3.2. Changing the basic rules of the game as laid out in the Copenhagen criteria – which include the fundamental political and economic conditions relevant to each and all of the countries seeking to join the EU – is not advisable. Instead, as experience already shows, defining measurable benchmarks or concrete targets, sensitive to the specific regional or national context, can help to effectively meet the broad conditions defining at present the Union’s conditionality. Alternatively, changeable considerations are likely to undermine the EU’s credibility in the region, feeding speculation that conditionality is being used as an excuse to keep the door closed to new entrants after Croatia’s accession in 2013. They can also make the EU a moving and elusive target, thereby eroding aspirants’ commitment to the reform agenda. This was seen, for instance, in the case of Turkey, which has grown considerably less enthusiastic about joining the EU after some member states began to show cold feet on making the country’s promised prospective of membership real. Similarly, Romania (and to a lesser degree Bulgaria) saw a rise in frustration with the EU after the two were recently refused Schengen accession, despite the fact that both countries had fulfilled the technical criteria officially specified for entry.

3.3. Two other aspects are arguably more important than the discussion on revising the Copenhagen criteria. The first concerns the development of a more systematic and pro-active approach to uphold democratic practices and values inside the Union. The EU’s
experience with enlargement can provide inspiration for devising such a post-accession-type of conditionality but, ultimately, whether this sort of instrument will have teeth or even be possible will depend on the political will of the member states.

3.4. The second issue regards the EU’s absorption capacity for further enlargement. Will an ever-growing EU be able to continue to function effectively? How will its current institutional and decision-making set-up have to change in order to accommodate more and more members? A potential re-opening of the treaties in the context of economic governance reform could offer the opportunity to reflect or even act on proposals about this problem. However, should the pace of enlargement slow down considerably after Croatia (and Iceland!) or breakdown (with Turkey?), or else should the crisis result into ‘inner’ and ‘outer’ circles of member states, the EU might have to envisage new forms of (peripheral-type of) association for countries wishing to join. What would these arrangements look like? And will anything short of full membership ensure the economic and social modernisation, as well as democratic consolidation, normally required of new entrants?

3.5. To answer these questions, a serious and rational debate about the pros and cons of enlargement will be necessary in the member states and at the EU level. This will not only help to arrive at a successful enlargement strategy in the years to come – regardless of the timeframe for new accessions – but will also help to define the EU’s future character and role as a global actor. From this perspective, the real question is not to ask how the current situation in the EU and beyond is affecting enlargement but rather what enlargement can do to shape and solve the present context to the EU’s advantage. This also means that sequencing is important and that it would be a political mistake to wait to sort out the crisis before thinking about the rest. Since 1970s EU enlargement has been a key source of dynamism – driving economic, political and institutional change – in the Union. This is still valid. Enlargement is also the best – if not the only – way to deal with any outstanding problems on the EU’s doorstep, and to deliver on the transformation of the aspiring countries. And it is also a policy field which can help maintain EU’s power of attraction in the wider region and credibility in the world.

13 November 2012
Do Articles 2 and 49 of the Treaty of the European Union provide the right principles for any further enlargement of the EU?

Principles behind Enlargement

The Treaties provide a rather flexible basis for further enlargement. The Copenhagen criteria have proved to be a source of meritocracy for the enlargement process. However, individual conditions that are imposed upon candidate countries solely on the basis of the unanimity of the European Council decision undermine the Copenhagen criteria. Beyond the Copenhagen criteria, Macedonia has been blocked to start accession negotiations, besides having received four recommendations by the EC.

8. On what policy areas does enlargement have the greatest impact? How has enlargement previously impacted negotiations on contentious policy areas, such as the Common Agricultural Policy and migration and asylum? What impact is further enlargement likely to have on such areas?

No sustainable alternative

For the countries of the Balkans no viable alternative for EU membership has been developed. Parts of the acquis are “exported” through sector agreements (e.g. Energy Community Treaty). In this situation the legislative and institutional framework is becoming more and more complex, as one part of the acquis is being exported through multilateral regional agreements, and the other part – through the bilateral stabilization and association agreements. Until now, no sustainable alternative to EU membership has been developed for the Balkan countries. It is questionable how successful this effort would be, as the remaining Balkan countries, which are not members of the EU are like a continental island neighbouring the EU.

In terms of the EU absorption capacity, the Balkan countries which are not members of the EU do not present a risk in economic and social terms. The main challenges are political and related still to the issues of dissolution of former Yugoslavia. Therefore, the tangible perspective, without vetoes, could serve as a stimulus for reforms of candidate countries, based on the Copenhagen criteria.

Is ‘enlargement fatigue’ setting in for a) the Union as a whole, b) individual Member States, or c) candidate countries? How can such ‘fatigue’ be gauged, and

Capacity for further enlargement “fatigue”

The economic and financial crisis does have a negative effect on further enlargement. However, “enlargement fatigue” had been present in the EU and candidate countries rhetorique much longer than the crisis itself. Therefore, the roots for this state of mind go beyond the current crisis.
Written evidence from the European Policy Institute, Former Yugoslav Republic of Macedonia

From a viewpoint of a candidate country such as Macedonia, which has long been “knocking on the door” of the EU, this is a discouraging message. While the Enlargement strategy does mention a communication strategy on enlargement, the fact is that this is the part of the enlargement Strategy getting the least focus. On the contrary, what primarily receives attention is the “rule of law”, “organised crime and corruption”, which portray the enlargement countries in a negative image.

Possible instruments to gauge the current “fatigue” are: a sustainable communication strategy and additional political impetus to prevent excessive externalization of national interests when admitting new states.

A sustainable communication strategy would also focus on the achievements made during the past twenty years of transition. For Macedonia, it is certainly exemplary how the country made its peaceful way through the conflicts in the region and is building a multi-ethnic society on the basis of the Ohrid Framework Agreement.

Reforms related to the rule of law are certainly of primary political importance both for the EU and the countries concerned. These reforms and all other reforms can only be pursued if the EU membership perspective is tangible. If a negative message is delivered, EU risks having no leverage on the rule of law – related reforms in the Balkans. Furthermore, the resurgence of nationalism is a viable risks. For the Republic of Macedonia EU integration has also served as a “glue”, a common vision for the different ethnic communities to build on and develop further.

14 November 2012
Written evidence by the Foreign and Commonwealth Office

1. Enlargement is one of the EU’s greatest achievements and is firmly in the national interest of the UK. The accession of new Member States helps to promote security, stability and prosperity across Europe, based on a firm foundation of democracy, human and civil rights and respect for the law. The European Union, alongside NATO, has proved itself to be an instrument of peace and reconciliation that has helped spread and entrench democracy and the rule of law across our continent, and helped make armed conflict between EU members unthinkable. At the same time, an enlarged Single Market, another of the key success stories of the EU, has opened up prosperity and opportunity to hundreds of millions of people. An outward looking approach and a continuing commitment to enlargement should be seen by all EU Member States as signs of strength and vigour. Membership of the EU is and should remain open for any European country that wants to join and can meet the rigorous accession criteria. Croatia’s expected accession in July 2013 will further demonstrate the EU’s continued relevance and the transformational power of enlargement, despite the on-going economic crisis.

2. The EU Treaties are clear that any European state which respects the values of the Union and is committed to promoting them can apply for membership. The EU has made clear that all Western Balkans countries can join when they meet the criteria, a commitment that the Government strongly supports, together with membership for Iceland and Turkey, whose continuation on the EU track is profoundly in the EU’s collective strategic interest. Each country should make progress on the basis of its “own merits”. It is important too that we continue with the mission of enlargement by remaining open to all those European countries who share our values and interests. Moldova, Belarus and Ukraine - as the Foreign Secretary said in his 23 October speech in Berlin - are European nations whose future lies with Europe. The same is true of the three Caucasian republics, if that is the path they wish to take. The EU must ensure that it has a compelling offer: it is up to us to promote democracy and encourage them to embrace freedom fully.

Enlargement is in the UK interest

3. Enlargement serves as a key driver for political and economic reform, and moves forward at a pace which is largely determined by the (potential) candidate countries’ respect for the Copenhagen criteria and their proven capacity to take on the obligations of membership.

4. The benefits of enlargement for the UK and the EU can be described as a combination of three main factors:

- political, given the power of the accession process to drive reform;
- economic, as the benefits of political reform help create a larger and more prosperous single market, the collective economic influence of which can help shape a rapidly changing world economic order; and
Written evidence by the Foreign and Commonwealth Office

- security, not only in terms of soft security, as better functioning states reduce the space for organised crime and corruption but also as regards hard security, and the potential costs we save as stability spreads to previously unstable parts of our continent.

5. **Political reform.** If we compare the history of Europe in the 20 years since the fall of the Berlin Wall with the 20 years following the treaty of Versailles, there is a contrast between, in the earlier period, a time when fragile new democracies collapsed under the strain of domestic political tension, dictatorship and invasion, and, in the 20 years just passed, a time when we have seen democracy, the rule of law and human rights taking root in ever more countries on our continent. In this difference we can see the advantage that European Union enlargement has brought, and we can be proud of the UK’s contribution to that process.

6. The perspective of EU membership, combined with the application of political conditionality in the accession process, has been the catalyst for the substantial changes in rule of law and related governance issues vital to the successful functioning of the EU that took place in the twelve countries of the fifth and sixth enlargement rounds. While that process is not yet complete in all countries, the accession process has proved itself to be the best incentive for a country to undertake wide-ranging reform.

7. For example, as Croatian Foreign Minister Dr Vesna Pusić has observed, the Croatia about to accede to the EU is very different from the one that applied more than ten years ago. The incentive of EU membership provided the impetus to push through the far-reaching reforms that have delivered the stable institutions of an EU state. In Montenegro, the incentive of accession negotiations ensured that the Montenegrin government met in the course of 2011 the seven key priorities set by the EU in December 2010, allowing them to move on to the next stage of the process in June 2012. And the EU-facilitated Belgrade/Pristina Dialogue has already had a significant positive impact on Serbia and Kosovo’s attitudes to the normalisation of relations.

8. The **economic benefits** of enlargement are significant. Structural economic reforms to meet EU standards result in greater prosperity which benefits both the candidate country and existing EU members, as well as being essential to the establishment of a functioning market economy and to allowing the country to cope with the challenges of the Single Market. The accession process, even before countries join the EU, requires reforms that improve the business environment, making investment easier and more profitable. The countries of the Western Balkans, for example, although a small market, have the potential for rapid GDP growth, albeit from low bases and with their development having recently slowed with the rest of Europe. Among them, Kosovo has the highest projected GDP growth rate for 2013, of 4.1 per cent, and Croatia and Bosnia Herzegovina have the lowest, both at 1.0 per cent. The European Union’s projected growth rate is 0.5 per cent.

9. Between 2004 and 2007, EU enlargement extended the European Single Market by an additional 104 million consumers, and it now represents a market of over 500 million people. By some estimates EU countries currently trade twice as
much with each other as they would in the absence of the Single Market. Trade with Central and Eastern European countries continues to grow. UK exports to the “Emerging Europe” countries of Central and Eastern Europe have almost trebled over the last ten years, reaching around £14 billion in 2011 (compared to £5 billion of exports in 2001). Increased trade with Europe since the 1980s has added as much as £3,300 a year to the net income of the average British household.

10. In this context, the Government remains convinced of the strategic case for Turkish membership of the EU. At a time when the EU is facing economic problems and instability in its neighbourhood, it is crucial to maintain a constructive relationship with Europe’s only emerging power. Turkish membership would boost the European Single Market and would play a major part in Europe’s long term prosperity by adding significant clout to its common external trade policy. In 2011, Turkey was Europe’s 8th largest, and the world’s 18th largest economy, and has experienced rapid GDP growth in recent years: GDP growth in 2011 was estimated at 8.5%, the third fastest in the G20 behind China (9.2%) and Argentina (8.9%). Goldman Sachs predicts Turkey’s economy will be the world’s 9th largest by 2050. In 2010, 42% of Turkey’s trade transactions by volume were with the European Union and 76% of Turkey’s foreign direct investment was from the European Union. Full accession would resolve many of the current problems businesses are experiencing with the Customs Union Agreement and further increase our share of Turkey’s rapidly growing market. Turkey’s position as a key transit country for oil and gas makes it central to the energy security of the EU.

11. Enlargement allows the establishment of security and stability across Europe. The 2004 enlargement represented a strategic investment against the risk of returning to a divided Europe. The conflicts of the 1990s in the Western Balkans demonstrated the very high human and financial cost to the EU of a region of instability on its doorstep. In Bosnia and Herzegovina, the European Union Force (EUFOR) has acted as a successful deterrent against a return to violence since it took over from the NATO Stabilisation Force (SFOR) in 2004. The renewal of EUFOR’s mandate for a further year this November will ensure its continued role in ensuring security and stability in Bosnia and Herzegovina. From December 2012, as part of our continuing support for a military deterrent in a strained and divisive political and economic climate, the UK will commit 120 troops to the EUFOR Intermediate Reserve (IR).

12. Enlargement is also an effective tool for tackling soft security issues over the long term. Better functioning states will reduce the space for organised crime. Cross-border crime, terrorism, illegal immigration, energy security and environmental issues are all dealt with at EU as well as national level, and the enlargement agenda allows us to tackle such trans-national issues more effectively. In the Western Balkans, for example, organised crime groups continue to be active in trafficking drugs into the EU. We can help tackle this problem through rigorous conditionality during accession negotiations to make sure that crucial Justice and Home Affairs (JHA) reforms are carried out prior to accession, and as EU members, through our joint responsibility to uphold the standards of the EU e.g. border control and police cooperation.
13. The balance between these three factors (political transformation, prosperity and security) varies between candidate countries. Iceland’s accession for example is for both sides primarily about prosperity; whereas for Kosovo the key driver in the short term is security and stability, though political and economic reform will become increasingly important as the accession process develops and the institutions necessary for an EU member state are developed. It is therefore important that the enlargement process remains flexible enough to deal with the differences in balance and focus between the enlargement countries.

Alternatives to enlargement

14. With some accession applications stalled, and others blocked by bilateral disputes, and in the face of “enlargement fatigue” in some member states, it is worth considering the alternatives, and the opportunity costs of not continuing enlargement. NATO membership is a key goal that delivers reforms related to security policy. But it does not provide the same framework and context for significant reform across the entire EU acquis as is demanded by the EU accession process. And only full membership offers a sufficiently strong incentive to encourage states to make the necessary deep reforms against the wishes of powerful vested interests. While the relationship offered through the European Neighbourhood Policy is valuable in itself, it is a compelling offer of full membership one day, subject always to the criteria for accession being met, which offers the most powerful leverage by which to promote democracy and human rights in countries of the Eastern Partnership.

Maintaining the momentum of reform

15. The European Council in December 2011 reaffirmed its support for the 2006 renewed consensus in support of enlargement, based on consolidation of commitments, fair and rigorous conditionality, better communication, combined with the EU’s capacity to integrate new members, with each country being assessed on its own merits. The European Council recognised that a “credible enlargement policy is key to maintaining the momentum of reform in the countries concerned and public support for enlargement in the Member States”.

16. The Commission rightly noted in its 2012 Enlargement Strategy that “in the context of economic stagnation, there are risks of a lurch towards populism and resistance to essential reforms” in the applicant countries. The EU needs to ensure that its pull factor is sufficient to counter this risk of “reform fatigue”. That requires the EU to demonstrate that it is part of the solution, and that when candidates deliver the necessary reforms, the EU responds and they move closer towards accession.

17. Some Member States are now reluctant to support further enlargement and argue that there is a limit to the capacity of the EU to absorb new members. The Government disagrees strongly with this attitude, believing that the risks to our collective security and prosperity will be greater if we slam the door on European countries that are prepared to commit themselves to the accession
process. Rigorous conditions and a tough-minded approach to conditionality will remain essential both to prepare new member states for the obligations that membership entails and to reassure existing members that the essential elements of EU membership are not compromised.

18. Of course, further enlargement will change the EU, just as every previous round of enlargement has done. The already diverse EU will become even more so: by the time all the Western Balkan nations join there will be more than thirty countries in it, whose peoples do and will want different things from the EU. We should recognise and embrace that diversity.

19. There will be costs related to future enlargements. They are impossible to predict with any precision as they depend *inter alia* on timing, EU budget decisions and the level of economic development of an acceding state at the moment it joins. As with earlier enlargements, the budget costs need to be set against the benefits of increased trade within the Single Market, and the ability of a larger EU to project itself globally, whether economically or politically. The benefits enlargement brings in terms of freedom, stability and security cannot be counted in monetary units alone. However, visible direct expenditures on enlargement do provide some indicator of the monetary costs for the EU. These expenditures include pre- and post-accession assistance. For example, over the course of the 2007-2013 multi-annual financial framework, a total of €11.47bn is available to countries with an EU enlargement perspective through the Instrument for Pre-accession Assistance (IPA). Post-accession costs, in simple budgetary terms, are of course dependent on the final outcome of negotiations for each financial perspective. However, by way of example, Structural and Cohesion Fund commitments to Bulgaria for 2007 – 2013 were €6.9bn; and looking ahead, the Office for Budget Responsibility estimates that there will be some small cost increases within the EU budget for Croatia. As with every aspect of EU expenditure, the Government is committed to ensuring that spending is restrained and the maximum value obtained for every euro spent.

**Evolution and Leverage**

20. The enlargement process continues to evolve as lessons are learned from each accession round. In the early stages of Central and Eastern Europe’s accession process the political desirability of enlargement was prioritised by many over the need for technical readiness. In more recent years, there has been an increasing emphasis from both Member States and the Commission on strict conditionality and the need to meet technical benchmarks. In order to maintain the EU’s capacity to integrate new members, the process needs to be robust and credible, with tough conditionality from start to finish.

21. Croatia has therefore faced the most demanding negotiations yet. Strengthening the rule of law and democratic governance is central to the enlargement process. Following the sixth enlargement to Romania and Bulgaria in 2007, the accession process was improved with the introduction of Chapter 23 (judiciary and fundamental rights) to provide greater focus on the development of a strong track record on the rule of law; with opening benchmarks introduced and conditionality for key political criteria (e.g. rule of law, anti-corruption, judicial
and administrative reform) strengthened, with the requirement for compliance ‘frontloaded’. The EU also stopped giving target accession dates to avoid creating political pressure for accession within a certain timeframe.

22. In December 2011, building further on the lessons of Croatia’s accession, the General Affairs Council endorsed the Commission’s proposal for a “new approach” to addressing rule of law reforms. This represents a further refinement to the enlargement process in order to enhance its credibility and effectiveness in meeting the challenges of each new accession. Chiefly, it involves early opening of Chapter 23 and Chapter 24 (Justice, Freedom and Security) along with a reinforced negotiating scheme to give the Commission and the Member States greater leverage. Tackling Chapters 23 and 24 early and on the basis of appropriate conditionality maximises the time available for candidates to address these fundamental issues and to build up a strong track record. Montenegro will be the first to benefit from the new approach, and following the opening of accession negotiations in June, we look forward to the early opening of chapters 23 and 24. This will help Montenegro to confront the challenges of organised crime and corruption and press forward with judicial reform. Successful reforms in these areas will also underpin success in other chapters of the acquis.

23. Effective leverage also requires the EU to deliver on its side of the bargain in order to maintain the credibility of the process for the candidate countries. For instance, while the accession process has helped change Turkey over the last decade, in recent years it has stalled and its influence has diminished. It is essential that we strengthen the EU’s ability to be a catalyst for reform by reinvigorating Turkey’s accession process.

24. A proactive approach, moving each country forward through incremental steps is increasingly important to maintain visible momentum. At a time when the EU faces major challenges, continued focus on enlargement remains an essential investment in the security and prosperity of Europe. In Macedonia, for instance, while accession negotiations have remained blocked, the Commission has this year engaged in a High Level Accession Dialogue, a process which has delivered further vital reforms which will enable Macedonia to progress more quickly once negotiations do begin, and which, by demonstrating continued EU commitment to Macedonia, has played a role in maintaining political stability since the signing of the Ohrid Framework Agreement eleven years ago. Similarly, in Bosnia and Herzegovina the EU has provided focus through a High Level Dialogue on the Accession Process, and a Structured Dialogue on the Rule of Law. The EU will also continue to work with the Bosnian government to implement the European Court of Human Rights judgement on the Sejdić Finci case and to establish an effective co-ordination mechanism in order for the Stabilisation and Association Agreement to enter into force and to pave the way for them to submit a credible membership bid. While progress has been disappointingly slow, the EU’s engagement and the perspective it has offered has led the Bosnian leaders to establish a clear road map that they now need to follow.

25. Regional cooperation and good neighbourly relations also remain central to the enlargement process. Bilateral disputes cannot be allowed to undermine these
key principles or to interfere with the enlargement process, either by holding up accession or being made part of the accession process. Demonstrating the way in which the enlargement process can make a positive contribution on these issues, the Croatian parliament, “empowered by the completion of the accession negotiations”, in October 2011 adopted a Declaration on Promoting European Values in Southeast Europe expressing a firm commitment that bilateral issues such as border issues must not obstruct the accession of candidate countries to the EU, and committing Croatia to support the EU aspirations of others in the region.

**Delivering Enlargement**

26. In order to deliver enlargement, the UK works closely not only with the candidate countries but also with the Commission, European External Action Service and other Member States to maximise our influence and to encourage positive change. The Government also works closely with the US, who are key and influential supporters of further enlargement and of regional reform and stability. In Bosnia and Herzegovina, we support the work of the EU Special Representative (EUSR) in his efforts to facilitate progress on the key elements mentioned in paragraph 24 above. With Turkey, we have been active in promoting the Foreign Policy Dialogue with the EU, including through UK secondments to the institutions, close working with other Member States, and strongly supporting the invitation to Foreign Minister Davutoglu to a Foreign Affairs Council in 2012. We are also active in providing political support to processes crucial for enlargement, and helped secure agreement to the EU-facilitated Belgrade-Pristina Dialogue process.

27. Applicant countries are given financial support through the Instrument for Pre-accession Assistance to meet the EU accession criteria. These funds, with a total ceiling of €11.47 billion in the current 2007-13 financial perspective, are used to support initiatives related to institution-building and the rule of law, human rights, administrative and economic reforms, and regional and cross-border cooperation, with the aim of preparing countries to meet the tough membership criteria for the EU. Funding is currently allocated mainly through technical assistance, twinning (teams of seconded national experts into beneficiary countries) and projects, including grants to enable loans managed by the Western Balkans Investment Framework. A revised IPA II is currently being negotiated to support enlargement during the 2014 -2020 financial framework.

28. The UK Government has heavily engaged to ensure that the revised instrument provides a stronger strategic link between IPA funding and the delivery of enlargement priorities, with greater flexibility to meet each country’s needs, thereby also enhancing the efficiency and effectiveness of EU funding. The Government also continues to provide strategically targeted bilateral funding in support of key political reforms. Our ability to act swiftly and in a highly targeted way enables the UK to work closely with candidate countries to help ensure that the more substantial EU funds, when they come on line, are properly focused on our key priorities.
As set out above, each country progresses towards accession on its “own merits”, now along a more complex and incremental path than was the case during the fifth and sixth enlargements. Incentives and reforms need to be managed and evaluated over longer timescales. The Commission’s Annual Enlargement Package, published each autumn, remains an essential element of this process, ensuring the regular evaluation, refreshment and reassertion of the EU’s wider enlargement strategy. Equally importantly, it provides an annual opportunity for Member States to hold the Commission and candidate countries to account on both the overarching strategy and on progress made by individual countries, with national Parliaments and the Council of Ministers able to scrutinise and reaffirm their own commitments and actions to maintain credible, conditions-based momentum towards further EU enlargement.

29 November 2012
1. Do Articles 2 and 49 of the Treaty of the European Union provide the right principles for any further enlargement of the EU?

Both articles do provide the right and sufficient principles for further enlargements since they both lay down the most important requirements that an applicant country must fulfill in order to become a member state of the EU. These requirements represent the core values upon which the Union is founded. The necessity of being a European country, limit the scope of enlargement only to the continent.

2. The Copenhagen criteria expand upon these principles to provide a more detailed framework for eligibility to join the Union. Do these criteria fully encapsulate the principles behind EU enlargement?

The Copenhagen criteria present a wide range of criteria that are obligatory for applicant countries and fully encapsulate the most important principles behind EU enlargement. These criteria fully refer to the most important democratic values such as the rule of law, respect of human rights and minority rights. It is self explanatory that all these democratic values can be effectively implemented and guarded by capable, stable and democratic institutions. The Copenhagen criteria stem from the democratic legacy of the European nations and also provide a certain geographical qualifier. The insistence on a functioning market economy only adds more substance to European integration and is another positive example of horizontal integration of European societies and states.

8. On what policy areas does enlargement have the greatest impact? How has enlargement previously impacted negotiations on contentious policy areas, such as the Common Agricultural Policy and migration and asylum? What impact is further enlargement likely to have on such areas?

Enlargement policy is still one of the most successful policies of the EU. Bigger Europe is stronger Europe. An extensive study conducted by the European Commission published in 2008 on the economic impact two years after accession concludes that "the fifth enlargement has acted as a catalyst of economic dynamism and modernization for the European Union, helping the economies of old and new Member States to better face the challenges of globalization. At the same time, the economic changes induced by this enlargement have been absorbed quite smoothly, and there is no evidence of disruptive impacts on the product or labor markets."

9. What might be the broader geopolitical impact of further enlargement, or of not admitting additional states who wish to join? How might the European neighborhood be affected by the EU’s decision on enlargement?

The Enlargement policy proved to be one of the most successful EU policies in the recent history contributing to the peace, stability and economic growth on the European continent.
Written evidence from the European Affairs Committee, Former Yugoslav Republic of Macedonia

EU enlargement with South East European candidate and potential candidate countries will provide benefits of mutual deeper trade integration, a larger internal market, more investments and jobs and finally-more stability and sustainable economic growth. EU membership prospect is a very powerful tool and incentive for the reform processes aimed at building stable institutions and democratic societies. Any delays or postponements in pursuing the undertaken EU enlargement commitments negatively affect these processes. Furthermore, they also affect the credibility of the EU enlargement policy and the credibility of the EU as a global actor.

11. Is ‘enlargement fatigue’ setting in for a) the Union as a whole, b) individual Member States, or c) candidate countries? How can such ‘fatigue’ be gauged, and should the EU be working to combat it?

The Enlargement of the European Union has always been one of its key features. After the fifth wave of the enlargement so called ‘fatigue’ set in, primarily at the level of individual Member States which have regarded the EU legal and institutional setup as inadequate for further enlargement of the Union. The enlargement was also viewed, by the public opinion in many countries, as one of the main reasons for rising unemployment, increased immigration and aggravated socio-economic situation. This only added to the fall in the enlargement enthusiasm at the level of Member States. This situation was certainly felt in the candidate countries and affected negatively the speed of the reforms necessary for EU accession. Lisbon Treaty, however, renders these fears as inappropriate as it provides solid and flexible legal framework for further successful integration of the candidate countries.

This ‘fatigue’ is being successfully countered by the Commission by the means of increased communication on the benefits of previous enlargements, notably in terms of increased stability, improved human rights situation, rule of law and spread of democracy on the European continent. In economic terms enlargement is also a success, through increased market opportunities, rise in trade of goods and services, opening of new jobs, increased efficiencies and improved socio-economic conditions in general. These benefits have been successfully communicated by the Commission, and increasingly by some Member States. The partnerships forged with candidate countries in this regard could be a major step forward with an aim to improve the image of the enlargement in the eyes of the general public, not only abroad but also within national borders.

12. Do a) the EEA, b) the European neighborhood Policy, or c) the possibility of a ‘privileged partnership’ offer viable alternatives to full membership? Could these circumvent ‘enlargement fatigue’ either as permanent alternatives or as stepping stones to full membership?

The Republic of Macedonia is a candidate country for EU membership since 2005. This year, in 2012, the European Commission recommended for the fourth consecutive time to the Member States that accession negotiations should be opened with Macedonia. EEA is not a political option for Macedonia, which has a Stabilization and Association Agreement with the EU and a bilateral free trade agreement with EFTA. The idea for “privileged partnership” with the EU does not reflect mutual political aspirations and commitments undertaken by Macedonia and by the EU. “European neighborhood policy” provides an adequate framework for pursuing the Union’s political, economic and security policy goals and interests towards the neighboring countries without an EU membership perspective. For Macedonia, as an EU candidate country, the only option is the membership of the European Union. First step in
this direction is the beginning of the accession negotiations. In this respect, traditionally, in the United Kingdom we have a staunch supporter.

14. Have the lessons from previous enlargement rounds been learnt to improve the process of enlargement?

There is no doubt that the process of enlargement has been improved and strengthened during the years and successive enlargements. The lessons from the fifth enlargement round, as well as the experience of Croatia led the Commission to develop a new structured approach towards negotiations, which puts rule of law at the heart of accession process. With the new approach, the emphasis is given to the chapters on judiciary and fundamental rights and to justice, freedom and security. This new approach will undoubtedly ensure that candidate countries accede to the European Union completely prepared.

Recently, the Commission has explored new creative avenues for reviving the EU accession process of some candidate and potential candidate countries, with the initiatives such as the Positive Agenda with Turkey, High Level Dialogue for the Accession Process with Bosnia and Herzegovina, High Level Accession Dialogue with Macedonia. These initiatives were a result of a lesson learned – not to let the EU membership perspective and the accession reform process be diluted.

Still, one aspect is not yet developed and that is how to overcome the blockades in the accession process of a candidate country imposed by a member country? Blocking the accession process because of open bilateral issues undermines the whole process of merit based accession, the credibility of the EU and the reliability of its commitments. There has to be a balance established between solidarity among member states, pursuing the common European interest and maintaining the credibility of the EU and its enlargement commitments. This is the next lesson to be learned.

14 November 2012
Principles behind enlargement

1. Do Articles 2 and 49 of the Treaty of the European Union provide the right principles for any further enlargement of the EU?

2. The Copenhagen criteria expand upon these principles to provide a more detailed framework for eligibility to join the Union. Do these criteria fully encapsulate the principles behind EU enlargement?

Submission No. 1

Submission to these two questions is based upon the report on “Europe’s frontiers” by the committee for European affairs of the French Senate, dated 8 June 2010 – (http://intranet.senat.fr/rap/r09-528/r09-5281.pdf)

This text covers several aspects of the enlargement process but will particularly address the two following questions:

• Are the current criteria for membership of the EU the correct ones?

• Is there a danger of enlargement fatigue? How will the tough economic climate in Europe impact on the prospects for further enlargement?

The question of Europe’s frontiers is a delicate one as it is often linked with two sensitive issues:

– The Turkish adhesion debate which tends to bring forward interrogations about the long term future of the Union: where do European frontiers end? Is there an European civilization or spirit?

– The institutional conceptions of the EU. Is enlargement a way to push for stronger, more integrated European governance or is it, on the contrary, a protection against a “federal” system for Europe?

These two interrogations should be integrated in a larger debate that takes into account the consequences of the ongoing economic and financial crisis. Primarily built around economic issues, the European construction now seems threatened by the current apprehensions about the economic and monetary future of Europe. In that context, the debate about the frontiers of the Union seems all the more pertinent- and vital: would enlargement further endanger the precarious economic state of affairs or would the inclusion of large and dynamic economies, such as Turkey, help boost European growth?

One cannot give a definite answer to these crucial interrogations but it is possible to shed light on the different aspects of the question so as to put in perspective the “Europe’s frontiers” problem with the broader issue of European enlargement and integration.
Membership of the European Union is open to any “European state which respects the values referred to in Article 2 and is committed to promoting them”, states Article 49 of the Treaty on European Union.

The criteria underlined by Article 49 frame the debate as follows: the candidate has to be a state, must be “European” (which excludes candidates such as Morocco in 1987), the eastern border of Europe seemingly being the Urals, and ought to respect the values highlighted in Article 2.

The “Copenhagen criteria” reiterate part of the previously highlighted criteria (the geographical criteria and the necessary respect of democracy and rule of law) but also add newer ones in order to clarify the enlargement process. An economic criterion stipulates the need for the existence of a viable market economy, capable of competing within the single market. This criterion appears to be of particular importance in the current context. Two other criteria demand that the candidate state accepts all the legal consequences of the European integration (the “acquis communautaire”) as well as the broader policy objectives. Last but not least, the ultimate criterion, and possibly the most controversial one, stipulates that the “integration capacity” of the Union must be taken into account, so as to not threaten the delicate balance.

The institutional problem seems to have been at least partly solved by the Treaty of Lisbon which provides an acceptable frame for further enlargement.

Yet the European Commission underlines that the economic and financial impact of new adhesions should also be taken into account in order to preserve the viability of the Union’s policies. Finally, the “integration capacity” also includes the readiness and information of public opinions in order to avoid repeating the insufficient debate that preceded previous enlargements (to central Europe in particular) and thus fostered a climate of European mistrust.

It is thus the opinion of the French Senate that the enlargement process is controlled by a very developed and demanding procedure and that the criteria in place reduce the risk that enlargement might threaten the Union’s future. Yet, the uneasiness and distrust remain leading to fears of an “enlargement fatigue”.

However, this report aims to show that these fears are not justifi ed and that enlargement should be seen as an opportunity, especially in the dire economic context.

Every state that belongs to the Council of Europe is a possible candidate for adhesion. The only European state missing to that list of 47 powers is Belarus, whose candidature has been refused, as it is still a dictatorship.

Yet, out of the 20 members of the Council that do not belong to the European Union, only 13 can be considered as “plausible” candidates (Andorra, Liechtenstein, Monaco, San Marino are too small, Norway and Switzerland have voted against and Russia does not appear to be a probable candidate). Currently, 6 states have the status of candidate: Croatia, who is to join the EU in 2013, Turkey, Macedonia, Montenegro, Serbia and Iceland.
The remaining countries which belong to the Council of Europe and could in the future apply to join the EU are the three remaining Balkan states (Kosovo, Albania and Bosnia and Herzegovina, whose “vocation to integration” has been recognized) and the five remaining states in eastern Europe: Armenia, Azerbaijan, Georgia, Moldavia and Ukraine, whose status of “potential candidate” has not yet been approved.

This inventory intends to show that the enlargement process should not generate such an excessive apprehension. Of all these possible candidates, only Croatia will join in the short future. After Croatia, the likeliest members appear to be Iceland and some of the Balkan states. Yet all these countries represent only a very small fraction of the Union’s global population (the combined population of Croatia and Iceland amount to 1 % of the EU’s population) and economy. They do not thus seem to constitute a threat of any kind to the economical and demographic balance of the area. Even the broadest conceivable enlargement movement (all the Balkan states and Iceland) would not in any way be comparable to the scope and impact of the previous enlargements, as all these countries only amount to 4 % of the global population. As a reminder, the countries of 1973 enlargement (the United Kingdom, Denmark and Ireland) represented one third of the EU’s demography. The two countries whose integration would have a real impact on the economical and demographic balance are Ukraine and Turkey. Yet, it seems unlikely that they will join in the current decade.

Thus, enlargement does not seem to be an unlimited and uncontrollable process: the “frontiers” of Europe are well determined (only the Turkish case is controversial) and the criteria are demanding. Furthermore, the next integrations and the conceivable ones do not seem to be able to destabilize or threaten the balance of the Union, neither economically nor demographically.

There are of course difficulties linked to the integration process that must not be underestimated. The inferior levels of prosperity between the joining members and the main powers in Europe can create some distortions. Financing the common policies for the development of joining members might be difficult, especially in the case of Turkey. The institutional effect should not be overlooked either. Most candidates are “small” states: the EU must thus find a delicate balance between its core principle of equality between states and the necessities of policy-making.

Yet, this report wishes to underline the positive effects that can be expected of further enlargements. Stronger regional stability and increased prosperity are the goals of the Balkan enlargement. Moreover, it can not be denied that most European nation-states need the prism of the European Union in order to compete with the foreign powers. The place of Europe in itself is at stake, and the integration of dynamic and emerging economies should not be overlooked.

The enlargement’s question calls for a broader debate about the European project, its realities and its limits.

There are indeed some misconceptions about the nature of the European project. The European construction does not seek to replace the fundamental role of the national state. Neither is it an attempt at federalism, in the German or American sense, because there is no
“European people” that would serve as the basis to such an entity. The European Union is a very narrow association of states or a federation of states: it is not a federal state and there does not seem to be a shared wish that it should become one for now.

These remarks intend to show that the European construction does not follow a given model. Its structure, scope and nature are unique. Hence, the European construction can primarily be defined as a project. One should thus go past the traditional definition of frontiers and discuss the plurality of the concept of frontiers in the European construction. Some countries are “inside” the Union but do not take part in certain policies or projects whereas others, which are “outside”, do.

Perhaps the most striking example of such a phenomenon is the Swiss example. Switzerland is not a member of the Union, yet takes part in a considerable number of European projects, policies and programs to such an extent that the question of its membership does not appear to be of importance anymore.

The frontiers’ logic is therefore not a binary one. The Union is a project but all its members do not necessarily have the same will or capacity to advance at the same speed in every domain. The existence of several zones within the Union (Schengen area, Eurozone) embodies this phenomenon. The principle of “variable geometry” is already a reality in Europe, the United Kingdom being one of its main beneficiaries. The same idea can be applied to the enlargement’s debate, in order to resolve the seemingly inextricable Turkish situation. One country does not have to belong to the Union in order to pursue some of its policies, for the benefit of both sides.

In conclusion, the debate regarding the Union’s enlargement should not be looked at with excessive anxiety.

The ongoing enlargement process is in reality a relatively limited process, which remains under the control of a developed procedure and of strict criteria. The possible new members do not threaten Europe's cohesion. The beneficial effects of integration should also be more taken into account: the Union needs to reach a critical size in order to compete on the global market and so as to protect its common interests.

The answer to enlargement fatigue or scepticism lies in the pursuit and consolidation of the European project. This project does not follow the existing typology of regimes and structures. This project accepts the idea that all actors cannot advance at the same speed and thus fosters the idea that each country might participate in the European construction in its own way.

**The impact of EU membership on new Member States: Irrelevant for France**

**The impact of enlargement on the Union**

6. What is the economic and social impact of EU enlargement on the existing Member States?

**Submission No. 2**

74
The social and economic impact of the most recent enlargements seems to have been quite limited in France, given the size and economic power of the newest members. Only immigration from Central and Eastern Europe appears to be a prominent issue for the public opinion.

7. What are the political and constitutional effects of enlargement? You may wish to comment on the following:

**Submission No. 3**

Contrary to what could be feared, the latest enlargements did not create an institutional chaos. Broader enlargement may even have helped to shorten some negotiations, according to some academic studies.

8. On what policy areas does enlargement have the greatest impact? How has enlargement previously impacted negotiations on contentious policy areas, such as the Common Agricultural Policy and migration and asylum? What impact is further enlargement likely to have on such areas?

**Submission No. 4**

The cohesion policy seems to be the most important area to keep in mind vis-à-vis enlargements, since joining countries usually have inferior levels of wealth. The integration of Turkey is thus thought by some to be, in that financial light, rather problematic.

9. What might be the broader geopolitical impact of further enlargement, or of not admitting additional states who wish to join? How might the European neighbourhood be affected by the EU’s decisions on enlargement?

**Submission No. 5**

This question is partly addressed by the report (see page 1): the impact of further enlargement, except in the Turkish case, would be relatively weak, since the countries whose integration seems likely are not demographic or economic powers.

It appears to some Senators, that if a country such as Turkey was to meet the Copenhagen criteria and still sees its candidature rejected, the implications for regional diplomacy and the global credibility of the Union would be vastly negative.

**The appetite and capacity for further enlargement**

10. What impact should the ongoing economic and financial crisis, particularly in the euro area, have on further enlargement?

**Submission No. 6**

In the euro area, the ongoing crisis has a negative impact on public opinion’s view of further enlargement, even though the two phenomenons should not be linked. The example of Greece, a “small” country whose finances threaten the whole area, is sometimes wrongly used in order to protest against further enlargement. Yet the newly admitted countries would not necessarily be members of the euro area.
11. Is ‘enlargement fatigue’ setting in for a) the Union as a whole, b) individual Member States, or c) candidate countries? How can such ‘fatigue’ be gauged, and should the EU be working to combat it?

**Submission No. 7**

“Enlargement fatigue” seems to be setting in Turkey, which is trying to develop its own regional strategy. The rest of the candidate countries are still very willing to join the EU. Once again, the euro area’s crisis should not be confused with a loss of attractiveness for the Union. See the answer to questions 1 and 2 for additional detail.

12. Do a) the EEA, b) the European Neighbourhood Policy, or c) the possibility of a ‘privileged partnership’ offer viable alternatives to full membership? Could these circumvent ‘enlargement fatigue’, either as permanent alternatives or as stepping stones to full membership?

**Submission No. 8**

The existing alternatives to full membership might be the first step to a “two-speed” Europe. The definition of a new, extensive specific status may be needed in order to offer a much-needed flexibility to candidate states and existing member states. One must also underline that specific cooperation frames can be opened to states which do not have the full membership status (following the model of Switzerland and Norway). An important number of senators are in favour of a federal core gathering some member states.

13. Which current Member states have a) the most and b) the least positive views of recent rounds of enlargement? Is this true for both the political elites and the general population? What are the most significant factors affecting public views of enlargement?

**Submission No. 9**

Contrary to the political elites, the French public opinion appears rather unconcerned by the last rounds of enlargement. The immigration question, especially the migration from Romania, is however of particular importance to a part of the population. Certain economic phenomenons such as plants’ relocation also constitute an area of public and politic concern.

14. Have the lessons from previous enlargement rounds been learnt to improve the processes of enlargement?

**Submission No. 10**

There is a political consensus amongst senators that the Copenhagen criteria should be more thoroughly respected before integration. The need to better inform the public opinion also appears to be an important condition for the enlargement process’ success.

15. How should the term ‘absorption capacity’ be understood in the context of enlargement with regard to:

i. The legal basis in the EU treaties?
ii. EU decision-making?
iii. EU budgetary resources?
Written evidence from the European Affairs Committee, French Senate

iv. The capacity of the EU’s law-making and other institutions?
v. A European social or cultural identity?
vi. Perceived geographical borders of ‘Europe’?

Submission No. 11

See document on page 1. The conceivable rounds of enlargement to come do not seem to threaten the political or economic capacities of the Union. Furthermore, to many senators, the introduction of different levels of integration seems to be a promising path in order to pursue the enlargement process.

15 November 2012
Replies to the questions

Methodology and monitoring of countries

1. The improvements to the accession negotiation method brought in the negotiations with Croatia, including the systematic use of closing benchmarks and the introduction of opening benchmarks, contributed crucially to the better preparation of Croatia for EU Membership. Hence, there is no need to put in place for Croatia any post-accession monitoring mechanism like the Cooperation and Verification Mechanism introduced in the previous enlargement round. Further improvements, in particular the new approach with respect to the negotiation chapters 23 – Judiciary and fundamental rights & 24 Justice, freedom and security were introduced for the accession negotiations with Montenegro. These chapters will be tackled early in the negotiations to allow maximum time to establish the necessary legislation, institutions, and solid track records of implementation before the negotiations are closed. They will be opened on the basis of action plans to be adopted by the national authorities. The Commission will provide substantial guidance in its screening reports to support the elaboration of these action plans by the candidate country. An innovation is the introduction of interim benchmarks which will be set when negotiations are opened. Only once these are met the Council lay down closing benchmarks. This gives us greater leverage to promote the standards in these areas, allowing to firmly anchor reforms and ensuring close monitoring of their implementation in the course of the negotiations. It is difficult to speculate on what would have happened in the past, had all these measures been in place, but we are focusing on the future and our objective is to ensure that in future accessions any shortcomings of the past will not be repeated.

2. Member State compliance with the principles of the Union as reflected in the Treaties is ensured through well-functioning mechanisms provided for in these same Treaties. The Commission has a specific and key role in this context as guardian of the Treaties. Further development of these or similar mechanisms through amendments of the Treaties is the prerogative of the Member States and the European Parliament. I will not speculate on the likelihood of this happening, but it is clear that currently there is a lot of movement with respect to EU governance and the EU of tomorrow will not look the same as the EU of today.

3. Member States have an obligation to comply with the Treaties and EU legislation. The Copenhagen criteria apply to candidate countries. As for the mechanisms at the disposal of the EU for ensuring Member States compliance, I refer to my answer to question 2.

4/5. Enlargement is an inter-governmental process, led by the Member States, with the Commission having a key supportive role. All decisions are taken by unanimity of the Member States. Hence, there can be no issue about Member States being excessively involved in the enlargement policy. What we have repeatedly stressed, however, notably with respect to bilateral issues involving enlargement countries and individual Member States, is that all should take into account the broader EU interest in their actions. For it is true that the credibility of the accession conditionality, unanimously
agreed by the Member States, can be negatively affected if bilateral issues are allowed to hold up the accession process.

6. I do not see any tension between promoting reform in the enlargement countries and reporting objectively on their progress. On the contrary, an objective monitoring and reporting of the situation and the state of reforms is a valuable tool for assisting these countries to focus on further necessary reforms in their path towards the EU.

The EU’s regional goals and ‘wider Europe’

7. The Commission avoids comparisons between the enlargement countries. It is nevertheless true that such comparisons are made by governments and public opinions who can judge on the basis of our reporting on individual countries. In my view, there is no harm to it. On the contrary, the example of performing countries should have a ‘pull effect’ on those lagging behind, by demonstrating that reforms bring tangible results in the accession process. For example, Croatia’s imminent accession to the EU is a powerful proof of the credibility of the enlargement process and a source of encouragement for its Western Balkan neighbours.

8. The European Neighbourhood Policy encompasses both our Eastern and our Southern neighbours, and it is not the Commission’s intention to change the geographical coverage of the policy. Our Southern neighbours are also very near the EU – Morocco is only a few miles of water away! Last year, the Southern neighbourhood experienced momentous historic change with the Arab Spring. The people rose against autocrats and, in many countries, are establishing new democracies. We have an interest in supporting these democracies and ensure that they succeed. If they do, they will not only create economic growth, diffuse prosperity and trade opportunities also for the EU, but they will also strengthen the EU’s security and the momentum towards greater respect of human rights and fundamental freedoms. But if they fail, they will create a zone of instability right at the doorstep of the EU, with poverty, mass migration and a possible breeding ground for religious radicalisation, which would be a threat for us all. Now is not the time to disengage.

9. Some of our Eastern partners wish to go further in their relations with the EU. The EU has already acknowledged their European aspiration. In the May 2011 Communication on the European Neighbourhood Policy, we have pointed out that the values upon which the European Union is built – namely freedom, democracy, respect for human rights and fundamental freedoms, and the rule of law – are also at the heart of the process of political association and economic integration as put forward by the Eastern Partnership. These are the same values that are enshrined in article 2 of the EU Treaty and on which articles 8 and 49 are based. The Eastern Partnership does not prejudge the future development of bilateral relations between the EU and partners. However, if implemented, the reform measures envisaged by the Eastern Partnership certainly bring partners closer to EU core values and to EU governance standards.

10. The EU enlargement policy is driven by Article 49 of the Treaty on European Union, which stipulates that any democratic European State may apply to become a member of the EU. There are indeed both geopolitical considerations and potential economic and policy benefits for the EU that support this policy and I would not venture an overall assessment of their relative weight which anyway depends on each case. While it is difficult to assess precisely the impact of the fifth enlargement on each specific EU
policy, our overall judgement is that the EU and its policies have substantially benefited from it, including in the core areas of the internal market and environment.

**Court of Auditors’ EULEX report**

11. The Commission has welcomed the report of the Court of Auditors on EU assistance to Kosovo. We share the Court’s assessment that establishing the rule of law in Kosovo is a challenging and lengthy process. The Court found that our assistance was generally well managed and that progress had been made in a number of areas, such as customs and the judiciary. The Court clearly highlighted the obstacles the EU has to face in Kosovo, including Kosovo’s history, the relatively low priority that Kosovo politicians seem to attach to the rule of law and the differences among Member States on Kosovo’s status. We have worked very closely with the Court on this report and agree with its recommendations. You will have noted that our replies to the Court’s findings have been included in the report. In fact, we are already implementing some of the Court’s recommendations. For example, the Court recommended we increase our use of policy dialogue and we started a visa liberalisation dialogue with Kosovo in January and a Structured Dialogue on the Rule of Law last May. Similarly, the Court’s recommendation to use conditionality and benchmarking to better focus our assistance is foreseen in our proposals to update the current IPA regulation, which we hope will be agreed by Council and Parliament soon. Concerning more general improvements to the work on rule of law with the enlargement countries, I refer to the new approach applied to the areas of judiciary and fundamental rights, as well as justice, freedom and security, already implemented in the accession negotiations with Montenegro.

12. At the service level, enlargement policy is the competence of the Commission, while neighbourhood policy is under the remit of the EEAS. In the enlargement countries, there are indeed areas where Commission and EEAS work closely together, given the latter’s role in CFSP-related matters and in the EU Delegations. Cooperation and coordination between the two services, under the supervision of HR/VP Ashton and myself, is today excellent, such as in the context of the Serbia/Kosovo dialogue. In the European Neighbourhood Policy (ENP) field, we have for example issued a number of joint communications, most notably the main policy review of May 2012. All Communication services of the Commission and the EEAS have had the opportunity to participate in the preparation of such joint communications. I have also regular joint meetings with the senior management of the EEAS, as well as DEVCO, with which the cooperation is equally excellent. We are of course constantly improving this cooperation, but I do not think that any major change is needed at this stage.

**Framework for accession**

13. The present institutional framework is in our view adequate for further enlargement to take place in the medium-term on the basis of the current enlargement agenda.

*5 December 2012*
Memorandum from Commission Stefan Füle, Commissioner for Enlargement

BENEFITS OF EU ENLARGEMENT

Arguments

Four strategic benefits

- **Enlargement (1) makes us more prosperous.** A bigger Europe is a stronger Europe. Accession benefits both those countries joining the EU and the established member states. As the EU expands so do the opportunities for our enterprises, financial investors, consumers, tourists and property owners. [see Economic benefits below]

- **Enlargement (2) helps improving the quality of people's lives** through integration and cooperation with aspirant countries in strategic areas like energy, transport, fight against crime and illegal migration, food safety, environmental protection and climate change. For example, enlargement helps us ensuring that high environmental standards are applied beyond our borders and reduces the risks that people in the EU would be affected by imported pollution or energy shortages.

- **Enlargement (3) makes Europe a safer place.** Through the accession process, the EU promotes democracy and fundamental freedoms and consolidates the rule of law across the aspirant countries. The current phase in particular reinforces peace and stability in South East Europe and promotes recovery from the recent wars.

- **Enlargement (4) gives more clout to our say in today's multi-polar world.** In relation with third countries project our values and interests beyond our borders. An enlarged Union enhances the soft power needed to shape the world around us.

Economic benefits

- Enlargement extends the internal market. It opens trade and financial flows thus giving opportunities to firms in the EU and in the incoming countries.

- Trade between the old and new member states grew almost threefold in less than 10 years preceding the 2004 and 2007 enlargements. Even more illustrative is the fivefold increase in trade among the new members themselves.

- More trade translates into more growth and jobs. Central and Eastern Europe grew on average by 4% annually in the period 1994-2008. It is estimated that the accession process itself contributed almost half to this growth e.g. 1.75 percentage points per year over the period 2000-2008. The economic dynamism of these countries generated three million new jobs in just six years from 2002 to 2008.

- Growth in the acceding countries contributed to growth in the old member states through increased investment opportunities and demand for final products. It contributed 0.5 percentage point to the cumulative growth of EU-15 in the period 2000-2008.
• As the internal market was expanding, the EU further advanced in becoming the most interesting place to invest in the world. EU-15 firms were investing towards Central and Eastern Europe, but they were receiving even more investment from other parts of the world.

• Financial flows that accompanied the enlargement process showed textbook behaviour. They flew from richer to poorer countries and helped the firm restructuring and raised people's living standards. They did not contribute to excessive public and private debt.

• Following the outbreak of the crisis in 2008, the foreign financial investors remained in the region. This would most probably not be the case if the countries had not been firmly integrated in the EU or had European perspective.

• In the current enlargement, covering the Western Balkans, Turkey and Iceland, similar patterns are taking place. They are less pronounced as countries, with the exception of Turkey, are smaller. Today, most benefits can be observed in the bordering countries and regions of the EU, which are the biggest investors in the Western Balkans. The recent visa liberalisation further contributed to this dynamism.

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• We tend to forget all these benefits as we observe our economies through the bleak indicators of the current crisis. But this crisis has nothing to do with EU enlargement. On the contrary, the economic reforms and benefits achieved thanks to the enlargement will help bring Europe back on track again.

6 December 2012
Submission regarding issue 12:

“Do a) the EEA, b) the European Neighbourhood Policy, or c) the possibility of a ‘privileged partnership’ offer viable alternatives to full membership? Could these circumvent ‘enlargement fatigue’, either as permanent alternatives or as stepping stones to full membership?”

1. This submission will explore the viability of a ‘privileged partnership’ arrangement for circumventing enlargement fatigue in the case of settling Turkey’s future relationship with the EU. As well as examining the precedents for such an arrangement, the submissions probes its pros and cons, how such a decision could be taken, and what democratic legitimacy it would have.

2. Today’s European Union already operates as an internally differentiated political system. This reflects the use of various national ‘opt-outs’ (concerning the Euro, Schengen, and the European Security and Defence Policy from common policies. Additionally, there are certain legal exemptions inserted into the treaties to protect national autonomy in particularly sensitive matters. This includes the Maastricht Treaty amendment that protects Ireland’s right to legislate against abortion, the Danish accession treaty’s provision prohibiting non-Danish residents from purchasing second homes, and Sweden’s retention of a state-run monopoly for selling alcohol. Moreover, Bulgaria and Romania are subject to a tailormade Cooperation and Verification Mechanism to monitor Bulgaria and Romania’s efforts to implement judicial reform, and fight corruption and organised crime. All these differences in member states’ legal obligations or participation in common policies have developed in a piecemeal fashion.

3. Recently, the possibility of creating differentiated membership status has been proposed as a solution to the quandary of further EU enlargement, particularly regarding Turkish accession. Leaders such as former French President Nicolas Sarkozy and German Chancellor Angela Merkel have proposed offering some form of associate membership to Turkey rather than full EU membership. This not only goes against previous enlargement negotiations, which have focused on acceding to full EU membership; it also contradicts the current official accession negotiations with Turkey, which are premised on its becoming a full member state. However, there negotiations are currently at an impasse owing largely to Turkish intransigence over recognising the Republic of Cyprus.

4. ‘Privileged partnership’ or associate membership is designed to limit the possible destabilising impact of Turkish accession on the EU. Two principal areas of concern are decision-making (Turkey is on course to have a larger population than Germany, giving it a large voting weight in the Council of the EU and at least as many MEPs as Germany) and domestic politics in various member states. Governments in both France and Austria have in the past indicated their intention to hold a referendum on Turkish accession, which could scupper the current Commission-led negotiations. A separate concern about Turkish emigration to wealthier member states could be addressed without the need for a formally differentiated membership status. Rather,
Written evidence from Dr Andrew Glencross, University of Aberdeen

this could be achieved through temporary restrictions on labour migration, as used by many countries in the wake of the 2004 enlargement as well as for Bulgarian and Romanian accession in 2007.

5. Associate status would, therefore, avoid making Turkey a key decision-making actor for EU single market legislation and foreign policy. Moreover, it would be in keeping with citizens’ preferences as only 34% of EU citizens support accepting Turkey as a full EU member state (Gerhards and Hans 2011). An analogous status is already held by countries closely associated with the EU, namely Switzerland and Norway. These two countries are in effect quasi-members of the EU. The free movement of goods, services, capital and trade extends to both Switzerland and Norway whilst their citizens and firms have the same reciprocal privileges throughout the EU. However, the compromise of quasi-membership has been adopted because a majority of citizens in both countries were unconvinced about the need to integrate fully into the EU. These countries are essentially at liberty to integrate the EU fully should their citizens acquiesce.

6. Consequently, the withdrawal of the offer of full EU membership would be highly controversial. Enlargement has hitherto been based on equal membership rights – a promise that helps incentivise candidate countries to implement far-reaching policy change. Formally differentiating types of EU membership would thus constitute crossing a Rubicon at the risk of alienating elites and ordinary citizens in Turkey. At worst, this could lead to an unravelling of existing progress made by Turkey to meet the EU’s accession criteria in the field of economic reform as well as social and political rights. There is also the potential for a disgruntled Turkish government to work against EU foreign policy in the Middle East.

7. Although the suggestion of re-calibrating EU-Turkish relations on the basis of less than full EU membership has been mooted at the national level, no formal political procedure has been attempted to accomplish this policy change. The Commission is negotiating on behalf of the member states but does not have the prerogative to change what is on offer. That would be the responsibility of the European Council, which could face resistance from the Commission and the European Parliament. As the body representing heads of states and government the European Council rests on national legitimacy yet obtaining a specific democratic mandate for this decision would seem essential for rendering it legitimate.

8. A democratic mandate could be obtained by various means. The European Parliament could pass a motion calling on the European Council to change the terms of the negotiations or else one in support of a decision to offer a privileged partnership. The new ‘citizens’ initiative’ procedure could be used to indicate popular displeasure with the ongoing negotiations. This would involve a petition requiring the signatures of 1 million EU citizens from at least a quarter of member states but would not create any legal obligation to change course. In addition, individual member states could organise referendums on the question of whether to offer Turkey full or associate membership.

9. Under the EU treaties, of course, any member state is in a position to veto unilaterally a candidate country’s accession to the EU even after the Commission has successfully verified the candidate’s readiness for membership. The precedent here is from the 1960s, when then French President Charles de Gaulle’s twice refused UK entry into
the European Economic Community. However, this use of the veto predates the
devising of formal criteria for candidacy and the Commission-led procedure for
scrutinising applicants’ readiness. As a result, any national veto (including one based
on a national referendum) would be explosive both within Turkey and across the EU. For
Turkey, a unilateral national veto would imply that the EU had negotiated in bad faith,
whilst member states would be in the uncomfortable position of having to put
pressure on a government to reverse its decision – one that might in fact be very
popular domestically.

10. In these circumstances, it would appear that the best way forward is to propose a
privileged partnership before the conclusion – or, more likely, exhaustion – of the
existing negotiations and a possible veto. Indeed, the timing appears propitious as the
Commission has sought to re-launch the blocked negotiation process with a new
‘Positive EU-Turkey Agenda’ (May 2012). Unfortunately, this agenda elides the problem
of what the exact status of EU-Turkey relations will be. Hence this move is fully in
keeping with the current status quo of a lengthy and convoluted negotiation process
that chafes with the current Turkish government.

11. Presented as an intermediary status – pending periodic review from both parties – a
privileged partnership could thus allow both sides to save face and create a more
realistic framework for cooperation than the current one. Here the better model is
the Swiss arrangement, which relies on a series of bilateral treaties rather than the
European Economic Area, which includes Norway and Iceland. In a time of major
economic upheaval in Europe, the emphasis of the privileged partnership ought to be
on the economic aspects of integration. Notable areas for bilateral deal-making would
be the free movement of capital and goods, intellectual property law, competition, and
public procurement.

12. Overall, offering Turkey a privileged partnership is a difficult strategy to implement,
especially in a democratic fashion. This does not make it impossible and certainly does
not make it a worse option than the current etiolated Commission-led negotiations. It
is a viable alternative to full membership and in keeping with the existing differentiated
levels of integration within the EU and amongst its quasi-member states. Perhaps the
biggest remaining hurdle is that of finding a political arrangement for legitimising this
decision ex ante or ex post.

31 October 2012
Written evidence from Roger Helmer, MEP

I should be delighted to see new countries joining the EU, but only on the condition that the UK should first leave the EU to make room for the newcomers.

11 October 2012
1. This submission relates primarily to the principles and process of enlargement and how both might be improved to make them more effective and transparent, as well as offers some insights into the impact of enlargement on the Western Balkan countries.

2. Dr Ana E. Juncos is Lecturer in European Politics at the School of Sociology, Politics and International Studies, University of Bristol, a position she has held for three years. In previous research, she has focused on EU foreign and security policy in Bosnia, EU enlargement and the Europeanisation of the Western Balkans.

**Principles behind enlargement and the enlargement process**

3. 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.

4. For example, the Stabilisation and Association Process refers to further specific criteria for the Western Balkan countries: full cooperation with the International Criminal Tribunal for the former Yugoslavia (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.

5. 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 also 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 part of the Copenhagen criteria already), this development points to a prioritisation of some principles over others, especially when opening and closing accession negotiations.

6. The process through which a country becomes an EU member has also 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’.

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7. 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.

8. 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 the Former Yugoslav Republic of Macedonia (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.

The impact of enlargement on the Western Balkan countries

9. Enlargement has made a significant contribution to economic development and promoted political and socio-economic reforms in the countries of the Western Balkans. However, despite the progress achieved, the EU still faces enormous challenges in the region. This is due to three main factors: high adoption costs, the legacies of the conflicts and long-standing bilateral issues.

10. European integration imposes high ‘adoption costs’ for politicians in the candidate countries. In some cases, EU integration not only threatens the power base of local elites, but also their private economic interests as many of them profit from weak legal and regulatory frameworks and are involved in organised crime. Many of the problems encountered by the EU are also linked to the legacies of the conflicts that affected the Western Balkan region in the 1990s and 2000s. The effectiveness of EU conditionality remains low in countries where the legacies of ethnic conflict make compliance with EU criteria very costly, especially in Serbia and Bosnia and Herzegovina. Political, economic and social reforms have fallen hostage to recalcitrant nationalist politicians in Bosnia and threaten the European perspective of Serbia, Kosovo and FYROM. Bilateral disputes, and in particular the Kosovo issue, remain a significant obstacle to regional co-operation.

11. The EU has made an important contribution to peace-building and conflict resolution in the region. Yet, this impact has been undermined by several flaws in the EU’s strategy in the region.

12. 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.

13. 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.

14. Finally, the EU has largely focused on institution-building, 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.

15. The financial and economic crisis has also had significant impact on the Western Balkan countries, worsening the economic problems that some of these countries face, although it has affected some countries more than others (especially Bosnia and Herzegovina and Serbia). The economic crisis has resulted in an increase of unemployment, which was already very high in the Western Balkans and has worsened the fiscal position of many of these countries.

16. Although the enlargement policy does not constitute a significant financial burden for the EU,27 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 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.

17. ‘Enlargement fatigue’ has also increased in recent years, not just within the EU,28 but also among the citizens of candidate and potential candidate countries.29 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 further evidence of disillusionment with European accession among the Croatian public and the citizens of the Western Balkans more generally.

Recommendations

27 In the new Multiannual Financial Framework (2014-2020) presented by the Commission in June 2011, the proposed budget for the Instrument Pre-Accession (IPA) stands at €14.1 billion, which according to the Commission represents a stable budget, at the same level as the current funding programme running from 2007-2013.

28 Within the EU, support for enlargement is also at a low at 42 per cent, while opposition to further enlargement is up at 47 per cent. See Eurobarometer (2011) ‘Public Opinion in the European Union’. Eurobarometer 75. Available at: http://ec.europa.eu/public_opinion/archives/eb_arch_en.htm

29 See Eurobarometer (2011).
18. Drawing on the previous evidence, this report recommends the following changes to the EU enlargement policy:

i. The EU should clearly communicate to potential candidate countries the principles that guide its enlargement policy, not only those contained in the Treaties, but also other ad hoc criteria and benchmarks that have been adopted over time in order to ensure the transparency and effectiveness of the process.

ii. The EU should ensure that the meritocratic nature of the process of accession is preserved, while taking due account of existing Member States’ interests. The increasing politicisation and nationalisation of the process of accession undermines the effectiveness of conditionality and thus the potential for the EU to foster reforms in candidate and potential candidate countries.

iii. 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.

iv. The effects of the economic and financial crisis on the Western Balkan countries need to be addressed if the EU’s attraction power in the region is to be preserved and to prevent a deterioration of the political and socio-economic situation in these countries.

v. The economic crisis also risks increasing the ‘enlargement fatigue’ among EU policy-makers and the public. 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.
Written evidence from Professor Dr Dimitry Kochenov, University of Groningen

1. Enlargement is an overwhelmingly important process shaping the essence of the European Union. Given its fundamental influence on the functioning of the Union of the future, organization of enlargements requires all possible care. Hasty decisions can harm the development of European integration and, crucially, the well-being of all the Member States. While analyzing enlargements it is essential to look beyond the optimistic assertions of the European Commission, which has a vested interest in presenting the process as a great success no matter what, due to the influence of the enlargement process on the inter-institutional balance within the Union and the vagueness of the Treaties on this matter as worded and as applied.

2. My comments concern the legal-procedural questions of the organization of enlargements and relate to three questions in the call for evidence, namely:

   No. 1 (“Do Articles 2 and 49 of the Treaty of the European Union provide the right principles for any further enlargement of the EU?”);
   No. 2 (“Do [the Copenhagen criteria] fully encapsulate the principles behind enlargement?”) and
   No. 14 (“Have the lessons from the previous enlargement rounds been learnt to improve the process of enlargement?”).

3. My remarks focus on the principles of enlargements and EU enlargement law as applied, as well as the lessons learnt from the latest rounds of enlargement. I largely base my comments on the outcome of several years of research leading to the publication of a monograph entitled EU Enlargement and the Failure of Conditionality: Pre-Accession Conditionality in the Fields of Democracy and the Rule of Law (Kluwer Law International, 2008), as well as a number of articles on this issue, which appeared in legal and political science periodicals in Europe and the US.

4. Articles 2 and 49 of the Treaty on the European Union (TEU) are notoriously silent on the main principles of enlargement, which affect the day-to-day regulation of this process. So the Articles are not unequivocal concerning the principle of the acceptance of the acquis communautaire (now unionaire) in full, do not reflect with accuracy the involvement of the institutions of the European Union and the Member States in the process of the preparation of enlargement and, crucially, never even mention the principle of conditionality, which has played the fundamental role in the course of the preparation of all the recent enlargement rounds. As a result, the process of enlargement, as observed in reality, overlaps very little with what the provisions of the Treaties actually describe. I called the actual legal rules operational in the context of the preparation of enlargements ‘customary enlargement law of the EU’. It is not rooted directly in the texts of Articles 2 and 49 TEU. The origins of such customary law can be traced back to the effects of the now long obsolete Article 98 of the European Coal and Steel Community Treaty on the legal regulation of the first enlargements of the (then) Communities – including the accession of the UK. This is
when the key principles of EU enlargement law had been formed, which are still not reflected in the texts of the Treaties.  

5. As such, having enlargements regulated by a custom rather than by the Treaty text directly is not a problem, especially given that the key conditions, which the acceding states need to meet in order to become full members of the EU (including Statehood, Europeanness and respecting the values of Article 2 TEU) are outlined in the Treaty quite clearly (only the membership of the Council of Europe, which has clearly emerged as a condition in practice is not reflected in Article 49 TEU). Problems emerge, however, when the operation of the procedure deployed in the context of the assessment of meeting such conditions is reviewed.

6. Article 49 TEU does not even mention the most important procedural principle of enlargement preparation, which is conditionality and which essentially consists of the imposition of the necessary conditions on the candidate countries, which, when met, lead to progress towards accession. In this context, it is the clear articulation of such conditions (which Article 2 TEU obviously does not provide), as well as the assessment of the extent to which they have been actually met that plays the essential role. Progress towards accession de facto fully depends on these two factors.

7. Article 49 TEU does not shape clarity as to which of the actors participating in the process has to take the lead on this. In practice, it has been the Commission (on the request of the European Council) that took up the difficult task of establishing clear conditions (based on the Copenhagen criteria and Art. 2 TEU values) and monitoring compliance by the candidate countries. In other words, notwithstanding the text of the Treaties regarding the institutional involvement in the preparation of the process, the Commission took unquestionable lead through implementing the key procedural enlargement principle, which, in turn, is not mentioned in the text of the relevant provision either.

8. This development signified a serious enlargement in the powers of the Commission not directly envisaged by the drafters of the Treaties. The Commission came to play an unquestionably dominant role in the process of the preparation of enlargements, thus replacing the Member States of the Union, mentioned in Article 49 TEU as the key actors in the process. Consequently, the Commission received a vested interest in the process: its own documents never doubt that what it is doing and how is for the better and deserves praise.

9. INTERIM CONCLUSION No. 1: Articles 2 and 49 TEU do not actually contain key principles of enlargement, which are applied in practice and, in particular, absolutely fail to capture the precise involvement of EU institutions and the Member States in the management of the enlargement process. In particular these provisions are inadequate in failing to reflect the principle of conditionality and the leading role which is played by the European Commission in the process of the pre-accession.

10. Silence of the Treaty provisions regarding the actual state of affairs in the field of enlargements, coupled with a successful publicity by the Commission of its efforts to

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ensure that enlargements are a success and that the Copenhagen criteria are complied with resulted in a situation where the Commission de facto received a carte blanche in assessing the preparedness of the candidate countries to accession in a situation where its own vested interest in reporting successes is largely unnoticed.

11. The scholarly literature is generally positive about the Commission’s efforts, a handful of dissenting voices notwithstanding. These include, besides myself, Dr. Eline De Ridder, Prof. Daniel Smilov and the experts of the Open Society Institute (New York /Budapest) who ran an alternative programme scrutinising the candidate countries’ progress in complying with the Copenhagen criteria. The group of critics came to most worrisome conclusions, which are proving to be far from unfounded, given the recent developments inter alia in Hungary and Romania, which were both subjected to the pre-accession scrutiny in full.

12. There is thus a discrepancy between – on the one side – the Commission’s self-assessment supported by a number of scholars writing on the legal technicalities of EU enlargement, including Dr. Andrea Ott, Dr. Kirsten Inglis, Prof. Frank Schimmelfenig and others and – on the other side – more cautious scholars and OSI experts, who are hesitant to conclude that the Commission has been particularly successful in its pre-accession activities. The reasons behind this discrepancy are easily explainable. They relate to the scope of the principle of conditionality on which the Treaties are silent. This principle covers both the matters which fall within the competence of EU and those which remain within the sovereign realm of the candidate countries and the Member States, leading to some confusion. In other words, conditionality empowered the Commission to check the candidate countries’ compliance both with the technicalities of the Internal Market acquis and, crucially, with the matters which, while falling within the scope of the Copenhagen political criteria, remain a full responsibility of the Member States after accession.

13. A largely contradictory situation arose. The Commission could rightly book a success in the promotion of the Internal Market acquis in the candidate countries – which was relatively easy to do, given the abundance of detailed rules, clear benchmarks and a vision of what was to be achieved. The same could not be said about the fields falling outside the scope of the acquis, but covered by the Copenhagen political criteria. Crucially, the second category of fields included the issues which were absolutely fundamental for the lasting democratic transformation of the candidate countries, since, rather than the technicalities of the Internal Market, these dealt with the core of democracy, the Rule of Law, human rights protection, the protection of minorities and the like. In other words, these were exactly the areas of crucial importance in the light of Article 2 TEU, fundamental in the countries emerging from the Communist rule. Confusing the two areas of application of conditionality is thus most unhelpful.

14. INTERIM CONCLUSION No. 2: The Commission’s optimistic assessment of the pre-accession progress achieved by the candidate countries is the least reliable in the most crucial areas of the preparation of the candidate countries’ for membership, which concern the values of the Union reflected in Article 2 TEU and the Copenhagen criteria situated outside the scope of the acquis.

15. When scrutinizing the conduct of the pre-accession policy of the European Union, it is fundamental to make a clear distinction between the application of the principle of
conditionality in the context of the export of the acquis and all the other issues, namely those pertaining to the sphere of Article 2 TEU. Systemic analysis of all the documents released by the Commission in the context of the preparation of the latest rounds of enlargements (thousands of pages of Composite Papers, Regular Reports, Monitoring Reports etc.) demonstrates that this is something that the Commission has never done at the level of principle. This led to making a number of far-reaching mistakes undermining the credibility of the application of conditionality and the effectiveness of the principle in the most crucial areas related to the promotion of the values of the Union. Combined with other negative factors, it seriously undermined the regulation of enlargements.

16. The application of conditionality by the Commission, which monopolised the process – relieving the Member States of the need to conduct assessments themselves, but also making them entirely dependent on the information that the Commission provides – reveals that in the most crucial areas related to the promotion of the Rule of Law, Democracy, Human Rights etc. conditionality suffered from seven fundamental drawbacks undermining the process and removing the procedure described in the Treaties even further from reality.

17. The first fundamental mistake of the Commission concerned the establishment of surprisingly low thresholds for finding that the Copenhagen criteria have been met, thus admitting, on behalf of the Member States and the Union alike, that the countries concerned have successfully embraced the values of Article 2 TEU. Given the heterogeneity of the candidates and the divergent levels of their legal-democratic development, this made the statement that a given country meets the Copenhagen political criteria largely meaningless.

18. The second fundamental mistake of the Commission concerned its failure to publicise any clear and in any way coherent standards of analysis which it employed in the context of the formulation of its findings of pre-accession compliance with Article 2 TEU values. The fact that there is virtually no acquis corresponding to such values complicated the task of the Commission to a great degree, which is further exacerbated by the diverging views on the meaning of the values enshrined in Article 2 TEU embraced by different Member States of the Union, making the assessment of the candidate countries’ progress particularly difficult and unreliable.

19. The third fundamental mistake of the Commission concerned extremely poor quality of analysis, which the Commission provided. This included random choice of issues of concern, provision of unreliable or incorrect information, numerous internal conditions in the reports both horizontally – in assessment of the same issues between countries – and dynamically through time – in assessing the candidate countries’ progress from one year to another. In other words, no serious assessment of outstanding issues related to democracy, human rights protection and the Rule of Law has ever been provided by the Commission, undermining the reliability and predictability of the enlargement process, as well as its results.

20. The fourth fundamental mistake of the Commission is related to the vagueness of clear and reliable benchmarking to assess the actual compliance of the candidate countries with the EU's demands presented by the Commission as rooted in the Copenhagen criteria and Article 2 TEU. This led to a situation where no distinctions were made by
21. The fifth mistake of the Commission is chiefly related to the persistent unjustified differentiated treatment of the candidate countries at all stages of the pre-accession process, resulting in often opposing demands being made in the context of the assessment of different countries’ compliance with the Copenhagen criteria. This could not go unnoticed and resulted in undermining the image of the whole pre-accession and enlargement process as predictable, just, and Rule of Law-based, infusing it with unmasked arbitrariness, which contradicts the very idea of conditionality as formulated by the European Council.

22. The sixth mistake of the Commission consisted in disconnecting its findings from the actual progress of the candidate countries towards accession. In other words, conditionality in the fields of democracy, human rights, and the Rule of Law as such was almost entirely divorced from the actual process towards accession.

23. The last, seventh fundamental drawback of the enlargement process as applied is connected to the *de facto* domestication of the enlargement issues by some Member States, undermining the whole rationale of conditionality and predictability, however imperfect. Some Member States play the enlargement card within the context of internal politics, harming the common endeavour and undermining the Commission’s engagement, however imperfect. The best illustration to this is the position taken by Greece vis-à-vis the Republic of Macedonia. The “name dispute” leads to the disregard of the Commission’s recommendations and the weakening of the positions of the individual Member States and of the Union as a whole. This is particularly problematic in the context of the fact that Greece has already been found in breach of International Law on this issue by the International Court of Justice.

24. **INTERIM CONCLUSION No. 3:** The careful analysis of the actual conduct of the recent enlargement rounds abundantly demonstrates that the Commission failed to capitalize on the opportunities offered by the principle of conditionality and that its self-reported successes related to the promotion of democracy, the Rule of Law and other key values of the Union reflected in the Copenhagen criteria and Article 2 TEU in the candidate countries should not be taken at face value. The Commission’s performance in the context of the promotion of the political component of the Copenhagen criteria during the preparation of the recent enlargements has been of profoundly questionable quality. Seven mistakes outlined above illustrate this point well (please consult the monograph cited above for a myriad of detailed examples covering all the candidate countries, which joined during the two last enlargement rounds and a whole array of fundamental issues of relevance for Article 2 TEU).

25. Given the looming drawbacks in the regulation of enlargements related to the application of the conditionality principle in the context of the assessment of the progress made by the candidate countries in the areas not falling directly within the
Written evidence from Professor Dr Dimitry Kochenov, University of Groningen

scope of the *acquis*, it is fundamental to adjust the process in order to learn from the past mistakes. This has not been done, however. Moreover, very similar structures dedicated to the application of the principle of conditionality have been transplanted, *inter alia*, also into the field of the European Neighbourhood Policy. Without any independent serious assessment, the Commission has been successful in instilling in other institutions and some Member States the presumption of success of its own actions, while the evidence to the contrary has been mounting. In other words, instead of seriously thinking about introducing possible changes into the way how enlargements are regulated, the approaches of questionable quality are being replicated in the context of other policies. A serious independent review of the way how pre-accession conditionality is conducted is absolutely indispensable in order to infuse enlargement regulation with transparency, predictability and common sense, making it more reliable and effective – even if this would entail establishing some forms of parallel monitoring of the candidate countries or limiting the Commission’s monopoly in the area of progress-assessment in some other way.

26. TO CONCLUDE

In reply to Question 1:
No, Articles 2 and 49 TEU as they stand do not fully reflect the principles of EU enlargement law. Completely left out from these provisions is the procedure, which is usually applied in preparation of enlargements, or the actual level of involvement of the Union institutions in this process and a number of principles of fundamental importance shaping each accession, including conditionality and the requirement to accept the *acquis* in full. In particular, given that the actual application of conditionality by the Commission specifies the exact meaning of Art. 2 TEU and the Copenhagen criteria, it would be a mistake to view this principle as purely procedural. It clearly goes to the substance of the pre-accession conditions.

In reply to Question 2:
No, the Copenhagen criteria do not fully encapsulate the principles for further enlargements, since they have been *de facto* hijacked by the European Commission and remolded in the course of the regular assessment of the progress made by the candidate countries. The analysis of the Commission’s performance in this field mandates a conclusion that a large number of fundamental drawbacks plagues the process of the pre-accession promotion and monitoring of the candidate countries’ adherence to the Copenhagen criteria and the requirements of Article 2 TEU. Enlargement preparation in the most fundamental areas suffers from numerous internal contradictions, lack of coherence and has an overall inconsequential, if not an illogical nature, boasting at best *ad hoc* follow up on a number of some particularly politicized randomly selected issues, rather than representing a clear, coherent and effective process of the promotion of the Union’s values among the countries about to join.

In reply to Question 14:
It is impossible to state that the lessons from the previous enlargement rounds have been learnt. Indeed, the contrary seems to be true: the fundamentally problematic pre-accession conditionality in the areas of democracy, the Rule of Law and other

fundamental issues now within the scope of Article 2 TEU, has been replicated in other policies. The Commission has never demonstrated that the conditionality in these fields, as applied, has been a success. Instead, there seems to be a presumption that the Commission’s engagement with Article 2 TEU issues in the context of the preparation of the recent enlargements has been a success, notwithstanding the mounting problems in exactly the fields related to the issues where pre-accession success has been reported in a growing number of the Member States, Hungary providing a particularly telling example. It is regrettable that no serious critical independent assessment of the promotion of democracy and the Rule of Law, among other issues, has been conducted following the big-bang enlargement. The self-reported presumed successes by the European Commission are thus, regrettably, questionable.

14 November 2012
Written evidence from Professor Rinna Elina Kullaa, University of Jyvaskyla

1. In my reply to the “House of Lords Select Committee on the European Union Enlargement of the European Union Call for Evidence” I address six of the questions posed under issues listed in the call for evidence: The impact of EU membership on new Member States; The impact of enlargement on the Union; The appetite and capacity for further enlargement. I include in total 22 paragraphs.

2. Concerning the motivations and prospects for further enlargement, and its potential consequences my key points are:

1) EU enlargement is not only relevant for the European Union’s internal relations, but also for transatlantic relations. The United States’ foreign policy has supported with a particular focus EU enlargement in the Western Balkans since 2009. The purpose of this focus is the future stability, democracy and prosperity of the Western Balkan states. In recent years US foreign policy has acquired increasingly a more of a Pacific and varied global focus. EU enlargement is a meeting point of interest, agreement and action for Europe and the United States. Therefore enlargement’s strategic value is not only internal or community based. It reaches beyond to transatlantic relations as well and is one area through which the United States continues to be keenly engaged with European allies. EU enlargement from this point of view engages an important strategic ally and can be argued to therefore also benefit UK-US relations.

2) Money politics matter more today than they have in the past in global politics and for the EU. Questions that condition EU enlargement will become in the near future more closely related to problems of economic and financial stability setting aside increasingly those related to political power and overcoming problematic recent pasts. The current circumstances of the Euro crises and global economic downturn provide an altered background for democratization in states that are current candidates and possible future candidates for EU membership. This environment does not change the contribution enlargement policy can make to the security and prosperity in the Western Balkans and the Mediterranean region. Current significant global economic challenges make the enlargement policy a more important tool for political stability, expanded employment, administrative reform and overall democratization.

The impact of EU membership on new Member States

3 (vi.) Labour migration to and from new Member States

3. Croatia is set to join the EU 1 July 2013. Having completed a long and rigorous enlargement negotiations process Croatia can expect to draw full and wide benefits from labour migration to and from EU Member States. As with the previous enlargements in 2004 and 2007 a transitional arrangement on free movement of workers will apply from
Croatia's accession. A Member State may restrict access of Croatian nationals to their labour markets up to at the most seven years after accession. The transitional arrangement will apply automatically in all Member States for the first two years after accession, and should in principle come to an end after five years. The transitional agreement may be prolonged for a further two years in those member states where there would be serious disturbances of the labour market. Member States are able to make their choice until Croatian accession. Member States must however, give preference to Croatian nationals over labour outside EU Member States. Labour markets also cannot become more restricted than they were at the time of the signature of the Accession Treaty in December 2011. Austria and Germany have the right to apply flanking national measures to address threat of serious disturbances, in service sectors that are sensitive in labour markets. As a reciprocal measure Croatia can apply restrictions equivalent to the national measures by individual Member States.

4. After a Croatian worker has obtained access to the labour market in an EU Member State, they will have rights that are equal to those of the national workers including health insurance, unemployment insurance and a retirement. It is important to note that Labour markets are not blocked at any time even in the transition period and Croatian citizens can always enter the labour market as any third country national can do and in fact member states must also give preference to Croatian nationals over non-EU labour.

4. (i) The dynamics of decision-making

5. Becoming an EU Member State underlines the parliamentary decision-making process and its role. When a state becomes an EU Member State its’ sitting Prime Minister and his or her Cabinet ministers acquire a new important set of duties representing the member state in EU institutions making decision therein most importantly in the European Council. Decision-making in the EU arena affects all spheres of the Member State’s domestic policy and some spheres of its’ foreign and security policy. Membership provides a new and influential role to the elected government. It moderates the role of the President with relation to European states. Whereas the President as the head of state often carries a key importance during EU candidacy by providing political leadership towards gaining membership and by guaranteeing the political future of a prospective Member State, the President’s role diminishes to functions mostly outside of the EU once a state becomes and EU member. EU relations thus are governed after membership by the parliamentary process, although often a key role is played by the President in gaining membership. This should be bore in mind if and when considering shifting the focus of EU membership negotiations to the highest political levels.

6. During negotiations for EU membership, consensus between the opposition and the sitting government on political will towards EU membership and efforts in negotiations are of key importance. Consensus on this singular goal tends to form in successful enlargement negotiations. Moreover, the EU actors in Brussels representing Member States collectively are obliged to communicate with all actors in a candidate state elevating both the awareness and knowledge base of the opposition in addition to carrying out political negotiations with the sitting government. As it is often noted, negotiations for EU membership can be a significant time and a process where transparency in politics among all political parties increases in a candidate state along with the harmonization of the candidate state’s laws with the EU and where expediency in political processes is gained. Political consensus and demands of the negotiations gravitate the process to these ends. Such results could be
expected to be realistic goals if negotiations for EU membership were deemed appropriate to be opened for Macedonia, Serbia and Kosovo for example. However, there is a shift from consensus building during the negotiations to governing in EU membership. The moment of collusion between the opposition and the sitting government is often lost once in membership.

5. Is Croatia satisfied with their accession process and the arrangements in place for them to join the Union?

7. Croatia held its referendum on EU membership on 22 January 2012. Voters voted 66.21% in favor of EU membership. Croatian citizens have expressed consistently positive views towards EU membership and its benefits in recent years. Outside the general population, some Croatian non-governmental advocacy groups expressed reservations in spring 2011 against closing negotiations for EU membership. In some cases the groups contacted directly key EU actors in Brussels by mail. The concern was that the state had not reached the required administrative capacity or implementation and standards of law enforcement for example to warrant the closing of the negotiations. Their concern among others was that betterment in justice, freedom and security would be more difficult to achieve after the negotiations were closed. After finishing negotiations representatives of the Croatian government have at times challenged strict provisions for closing the negotiations which included for example not being allowed to take part as observers in committees working on regional questions of EU enlargement before Croatia’s entry into membership.

8. In the period after finishing negotiations for EU membership Croatia has faced new general elections and formed a new government. Overall the political processes have gravitated towards patterns of becoming a typical EU country that looks in economic terms to become more alike to Slovenia or Spain than any special case. The government holds three ministers that are representatives of an ethnic minority. The new Croatian government in 2012 has focused on balancing the budget and better collection of revenue that are current focuses of political领导s across Europe.

The impact of enlargement on the Union

9. What might be the broader geopolitical impact of further enlargement, or of not admitting additional states who wish to join? How might the European neighborhood be affected by the EU's decisions on enlargement?

9. The prospective EU membership is very popular in some of the potential candidate states. In August 2012 when asked about joining the EU tomorrow, 72% of Kosovo citizens responded they would say "Yes" in a referendum. Support for membership is not however, uniform across the region. A standstill or a failure of the EU enlargement process that has up until now been seen a valid goal would lead to political apathy and disappointment where support for membership has remained high. In states like Kosovo which require still significant steps towards democracy political apathy and instability caused by the potential suspension of the enlargement process could also compromise growth of transparency and any future foreign investments amongst other political and economic consequences.

10. The enlargement process as a whole carried significant geopolitical impact and benefits in areas for the environment. For example, through EU membership negotiations Croatia has systematically made a commitment to support sustainable economic growth and meet EU 2020 climate targets. In terms of the Natura 2000 network Croatia has for example made a
written evidence from Professor Rinna Elina Kullaa, University of Jyvaskyla

designation of 2.2 million hectares towards favorable conservation status. Outside of the EU membership negotiations process such gains in terms of future protection of the environment would have significantly less incentives to receive pledges.

11. Extending the EU’s external border away from a Member State’s own border is a geopolitical prerogative. Freezing the enlargement process would put this goal on hold and would change the strategic geopolitical thinking within the region. This could change the pattern of sought after alliances by smaller states with global and European powers.

The appetite and capacity for further enlargement

10. What impact should the ongoing economic and financial crisis, particularly in the euro area, have on further enlargement?

12. Money politics matters more today than it has in the past in and for the EU. This background is important for the future of enlargement as well. In the last year growth has been slow uniformly in the Eurozone. In all European economies interest rates have fluctuated to a great degree between states although the policy interest rate set by the ECB has been set low. This has meant that money politics has translated in different states in divergent degrees.

13. Along with the recommendations of the Report of the European Commission’s High-level Expert Group on Bank Structural Reform the ECB has announced it will carry out tasks work to keep cost levels stable within the EFSF ESM. The European program of loans are not in the future to be made by one country or a group of countries against others but maintain cohesion and short term state loans, terms and deals are made public concerning specific countries purchases every month so that the public sector can in the future follow the lending process. These reforms promise possible improvement in unity within the Eurozone.

14. A state’s government is the actor responsible for collecting the revenue. The government decides what its expenses will be and it has to also decide about how to finance them. Government bond interest rates in Ireland and Portugal have sharply declined in 2012 as these governments have completed the measures they had committed to in order to receive EU rescue. Markets have responded and rewarded them. More significant problems arise in states where the state’s expenses exceed revenues that the state cannot effectively serve its loans. EU institutions including the ECB and the Commission have been relatively able to further recovery and aid in rescue but it is the first responsibility of the individual governments to oversee their spending.

15. The Euro crises has carried global precautions and have occupied a concern and focus in US-European transatlantic relations. Simultaneously measures used in the United States to combat financial crises including TARP and to a larger extent the FDIC mechanism have been considered as possible models in Europe bringing transatlantic thinking closer together.

16. The economies in the Western Balkans are closely tied to the economies in the United States and Europe. In the Western Balkans growth in the past decade was driven by heavy external borrowing. Account deficits in Serbia for example had grown as high as 20 percent of the GDP by 2009. Highly-indebted countries are particularly exposed to the current crises, because creditors are re-evaluating regional risks and countries’ credit ratings are declining. Most of the banks in the Western Balkans are subsidiaries of West European
parent banks that are now less willing to offer domestic loans. For example in Croatia the foreign claims in the banking sector are 44.0% by Austria, 40.4% by Italy, 7.5% by France, 4.2% by Italy and 3.9% by others. Foreign direct investment has slowed as well.

17. Challenges to Western Balkan economies have been heavy but varied from country to country. Inflation in Serbia for example in has been heavy in 2012 gaining on 12% by October. There are also over 67,000 unemployed persons who receive approximately 14 million euro per month (206 euro per month per person) whose benefits have been paid by interim measures since July 2012. Comparatively the Croatian government has projected in August 2012 modest 0.8% to zero growth with desired recovery to 1.7% growth in 2013 In September 2012 inflation in Croatia reached 5%.

18. Recent EU member states overall have only been able to access 20-30% of the EU funds available to them. Croatia’s cohesion and structural funds will exceed 1,5 billion euros a year and Croatia obliged to contribute 680 million Euros to the EU budget. Croatia needs to make sure in the future it is a net gainer and not contributor. A good example to follow which the Croatian Foreign and EU Integration Ministry has acknowledged is that of Poland that has been more successful in terms of reaching EU funds than most other states.

19. Capitalism is cyclical and the upswing in global economy will also arrive in time. The recession in Croatia as an example has been unnecessarily deep, but far from for example some of the worse current scenario’s. Major policy errors were made in former times much before closing the EU membership negotiations. These were related to for example the national currency’s exchange rate policy. The Croatian financial sector is capable of supporting the economic upswing when it arrives if it maintains a balanced budget and gets investment to increase. In these relative terms EU integration process has been beneficial for Croatia on its road to membership.

20. Once Croatia joins the EU it will contribute to the Europe 2020 Strategy for Smart, Sustainable and Inclusive Growth which asks member states to set national targets in employment, innovation, education, social inclusion, climate and energy among others. The necessary structural reforms therefore are required. The Europe 2020 Strategy which is the is focused on growth, jobs, and social cohesion therefore should help the Croatian government to protect and achieve stability and improve competitiveness in the longer term.

11. Is ‘enlargement fatigue’ setting in for a) the Union as a whole, b) individual Member States, or c) candidate countries? How can such ‘fatigue’ be gauged, and should the EU be working to combat it?

21. Enlargement fatigue as such is not a necessary a future trend or a fact among the individual member states, candidate countries or the Union as a whole; it is not a necessary evil. The EU has a Commissioner for enlargement and a mechanism. Enlargement is one of the process by which the EU continuously defines and redefines itself and therefore its position and importance within the EU’s community governing mechanism is relatively strong.

22. Maintaining the big picture -- a vision and a larger set of goals matters for effectiveness in terms of EU enlargement. If the EU enlargement process as a whole, lacks a ‘big picture’ of goals it will cause unnecessary nervousness among European citizens in member and candidate states. In times of large challenges in employment, productivity, financial stability,
environmental protection and other areas piecemeal changes and reforms without a clearly defined idea or concept will cause unnecessary tensions. Instead of a strong program and a platform with a clearly stated guiding idea would likely be able to inspire all members' to accept delays or increased demands for becoming an EU member state. If the political and economic goals of enlargement would be explained or communicated clearly the publics in candidate states would be likely to accept more rigorous terms for membership as well. Political feeling of the left and right walls to find away in the darkness can be costly. The best way to combat enlargement fatigue is to define and state its ambitious goals clearly to the public and to candidate and possible candidate states. Political uncertainty is costly in terms of political and economic capital. Enlargement promotes growth in Europe but also serves as European currency in Euroatlantic relations. Therefore making the case for enlargement is an important part of protecting Europe's future.

14 November 2012
Written evidence from Dr. Adam Łazowski, University of Westminster

1. Absorption capacity and EU law
1.1. According to the European Commission:

“The institutions and organs of the present Community cannot ensure that the progress of integration will continue in an enlarged Community: on the contrary, there is a reason to fear that the Community decision making procedures will deteriorate. If this happened, it would be difficult or even impossible to create a Community based on the rule of law, which is the foundation of the Community and the sole means of recognizing in law that to equal rights correspond equal obligations. The institutions and organs of the enlarged Community must accordingly be decisively strengthened.”

One may be surprised to learn that this argument was made by the Commission as far back as 1978, that is, five years after the first enlargement. This has become a standard argument, used as a mantra by policy makers and politicians alike. The ability of the European Union to operate with an ever-growing number of Member States has turned into a discourse on the absorption capacity of the club and became the fourth criterion in the set developed by the European Council in Copenhagen in 1993. In the case of the last enlargements, the centre of gravity of the pre-accession debate was on the ability of the candidates and newcomers to comply with the first three Copenhagen criteria. However, an interesting question was whether the European Union itself complied with the fourth accession criterion in the last two waves of enlargement. It is striking to note that the first version of the Preamble to the Reform Treaty (later rebranded into the Treaty of Lisbon) contained the following words: “Desiring to complete the process started by the Treaty of Amsterdam and by the Treaty of Nice of adapting the institutions of the European Union to function in an enlarged Union”. This, of course, was later dropped and replaced with a vaguer and less self-incriminating clause. In this submission I shall focus on one particular aspect of absorption capacity which has received little attention of the policy makers, partly as a consequence of which the effectiveness of the EU legal order has been affected in the past years. Before I go into details, it is fitting to make an attempt to define absorption capacity.

1.2. In one of its reports, the European Commission claims that absorption capacity is:

“The capacity of the Union to maintain the momentum of European integration as it enlarges has three main components: institutions, common policies, and budget. The Union needs to ensure that its institutions continue to act effectively, that its policies meet their goals, and that its budget is commensurate with its objectives and with its financial resources.”

One should add one more component to this set - the ability of national authorities (both administrative and courts) to apply EU law. Alas, it is not always appreciated in political discourse that the EU is not one of many international organisations of an intergovernmental

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32 Communication sent by the Commission to the Council on 20 April 1978. General considerations on the problems of enlargement, COM (78) 120 final, p. 15.
character, but rather a supranational entity underpinned by a unique legal order. In this legal order, a special role is played by the Court of Justice of the European Union and by national courts, which are to ensure that EU law is effective at the national level. Furthermore, as of the entry into force of the Treaty of Lisbon, Article 19 TEU imposes an obligation on the Member States to “provide remedies sufficient to ensure effective legal protection in the fields covered by Union law”. The ability to comply with this obligation should be part of pre-accession discourse and scrutiny during all stages of rapprochement. It is important to bear in mind that the accession of new countries that will be delaying the transposition/implementation of EU law and whose courts will not be willing and able to apply EU law will in the end undermine and weaken the European Union. The experience of enlargements to date, particularly the 2004 and 2007 accessions, shows that in each and every case the application of EU law posed a great challenge for the public administration and national courts.

2. Impact of the fifth and sixth enlargements on EU law and the Court of Justice

2.1. Impact on EU Law

The application of EU law requires tremendous investment both in terms of legal knowledge and skills. It also demands a major change to the mindset of national judges, particularly in countries where case-law remains an alien concept. It is notable that the state of the judiciary in general still remains a problem for some of the newcomers, and the most recent case-law proves that it also applies to one of the pioneers of democratic reforms in the early 1990s. Empirical research proves that in countries that joined in the last two waves of enlargement, case-law based on EU law is quite voluminous, demonstrating the ever-growing importance of EU law in national litigation. However, the overall picture is mixed. Some courts are very confident in the application of EU legislation, while some are still undergoing the painful process of accepting and learning the new reality. Despite the training the judges have received, some are still not au courant with EU law and, what is even more worrying, some have no desire to be so. This would not have been a problem of major proportions if it were not for the scale of the previous enlargement rounds. If the judiciary of one Member State underperforms, this is worrying; however, if the judiciaries of almost half of the Member States have problems with the application of EU law, this is a major concern. The responsibility is on the shoulders of both sides; it is all about compliance with the Copenhagen criteria, including absorption capacity.

There are a number of objective factors that have undermined the effectiveness of EU law in the legal orders of the most recent newcomers. To start with, there was a considerable delay with the publication of the pre-accession acquis in the Special Edition of the Official Journal of the European Union in the languages of the new Member States. Furthermore, due to the lack of available translations, dozens of Official Journals were published in the languages of the existing Member States during the last week before the big bang enlargement on 1 May 2004.

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37 See Cooperation and Verification Mechanism for Bulgaria and Romania.
40 Furthermore, due to the lack of available translations, dozens of Official Journals were published in the languages of the existing Member States during the last week before the big bang enlargement on 1 May 2004.
notice claiming that the publication of special editions in the new languages of the European Union should be complete by the end of 2004. Moreover, the Commission claimed:

“Pending publication, the electronic version of the texts is available on EUR-Lex and will in the meantime constitute publication in the Official Journal of the European Union for the purposes of Article 58 of the 2003 Act of Accession.”

This was not exactly correct. To start with, the last volumes were published only in 2006 and the Court of Justice held in the Skoma-Lux case that such non-published legislation was not enforceable vis-à-vis individuals. Thus, the effectiveness of EU law was undermined from the start. In particular, the EU regulations which are directly applicable (Article 288 TFEU) could not be properly applied in almost half of the Member States. The situation was even more worrying when Romania and Bulgaria joined the European Union. The number of translated legal acts on the date of their accession was 51% and 46% (respectively). Moreover, the quality of translation was also a matter of serious concern and in some cases versions in the new languages of newcomers contained meaningless provisions and quite fundamental mistakes.

This “lost in translation” syndrome also extended to the pre-accession case-law of the Court of Justice. The special edition of the European Court Reports has never materialised and the few selected pre-accession judgments available on the website of the Court of Justice can hardly be called satisfactory. Certainly, this was a paradox demonstrating one of the limits to EU absorption capacity. The judges of the new Member States were supposed to transform themselves into EU judges in a very short time. However, some basic tools were scarce, and one does not have to be a rocket scientist to appreciate the importance of primary sources. Several comprehensive textbooks available commercially may, but should not, replace access to the fundamental tools - legal acts and case law. One should also note the relatively limited language skills of judges, reducing by definition access to foreign legal literature and case-law. On top of this, the Court of Justice proved to be not very helpful with its controversial Ynos line of case law. It declared inadmissible references in cases where all facts had taken place before accession to the European Union (at the same time allowing references in purely domestic cases, for instance in the Dzodzi case). This decision, as well as those that followed, were very counterproductive. Paradoxically, the Court that is supposed to make sure that EU law is observed contributed to the limited effectiveness and lack of uniformity of interpretation of EU law in the newcomers. One should bear in mind that the objective factors discussed above now belong largely to the past (with the exception of the publication of the pre-accession case-law of the Court of Justice). However, the experience gained should serve as a good lesson for future enlargements.

There are a number of subjective factors, too, and they are not of a temporal character. As proven by empirical research, judges of the new Member States frequently have a very limited EU law background and sometimes have no desire to engage in the difficult exercise of the application of EU law. Although generalisations can be quite harmful and do not reflect

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41 OJ 2004 L 169/1.
written evidence from Dr. Adam Łazowski, University of Westminster

reality, it is rather clear that this is the case here. One should not forget that some of the judges who sit in Central and Eastern European courts were trained under Communist rule. In some cases, this was the environment of Ismail Kadare’s Palace of Dreams,⁴⁵ not the Palais de Justice. In that reality, not only was respect for the rule of law not a spécialité de la maison, but the process of adjudication was a very textual, technical and unsophisticated exercise. Thus, accession to the European Union required a major change of mindset and large-scale training. In some of the smaller Member States, it was possible to organise comprehensive training programmes covering large parts of the judiciary (for instance, a two-year PHARE programme in Estonia), but in the bigger Member States, particularly in Poland, this proved to be a major challenge.

Another aspect which one should have in mind is the limits of the EU’s enforcement mechanisms. Safeguard clauses included in the Accession Treaties, which allow suspension of certain membership rights, have a very short lifespan and are hardly ever used. Traditionally, they expire after three years of membership. The post-accession monitoring of Bulgaria and Romania has not been a spectacular success. What is surprising, however, is that the infraction procedures (Articles 258-260 TFEU) are hardly ever used to penalise the states whose courts do not apply EU law. As much as one should appreciate the political sensitivity of such cases, this might be the right way ahead. Arguably, the current approach should change in the years to come if the EU legal order is to maintain its effectiveness. This applies to all Member States, not only the most recent entrants.

2.2. Impact on the Court of Justice
 Initially the Court of Justice of the European Union benefited from the fifth and sixth enlargements of the European Union. New judges joined the General Court and the Court of Justice shortly after the enlargements, although the workload was not initially affected that much by the new entrants. However, in the past few years the number of references for preliminary ruling from the domestic courts in Central and Eastern European countries has increased and so has the number of infraction cases. By the end of 2011,⁴⁶ the number of references from these countries looked as follows:

<table>
<thead>
<tr>
<th>Member State</th>
<th>Number of references</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bulgaria</td>
<td>40</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>20</td>
</tr>
<tr>
<td>Estonia</td>
<td>7</td>
</tr>
<tr>
<td>Cyprus</td>
<td>2</td>
</tr>
<tr>
<td>Latvia</td>
<td>20</td>
</tr>
<tr>
<td>Lithuania</td>
<td>11</td>
</tr>
<tr>
<td>Hungary</td>
<td>46</td>
</tr>
<tr>
<td>Malta</td>
<td>1</td>
</tr>
</tbody>
</table>

It is notable that some of these references were not admissible, but some, however, touched upon crucial issues of EU law and thus reached the Grand Chamber. It is quite likely that the number of references from Central and Eastern European courts will increase in the coming years. The expiry of the transitional period for jurisdiction in ex-third pillar matters (former Article 35 TEU) may trigger references in criminal matters, some of which will qualify for the Urgent Preliminary Ruling Procedure (PPU). This may have an impact on the future work of the Court of Justice.

3. Will the EU legal order survive the next enlargements?
Lessons from the past should certainly be taken on board in the current pre-accession policy employed vis-à-vis the Western Balkans and Turkey. Iceland, in this respect, should not constitute a major challenge from the legal angle of the EU’s absorption capacity. For the time being, the centre of gravity of the pre-accession effort is on Chapters 23-24 (broadly speaking, Justice and Home Affairs). The leitmotifs are the independence of the judiciary, the fight against corruption and the enhanced efficiency of the courts in all candidate and potential candidate countries. However, considerable investments are necessary in a robust preparation exercise which will allow the judges of these countries to apply EU law. The challenges discussed in this submission prove that the EU legal order has been affected by the previous accession rounds and, by the same token, the legal absorption capacity of the European Union has also suffered. Arguably, the ability of the administrative authorities and courts of the candidate countries to apply EU law requires far more attention of the policy makers involved in the enlargement than before.

14 November 2012.

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Enlargement of the European Union

1. The first issue that I would like to deal with is the principles behind enlargement. The committee has posed questions about those principles, materialised under Articles 2 and 49 of the Treaty on European Union. Those principles are expanded through the Copenhagen Criteria, set up in 1993 in order to overcome ‘opposition from several member states to eastward enlargement’.

2. Article 49 of the Treaty of the European Union states that “any European State which respects the values referred to in Article 2 and is committed to promoting them may apply to become a member of the Union”. We can identify three principles in this article: Europeanness; Statehood; and values referred to in Article 2.

3. The notion of Europeanness is still debated nowadays, as the Rome Treaty and subsequent treaties avoided defining what is meant by “European”. Even though there is no legal definition of this expression, the European Commission, in a report of 1992, stressed the fact that it “combines geographical, historical and cultural elements which all contribute to the European identity. The shared experience of proximity, ideas, values, and historical interaction cannot be condensed into a simple formula, and is subject to review by each succeeding generation”. A few clues on what constitutes the European borders were given by the European Council by the recognition of the fact that Turkey is a “European State” in the Ankara Agreement and by the rejection of Morocco’s application for EC membership in 1987 on the grounds that it is not a European country. In a nutshell, there is no strict legal meaning of the term “European”, but this notion shall be understood in a broad sense.

4. The second criterion mentioned in Article 49 is the notion of statehood. While this criterion does not represent much of a problem for the majority of European States, some difficulties might be encountered in the case of non-recognised States. This is particularly the case for the Republic of Kosovo, which proclaimed its independence in 2008 and expressed its desire to join the European Union in the future. As Kosovo is still not recognised by all member states of the European Union, such an application would probably not be considered by the European Council. As far as the micro States of Europe are concerned, these are fully recognised by the international community and are part of various European public policies (such as the Economic and Monetary Union for Monaco, San Marino and Vatican City, or the EEA agreement for Liechtenstein).

5. Finally, a clear reference to the values referred to in Article 2 of the Treaty is mentioned. Those values are “[r]espect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons...”

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belonging to minorities”. Within the meaning of the Treaty, the principles of democracy and the rule of law have been understood as “an organic combination, so that the ‘checklist’ consists of ‘parliamentary democracy’ and the ‘separation of powers’, rather than ‘democracy’ and the ‘rule of law’ proper”\(^{51}\). These values have been progressively anchored to the European integration process from the very beginning, for as Robert Schuman stated in 1952, the Community would be open for all ‘free’ European States. Furthermore, this requirement for democracy was emphasised during the second enlargement process of the 1970s when Greece, Spain and Portugal applied for EC membership. Consequently, the European Council declared that “respect for maintenance of representative democracy and human rights in each Member State are essential elements of membership in the European Communities”\(^{52}\). Finally, reference to human rights appeared for the first time in the Copenhagen Criteria, as a \textit{sine qua non} condition to join the European Union.

6. The three criteria discussed in paragraphs 3, 4 and 5 constitute political conditionality. A fourth criterion, standing outside of the wording of the Treaty, has been emphasised in the literature\(^{53}\): membership in the Council of Europe. The main reason for this condition is that applicant countries are expected to ratify the European Convention of Human Rights (ECHR) in order respect the values referred to in Article 2 TEU. Indeed, those values are essentially based on the accession criteria for the Council of Europe, under the third paragraph of the Preamble\(^{54}\) and Article 3\(^{55}\) of the Statute. Furthermore, the Council of Europe was founded in 1949 (Council of Europe 2011) and was the first institution created in order to promote European integration, becoming “an inevitable condition for EU membership (even though it is not a written condition for accession to the EU)”\(^{56}\).

7. This notion of political conditionality is also present in the Copenhagen criteria. Set up in 1993, those criteria were supposed to encapsulate and consolidate the principles behind EU enlargement. These are divided into three criteria: political, economic and institutional. The political criteria state that “Membership requires that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights, and respect for and protection of minorities”. This refers to the concept of political conditionality as mentioned in paragraph 6, and is seen as the most fundamental condition for EU membership. Its importance shall not be undermined, and criticism among older member states regarding accession of Bulgaria and Romania to the EU stated that those countries “had been allowed to join – in January 2007 – before they had sufficient progress in areas such as organised crime and corruption”\(^{57}\).

\(^{51}\) Ibid. The notion of ‘parliamentary democracy’ is defined as the requirement for “fair and free multiparty elections […] on a regular basis for the creation of a free Parliament so that the people take part in the exercise of public power” (p. 94), and ‘separation of powers’ as the requirement for the division of legislative, executive and judicial functions in different institutions.


\(^{54}\) “Reaffirming their devotion to the spiritual and moral values which are the common heritage of their peoples and the true source of individual freedom; political liberty and the rule of law; principles which form the basis of all genuine democracy”.

\(^{55}\) “Every member of the Council of Europe must accept the principles of the rule of law and of the enjoyment by all persons within its jurisdiction of human rights and fundamental freedoms, and collaborate sincerely and effectively in the realisation of the aim of the Council as specified in Chapter I.”


In 2012, reforms regarding democracy and the rule of law were still considered as insufficient by the European Commission\textsuperscript{58}. In that sense, it is important to take political conditionality seriously, and encourage reforms before EU accession can be taken for granted.

8. The economic criteria require “the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union”. The legal status of the economic criteria remains doubtful (even though their necessity is proven), and they must be interpreted “with due regard to the economic dynamic of each candidate country and its ability to participate in the Internal Market”\textsuperscript{59}. These criteria used to be of a lesser importance, but the recent economic crisis and unrest within the Eurozone might change the situation for future enlargement. This has already been the case for Iceland’s application for EU membership, as discussions on the economic and monetary policy are expected to encounter major difficulties.

9. The institutional criteria refer to the notion of acquis communautaire, stating that “Membership presupposes the candidate’s ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union”. The notion of “ability” refers to the administrative capacity to ensure the application of EU law. By “obligations of membership”, the third Copenhagen criteria relate to the negotiation chapters between the EU and the candidate countries. Finally, “adherence to the aims of political, economic and monetary union” demonstrates the importance of these policy areas within the European integration scheme. Once again, the cases of Bulgaria and Romania show that it is important to assess correctly the states’ ability prior to EU membership, especially regarding political issues.

10. A fourth condition is also mentioned in the conclusions of the 1993 Copenhagen summit: “the Union’s capacity to absorb new members, while maintaining the momentum of European integration, is also an important consideration in the general interest of both the Union and the candidate countries”. This idea is connected to the existing institutional structure of the European Union, and in order to absorb more States, reconsideration of this structure had to be discussed between Member States. This constituted a major debate in the process related to the fifth enlargement, as ten countries were going to join the European Union at the same time and thus have an impact on the voting system within its institutions. Moreover, the notion of ‘enlargement fatigue’ (even though this notion is vague) has been increasingly used since the fifth enlargement, leading to strong divisions between Member States over the future of a wider Union.

11. In a nutshell, the Copenhagen criteria reflected the situation as it stood in 1993, and were designed to tackle the issue of the fifth enlargement. It also seems that political conditionality was underestimated in the cases of Bulgaria and Romania’s accession to the EU. Almost twenty years later, the context changed, especially from an economic point of view. The European Union is facing a strong economic and financial crisis, and questions can be raised regarding the appetite and Union’s capacity for further


\textsuperscript{59} Hoffmeister, 2002, p. 97.
enlargement. Accordingly, the committee has posed questions on the so-called ‘enlargement fatigue’ and alternatives to full membership. These are important issues due to the current economic and political situation.

12. First of all, it seems that the economic and financial crisis did not stop non-members’ eagerness to join the European Union, especially in the Balkans: in January 2012, 66 per cent of the Croatian population voted in favour of EU membership; one month later, Serbia gained the status of official candidate; and Montenegro’s application is on the right track, as the screening process started in September 2012. In Iceland, however, it seems that both the population and political elites are getting more sceptical, as a recent opinion poll showed in October 2012 that 57.6 per cent of the population opposed EU membership. Furthermore, the Left-Green Movement, second party of the government’s coalition with the pro-European Social-Democratic Alliance, shows increasing signs of reluctance regarding the accession process.

13. It should be noted that the enlargement process has slowed down sharply. For instance, former EU Enlargement Commissioner Olli Rehn mentioned, in 2009, that both Iceland and Croatia would be able to join the European Union in 2011. This is far to be the case. It shall be interpreted as a sign of the on-going ‘enlargement fatigue’. This fatigue seems to originate from the Union as a whole, as candidate countries (especially in the Balkans) are still enthusiastic about the prospect of joining the EU. The crisis plays an important role in fuelling the fatigue, but it is also due to the fact that the Union has difficulties to ‘assimilate’ Bulgaria and Romania, as stated earlier. This resulted in slowing down the process for further candidates such as Croatia, Montenegro and Iceland.

14. The notion of ‘enlargement fatigue’ is directly linked to the fourth Copenhagen criteria, developed in paragraph 10. It is thus indispensable that, in order to join the EU, the Union itself is able to assimilate candidates. In that sense, quality (“deepening”) should overcome quantity (“widening”).

15. While several non-member States are still eager to join the European Union and the Union suffers from an ‘enlargement fatigue’, what could be done in order to accommodate both parties? The notion of ‘differentiated integration’ covers a variety of arrangements that do not necessarily require EU membership. For instance, Norway’s agreements with the European Union cover about 75 per cent of EU legislation, mostly through the EEA agreement. Furthermore, Norway may be “even more sectorally penetrated or harmonised”\textsuperscript{60} than EU members as far as policy harmonisation is concerned, meaning that non-membership can still involve a great deal of integration. In that sense, some agreements (especially the EEA) offer a good alternative to EU membership. In Norway, which is considered as one of the ‘reluctant Europeans’, the EEA agreement has been commonly accepted by political elites and the population\textsuperscript{61}. The main inconvenient raised by pro-European movements and parties is the fact that EEA members do not have a say in the European decision-making system.


\textsuperscript{61} Some political parties, however, might call for a reform of the EEA agreement during the upcoming election campaign on 2013. The outcome of Iceland’s application for EU membership might also have repercussions on the nature of the EEA.
16. Enlarging (and reforming) the EEA could be a step in the right direction. Indeed, the EEA was established in 1994 and designed as a good alternative for countries not seeking EU membership to enjoy the Single Market, as long as they fulfil some economic criteria that would be stated in clearer terms than the Copenhagen criteria. Today, the EEA counts three members (Iceland, Liechtenstein and Norway), but could accommodate potential EU members to benefit from European legislation until the ‘enlargement fatigue’ fades away. In that sense, the EEA could become a ‘waiting room’ before full membership for some candidates. Furthermore, as the future of the Economic and Monetary Union remains uncertain, it is likely to notice an increase in heterogeneity among state preferences, as well as their capabilities to adopt EU policies (especially regarding economic measures).

Concluding remarks

17. One shall not underestimate the absorption capacity of the European Union, before accepting new members. Enlargement should be beneficial for both parties: the applicant state on the one hand, and the European Union on the other hand. The main danger of accepting new members without strengthening accession criteria would be to slow down vertical integration in areas where reforms are desperately needed, i.e. regarding the economic and monetary union.

18. Furthermore, the Copenhagen criteria, even though commonly accepted, showed their limits following Bulgaria and Romania’s accession to the EU, especially regarding political conditionality. This conditionality should remain an incentive for candidate countries to join the EU, and no exception (even by setting transitional measures) should be made, as this contradicts Articles 2 and 49 of the Treaty on European Union. The legal aspect of the criteria regarding economic matters should also be reformed, to make sure that applicant states have “the capacity to cope with competitive pressure and market forces within the Union” (as stated in paragraph 8).

13 November 2012
Written evidence from the Liberal Democrat European Parliament Party

1. We welcome your important enquiry, and hope it can produce some clear-sighted commentary on further EU enlargement.

2. As Liberal Democrat Members of the European Parliament we are committed to making a success of British membership of the EU and, in particular, to advancing the role, efficiency and legitimacy of the European Parliament in the governance of the Union and in British politics. We sit within the group of the Alliance of Liberals and Democrats for Europe (ALDE).

3. To set a context for our responses to your particular questions, we have some general points to make. First, we remain fully committed to the prospect of enlargement and we are convinced that with the Lisbon Treaty, the European Union can both pursue its enlargement agenda and continue to deepen its integration.

4. Second despite the economic crisis that has shaken the European continent over the past years, we strongly believe that the EU can gain great strategic benefits through its enlargement policy. The road taken in this respect over the past decade has shown that enlargement benefits the EU as a whole and allows it to be better positioned to address global challenges. EU enlargement policy remains one of the most successful foreign policy initiatives the European Union has undertaken to export its values. We firmly believe that enlargement remains a long-term strategic interest of the EU and cannot be analysed only in a context of short-term difficulties.

5. Third, the prospect of accession has a significant impact on the political and socio-economic landscape of the candidate countries that should not be neglected; it acts as a real incentive for pursuing serious structural reforms and the strengthening of peace, stability, reconciliation and regional cooperation. EU enlargement has helped reunite and reconcile the continent, however Europe was still at war 12 years ago and there is still much to be done to contribute to healing the wounds left by the wars in the Western Balkans.

6. Fourth, as Liberal Democrats we have long supported expansion of the Union, which we believe is beneficial for candidate countries, for the Union and for the UK itself. However we are convinced that to remain beneficial for all, conclusions and lessons from the last phases of enlargement should be drawn and the enlargement process should be improved, not only for a more successful enlargement policy but also for a better functioning Europe.

Enlargement agenda

7. Iceland, Norway and Switzerland could join the EU on a fast track system with relative ease given their adaptation to EU law. Other European countries are at various levels of readiness.

8. As Liberal Democrats, we have clearly stated that the future of the Western Balkans
lies within the European Union. However, unresolved issues such as territorial disputes, prosecution of war crimes, protection of minorities, return of refugees and displaced persons, and property rights must be addressed as early as possible and preferably before the opening of accession negotiations and resolved prior to accession. We welcome the recent developments in the Belgrade-Pristina Dialogue, that are important not only for the two involved Governments but also for the whole region; we also encourage the government and the parliament of the Republic of Serbia to make the most of this positive momentum created by the granting of candidate status.

9. We firmly support Turkey’s candidacy but this support is not unconditional. Turkey must continue down the path of reform, particularly in respect to freedom of the press and Kurdish rights, in order to fully meet the Copenhagen criteria and must reach a peace settlement with the Republic of Cyprus. Future failure by Member states to accept a fully compliant Turkey could have a number of damaging consequences.

10. A range of other neighbouring countries to the east and south have either no wish to join the EU or no early prospect of doing so, but are nonetheless of real importance for the Union. Any European country with an aspiration to join the EU should not be permanently excluded from the accession process. The EU should provide for enlargement for countries willing and able to meet the requirements of membership, and provide support to those neighbouring states not on a trajectory to join the EU.

11. We would also call for an in depth investigation into the issues that would be raised in the event that a Region of a Member State were to secede and to seek to negotiate membership of the EU for that Region. The EU should be in a position to provide legal clarity, certainty and transparency on the complex issues of accession criteria and the basis for negotiation which would apply in such circumstances.

The Copenhagen criteria

12. The Copenhagen criteria have stood the test of time and remain at the centre of EU enlargement policy. However, we believe that the procedures related to the Copenhagen criteria and to the enlargement process as a whole should be re-evaluated without prejudice to the ongoing negotiations, in order to set transparent benchmarks throughout the process and concrete steps towards accession. These benchmarks should serve to avoid fixing an accession date if negotiations have not yet been finalised as well as to prevent risks of backsliding.

13. We welcome the new focus on justice and home affairs, rule of law and respect for fundamental rights in the negotiations to accession and believe it should be treated as a priority and be an early benchmark in the accession process.

14. Furthermore, the economic crisis showed the interdependence between European states, and we are convinced that economic convergence should take a more important role in the accession process in order to facilitate alignment, to reduce risks of asymmetric shocks, and for a successful European integration.

15. We also believe that EU funded policies and notably the Instrument of Pre-accession (IPA) should be better linked to the Copenhagen criteria through specific and measurable objectives.
The impact of enlargement on new and old Member states

16. Overall, the impact of enlargement has been beneficial to both new and old member states. Furthermore, evaluating the impact of membership in EU countries should take into account the clear impact of the economic climate as well as domestic policies, mismanagement of EU funds, and problems not stemming from EU membership but being the result of undisciplined domestic economic policy.

17. The EU is the economic anchor of all new member states, but is often blamed unjustly for bad domestic policy decisions. Trade developments have become the main success of enlargement and an increase of Foreign Direct investments has been seen in the new member states post-accession. Despite the Eurozone crisis, the introduction of the Euro in some of the new member states is largely seen as favourable for the business sector. In most countries, transnational companies and their subcontracting networks have been the main winners of accession while SMEs have been less successful at exploiting the opening up of the single market.

18. Tough restrictions imposed by the EU15 on Romania and Bulgaria are making them feel «second rank EU citizens», which risks having a negative impact on the public perception of the EU. In the case of Bulgaria, the safeguards clauses, and the possibility to suspend full membership rights in specific policy areas, unfortunately remain on the European agenda. Bulgaria's EU accession started with uncompleted reforms, particularly in justice and home affairs, and on top of that seems to be suffering from «reform fatigue». Romania and Bulgaria still have a major difficulty in absorbing and managing EU funds, and obvious difficulties in the areas or rule of law and the fight against corruption.

19. The enlargement process has a significant impact also on the EU institutions themselves serving as an opportunity to better define its identity, goals, values and policies. With regard to European foreign policy, we have perceived a shift of priorities to the East, with a growing interest in EU-Ukraine and EU-Russia relations. In terms of decision-making, the impact on the European Parliament has been limited, mainly because of parliamentarians voting more by political affiliations than by nationalities. Parliamentarians coming from new member states have however taken the opportunity to raise specific issues that were maybe more marginalised before, and are clearly bringing new perspectives into the political debate.

20. The enlargement opened new markets for the old member states but did not bring a massive impact in terms of GDP. The impact of labour migration from the new member states on the old member states has been highly variable. In some cases, e.g UK, there have been clear economic benefits, but a degree of social resentment. The economies of the old member states have been shaken by the economic crisis and have had to take major austerity measures. Many still need ambitious structural reforms to regain competitiveness. We firmly believe that the positive impact of enlargement will not be recognised without further structural reforms to deliver a more competitive Europe and that the economic crisis has masked the economic benefits of enlargement. Another impact of enlargement is that the old member states that have traditionally benefited most from the cohesion policy or the CAP will lose EU funding through transfers to new member states.
The road towards an improved enlargement policy

21. The EU enlargement policy needs to remain credible and supported by the public both in the EU and in the candidate and potential candidate countries.

22. The EU and the countries wishing to join have to fulfil all obligations, and respect all commitments. The monitoring of progress in the accession process should therefore be maintained and even further intensified, along with a more efficient assistance programme better linked to the criteria. We are also convinced that we need to make it clearer that the enlargement process is not only about the simple transposition of the acquis communautaire but its effective implementation and respect in the long term. Given the difficulties encountered with Hungary and Romania over the year in this respect, we ask the European Commission to work out a detailed proposal for a monitoring mechanism; aware that the older member states are not perfect and that backsliding from EU core values is a constant threat, and to prevent the creation of any double standards, such a mechanism should also be in place for older member states.

23. As Liberal and Democrats, we believe that much more needs to be done to engage the public in the enlargement policy. During the last enlargement, public opinion in the EU 15 was much less positive than the positions of governments. The EU enlargement policy should be associated with a more effective communication policy, in order to trigger an open debate on the consequences of enlargement. Public and democratic support of EU integration is key to the success of European enlargement both in member states and candidate countries.

24. The European Commission should give a bigger priority and adopt a new approach to the fight against corruption, trafficking and organised crime, as enlargement gives new opportunities in this respect; however Member states opting out of important and useful JHA measures will drastically reduce the potential for tackling these issues.

25. Furthermore, the credibility of the enlargement process goes hand in hand with an evaluation of the EU’s integration capacity that comprises the impact of further accession, on a case by case basis, on the capacity of the Union to fulfil its political objectives, the impact on the institutional framework of the Union and its ability to deliver efficient and effective governance, and the impact on financial resources of the Union.

26. The wish of our European neighbours to join the EU shows that despite the economic crisis, the EU remains attractive to its neighbours. However this does not mean that there is no danger of enlargement fatigue and that we should stop working for a better functioning and more competitive Europe. From the beginning of the enlargement process in 1973, the enlargement policy was always combined or preceded by ongoing deepening: the common trade policy in the 70s and the creation of a European regional Fund; the improvement of the CAP through direct payments and the Single market act in the mid 80s, a more important cohesion policy and the EMU project before the 1995 enlargement. Despite the inherent difficulties, the widening and deepening process of the EU should go hand in hand. The EU has to keep reforming itself to be able to welcome new members and to guarantee a secure, democratic and prosperous future which is the aspiration of candidates to membership.
27. The phenomenon that was expected from the last enlargement waves, the development of an EU with a « variable geometry » or with « inner and outer circles » has not yet taken place, in particular as the Eurozone and the Schengen area have progressively been extended and most of the new member states aspire to join them at some point. The risk of development of this "variable geometry" is however still there as the Eurozone is now taking major decisions to deepen their Union. The Treaties of accession for the new Member states made the accession to the Eurozone, when they meet the criteria, a condition to joining the EU. However for member states not meeting the criteria yet, or for those, such as the UK, that do not have such a clause and do not wish to join either Schengen or the Eurozone, this development of "inner and outer circles" of the EU might be a challenge we have to face in the near future.

14 November 2012
Principles behind enlargement

1. Do Articles 2 and 49 of the Treaty of the European Union provide the right principles for any further enlargement of the EU?

2. The Copenhagen criteria expand upon these principles to provide a more detailed framework for eligibility to join the Union. Do these criteria fully encapsulate the principles behind EU enlargement?

Articles 2 and 49 of the Treaty form of an adequate basis for decisions on enlargement. To some extent in the past the problem has been the political interpretation of these articles. Article 49 states that any European state which respects the values referred to in article 2 and is committed to promoting them may apply to become a member of the Union. Certain countries which joined the Union in 2004 or 2007 declared a respect for the values of the Union but lacked a commitment to promoting these values. It is extremely difficult to deal with a member state which does not respect these values once that member state has joined the Union and it is therefore essential that a much deeper analysis is made of the real commitment to the EU’s values before a country is allowed to join. However as the cases of certain old member states show, in democracies you can never guarantee the good behaviour of governments over a long period.

The Copenhagen criteria have the advantage of being so vague that the EU can interpret them as it wishes. This has obviously been seen in acceding countries as a political trick because they need clarity and certainty in their preparation for accession. Of course the Copenhagen criteria have been added to over the years in various European Councils (Madrid in 1995 added administrative capacity).

However more detailed conditions have been laid down in the accession partnerships, the results of which however were not always thoroughly evaluated. Conditionality has also been tightened in the most recent negotiations and the negotiation phase of accession has therefore become far more complex for Croatia and Turkey, with the addition of criteria which had to be met for the opening and closing of chapters.

Nevertheless far more attention needs to be paid by the EU to the level of corruption and the quality of the administration in countries preparing for accession. Corruption exists in all member states of the Union (BAE and Siemens!) but it rarely reaches a level which significantly affects government policy or the quality of life of individual citizens. A high level of corruption usually goes alongside an inadequate state administration, including the judiciary, matters which also need to be considered more seriously. These issues were probably played down in certain of the 2004/7 accession countries but really need to be given high priority in future accessions (in the Eastern neighbourhood for instance).

There is no doubt that in many countries of Central and Eastern Europe the preparation for accession to the EU acted as an anchor for economic and administrative reform and for the development of functioning democracies respecting the rule of law. This anchor could only be really effective if full accession to the Union was a realistic goal. The real challenge
in a period of enlargement fatigue, both in elites and the population in general, is to find an alternative goal to accession which will nevertheless provide a firm anchor for reform. The search for an effective alternative has so far been without success (see below).

There is a real dilemma then for the EU, a dilemma which was clearly seen in political statements around the fifth enlargement. The promise of accession is a firm anchor for European countries in urgent need of reform but reform takes time and may not be complete by the end of the negotiations. Yet when these countries have acceded there is no anchor for further reform and no incentive to do it. Should the Union take the risk for the benefit of the citizens of the acceding countries or should it refuse accession until it is sure that key reforms have been completed? Perhaps it should be easier for the European Court to take measures against member states which appear to violate the terms of article 2, or indeed other articles, of the Treaty.

The impact of EU membership on new Member States

3. For new Member States, what is the economic and social impact of EU membership on a) the country, b) regional areas, and c) its citizens? You may wish to comment on the following:

i. Trade integration and the flow of foreign direct investment;
ii. The benefits or pitfalls for small and medium-sized enterprises (SMEs);
iii. The benefits for consumers;
iv. Accession’s impact on wages and living standards in ‘new’ Member States;
v. Macro-economic discipline; and
vi. Labour migration to and from new Member States.

The dynamics of trade flows obviously change when a country accedes to the EU. This can be established for all the countries which joined the EU in 2004/2007. It would be astonishing if complete integration with the internal market of the EU did not lead to changes in trade flows in both directions. Perhaps more interesting in the case of the fifth enlargement is that trade flows changed radically well before accession, but this is not surprising as most of these countries had previously had centrally planned economies.

An interesting element of the Copenhagen criteria was the phrase ‘the capacity to cope with competitive pressures and market forces within the Union’. The worry that economies coming out of central planning would not be able to compete against efficient economies of Western Europe was a fear held by many people in the acceding countries in the early period of preparation for membership. In the specific case of countries undertaking a transition from central planning to the market economy, there would obviously be whole sectors and groups of workers who would suffer, not really from EU competition, but because they were producing things extremely inefficiently or things which nobody wanted. However in most cases, and thanks to generally responsible macroeconomic policy and growing FDI, the transition to a market economy involved only very short periods of high unemployment and falling living standards for certain parts of the population. By the time of accession most of the economies were growing reasonably healthily.

The signing of Association Agreements in the 1990s was an extremely important turning point for FDI. However the level of foreign direct investment depends partly on the size of the local economy and proximity to major markets. Poland attracted a great deal of FDI
thanks to its large local market and its proximity to Germany. Hungary, the Czech and Slovak Republics also did well, especially because of the proximity to Germany and Austria. However this cannot be relied upon for very small economies distant from the main markets of western Europe, which may also have business environments which are not attractive for FDI. These economies may indeed suffer as they can be more easily supplied from larger member states once they became EU members.

SMEs found their development in the early stages of transition prior to accession frustrated by the inadequacies of the banking system, but as EU banks bought into the sector the situation improved. FDI helps SMEs improve productivity and quality because foreign companies impose international quality standards. They frequently begin by procuring imports from their home country but then as local suppliers grow they gradually change to local procurement.

There is little doubt that in the medium term consumers gain from the preparation for accession and from accession itself. Market opening allows them a wider choice of goods while increased competition usually replaces a rather less competitive environment. However over a transitional period, higher levels of unemployment and stagnant nominal incomes together with significant rates of inflation, frequently led to certain groups in society suffering reductions in the level of welfare. Usually after a period of adjustment this effect became less serious, although for the elderly living standards today may be no better than they were prior to the fifth enlargement.

It is extremely difficult to generalise about the impact which preparation for accession and accession itself had on the quality of macroeconomic policy-making. In Poland, prudent macroeconomic policy has served the country well and allowed it to continue growing through the global financial crisis. In the Baltic states however booming real estate and financial markets led to a financial meltdown in 2008-9.

5. Are new Member States (i.e. from the 2004 and 2007 enlargement rounds) satisfied with EU membership, or are they disappointed? Why? Is this true for both the political elites and the general population? Is Croatia satisfied with their accession process and the arrangements in place for them to join the Union?

If one compares GDP per head of the population in purchasing power parities as a percentage of EU-27 GDP in 2004 and 2011 one gets a mixed picture. Some countries have not closed the gap very significantly, Czech Republic, Hungary, Slovenia, Cyprus, while others have made great strides forward, Poland, Slovakia, the Baltic countries (in spite of the 2009 downturn), Bulgaria and Romania. None of the new member states have gone backwards on this measure.

This suggests that on average the new member states should be positive about accession. However the average numbers do not tell us anything about the distribution of income or the way in which the public perceives well-being. If one believes Eurobarometer, it suggests that with the exception of Hungary (which has the reputation of being collectively miserable), Romania and Bulgaria, people in the new member states are generally satisfied with their lives. It is of course impossible to separate out the impact of EU accession and the global financial crisis and indeed other significant factors in the Eurobarometer results.
Elites in these countries who are directly involved in EU affairs are generally speaking relatively content to be at the table in all EU negotiations. However one of the great fears of elites in the new member states which have the ambition to be at the heart of EU policy-making is that, as non-members of the Eurozone, they will effectively be totally marginalised as the Eurozone becomes the only significant policy-making institution in the EU and those in the EU but outside the Eurozone will effectively be left without a voice and will be progressively isolated. Having fought their way ‘back into Europe’ they do not want to be cut off again from the mainstream.

The impact of enlargement on the Union

6. What is the economic and social impact of EU enlargement on the existing Member States? You may wish to comment on the following:

i. Trade integration and the flow of foreign direct investment;
ii. The benefits or pitfalls for small and medium-sized enterprises (SMEs);
iii. The benefits for consumers;
iv. Accession’s impact on wages and living standards;
v. Macro-economic discipline; and
vi. Labour migration to and from new Member States;

Trade and FDI obviously depend partially on geography. So whereas enlargement has been extremely important for Germany, Austria and to some extent the Nordic EU countries, it has been rather unimportant in trade and FDI terms for southern Europe.

Germany has undoubtedly benefited considerably from enlargement. Rapidly developing countries like the new member states require investment goods, infrastructure services as well as consumer products. Germany was well-placed to supply these demands. However Germany gained just as much from the cost reduction possibilities which opened up with accession. German companies, both large and small, invested heavily in shifting certain parts of their production chain to lower-cost locations in Poland. Productive investment in Germany over the last decade was relatively low as a proportion of GDP but to this should be added the considerable investment which went into production in Poland.

In some countries, and notably in France, the question of ‘delocalisation’ was raised, as some companies closed production sites in the old EU only to relocate in the new member states. It is statistically extremely difficult to show that any longer term negative impacts arose from ‘delocalisations’, though there was obviously considerable local disturbance and pain. Many of the companies would have closed plant even if there had been no enlargement. As the decade went on, the outcry about competition from the new member states tended to be reduced. There were however significant questions raised about posted workers undercutting local or national wage agreements (Laval in Sweden).

It is quite difficult to prove that labour moving from the new member states to the old member states had a significant effect on levels of employment or wages in the latter. Normally one would expect some restraining impact on wage hikes but in a country with a general minimum wage, this effect is unlikely to have been more significant than other factors in the economy tending to hold down wages of unskilled and semiskilled workers.
What is clear is that the migration of labour from the new member states to those member states which allowed free movement from the first day of accession reached proportions well above what had been estimated prior to accession. For the United Kingdom, with a relatively large group of poorly educated and trained workers, this migration of young and motivated workers was of undoubted economic benefit. The scale of the migration however lead to high profile anti-immigrant and anti-foreigner agitation in certain parts of the press and in the extreme anti-immigrant UK political parties. Obviously as the global economic crisis hit the UK this negative feeling intensified.

8. On what policy areas does enlargement have the greatest impact? How has enlargement previously impacted negotiations on contentious policy areas, such as the Common Agricultural Policy and migration and asylum? What impact is further enlargement likely to have on such areas?

Like the old member states, the new member states have been interested in those policies which have a direct impact on their economies. Poland has therefore been very keen on the development of the Common Agricultural Policy, although this position has been questioned both within the Polish government and amongst economists in Poland. Far more important has been the Structural Funds which are considered by the new member states to be almost of existential importance to them. Interestingly Poland has always rejected the British view that the structural funds should be concentrated on the poorest countries, even though this would seem to be sensible for them. But Poland’s argument goes that if Spain, East Germany, parts of France, Belgium and the UK do not receive anything from cohesion policy, these countries will cease to support the whole policy and Poland will lose out eventually. I understand the argument but disagree fundamentally with it. I argued this in a paper for the Polish Foreign Ministry prior to the MFF negotiations on how to use the EU budget to stimulate growth - but with no apparent impact on Polish policy!

Obviously the whole question of visas, the facilitation of free movement, membership of Schengen and labour migration have all been major issues for the new member states. While free movement exists within the enlarged EU, it is worth remembering that these issues are of the highest importance for countries waiting to join the EU (Western Balkans) and also for countries like Ukraine which are (sometimes) keen on integrating with the EU.

9. What might be the broader geopolitical impact of further enlargement, or of not admitting additional states who wish to join? How might the European neighbourhood be affected by the EU’s decisions on enlargement?

The EU has always been slow to realise that any accession has significant impacts on neighbouring countries. This was the case with the fifth enlargement and, with the accession of Croatia, the question is worthy of considerable attention in the Western Balkans. (See answer to question 10.1.2)

The appetite and capacity for further enlargement

10. What impact should the ongoing economic and financial crisis, particularly in the euro area, have on further enlargement?

Obviously the Euro crisis is dominating every agenda in the EU and most national political agendas in the serious member states. In this climate it is hardly likely that much progress
Written evidence from Professor Alan Mayhew, University of Sussex

will be made on further enlargement, in spite of the efforts of the European institutions. This is extremely frustrating and destabilising for countries which have been preparing for accession for several years – Macedonia is the prime example if one leaves Turkey aside.

1 2. Do a) the EEA, b) the European Neighbourhood Policy, or c) the possibility of a ‘privileged partnership’ offer viable alternatives to full membership? Could these circumvent ‘enlargement fatigue’, either as permanent alternatives or as stepping stones to full membership?

This is a key question for the EU’s European foreign policy. If the EU is going to politically close down the accession option in spite of article 49, are any of the other options for integration sufficiently convincing for European third countries to reform their economies and institutions to converge with the values and policies of the EU?

European Neighbourhood Policy has been used to underline to the EU’s neighbours that accession is not really an option except perhaps in the very long term. Instead Association Agreements have been offered with a deep and comprehensive free trade area agreement which could lead eventually to EEA status. While the EEA might be acceptable to a small developed country which does not wish to join the EU, it is most unlikely to be acceptable to a medium-size country such as Ukraine (or the UK!). Given the state of regulation and quality of the administration in neighbouring countries to the East and South, the achievement of the EEA status would anyway be decades away.

I think it is wrong for politicians in the member states for domestic political reasons to rule out accession even in the long term for countries to which article 49 applies - and this both for legal and policy reasons. Article 49 is clear and it is unwise for an organisation not to respect its own legal constitution. However ruling out accession in political statements eliminates one of the principal elements of an external anchor for reform. It is quite clear that none of the countries in the EU’s neighbourhood (with the exception of Norway and Switzerland if they ever wanted to join) would be able to meet the conditions for accession for several decades, but keeping open the possibility of accession is an important element of any integration package offered to European third countries.

The Association Agreements being negotiated with East European neighbours are unconvincing because key elements of the EU’s integration offer remain extremely vague. It has to be clear that the EU binds itself to open specific parts of the internal market once the acquis in that area, together with the competition policy and state aids acquis, has been implemented satisfactorily. At present, in the case of Ukraine for instance, the Association Agreement is relatively clear on what Ukraine has to do, but is not at all clear on the rewards which the EU will give to Ukraine once it has implemented parts of the acquis.

It should be remembered that the EEA was an EU attempt to invent an alternative to full accession and this was rejected by the majority of the states which initially formed the EEA. Many other proposals have been made for Europe-wide institutions which could combine the EU with non-EU European states but with the objective of preventing these third states applying for accession to the EU, but these have also failed. Offering Association Agreements with clear and binding steps towards integration with the EU and offering more financial help to cover the costs of this integration and greater participation in EU affairs, while keeping open the long term possibility of article 49 accession could possibly be attractive to certain neighbours. However governments in the EU are clearly not going to consider relations with the neighbours seriously in the near future, would probably not be prepared to offer binding...
steps towards opening the internal market and would certainly not be prepared to offer more finance. Further developments in this area may well have to wait until enhanced integration within the Eurozone, together with a separate Eurozone budget, becomes a reality.

Conclusion

The enlargements of the EU have in general strengthened the organisation and enhanced its international reputation. It is worth remembering that the main existential crisis of the EU, the Euro crisis, has nothing to do with the new member states but with the profound weaknesses in economic management in the old member states.

However, too little attention may have been given in the past to inadequacies in the administrative system and to levels of corruption in acceding states. In future these areas in particular need to be more thoroughly monitored and the possibilities for ensuring that countries which join the Union adhere to the terms of article 2 of the Treaty also when they are full members need to be enlarged.

The majority of the new member states have gained politically and economically from accession, while the same is true for the old member states, even though this is disputed in the popular press and by some political parties. The power of the accession promise has been seen in the reform of economies in central and eastern Europe and also in the relative pacification of the Western Balkans. In the Western Balkans the danger is that while the countries in the region prepare for membership of the EU, they find it difficult to meet the enhanced conditionality for accession. In the rest of the neighbourhood the fact that leading EU politicians appear to rule out accession even in the long term, makes the creation of a credible longer term integration package for these countries more difficult.

27 November 2012
Written evidence from the National Farmers’ Union (NFU)

The NFU welcomes the opportunity to submit written evidence to the House of Lords EU committee inquiry into the impact of EU enlargement. The committee has asked the NFU to comment on two specific questions from the inquiry, which are laid out below. The responses have come from the NFU British Agriculture Bureau (BAB) in Brussels.

The NFU represents more than 55,000 farming members in England and Wales. In addition we have 41,000 countryside members with an interest in farming and the country.

7. What are the political and constitutional effects of enlargement? You may wish to comment on the following:

   i. The dynamics of decision-making in the EU.

Enlargement - impact on decision making

- As a general statement decision making in Europe has become much more difficult and cumbersome with enlargement. As the number of people around the table grows and the views represented become wider, the ability to come to meaningful and satisfactory conclusions on all dossiers is more difficult. Given limited speaking times and full agendas it is also more difficult for ‘real’ and meaningful discussion to take place at the formal meetings. These discussions therefore inevitably happen in a more informal way which can lead to less transparency.

- Although the NFU British Agriculture Bureau (BAB) in Brussels has no formal statistics on this it is the view of our staff in the BAB office that the form the EU legislation itself has changed in favour of EU Directives rather than EU Regulations. Regulations are the most direct form of EU law and are directly applicable in every member state similar to national law. Directives however normally leave member states with a certain amount of leeway and allow more flexibility on how to achieve the goals of the directive. They take account of national law already in place and of differing national situations. As Europe grows and aims to legislate for so many different countries with differing circumstances, it seems that Directives are more common and a more effective way of legislating at an EU level.

- The larger the EU the more difficult it may be to get agreement on issues such as the EU budget which require unanimity. Decision making and compromise is made more difficult if every member state has the power to veto an agreement.

- Enlargement also means that the number of MEPs increases. Depending on the politics of the new states some of the parties in the European parliament may be strengthened.

- Rotating presidency – the larger the EU the less opportunity each Member states gets to be at the helm and drive its policy priorities. The presidency chairs the Council meetings, determines agendas and sets the programme. When Europe was smaller it was easier for each presidency to add its own ‘flavour’ to proceedings. However now the presidency works in ‘trios’ which means that 3 member states work together for an 18 month period each taking 6 months at the helm. Therefore, compared to previously, there is also a question mark over genuinely how much each presidency can really drive its own policy in comparison to when the EU was smaller as compromise is needed from the start on the 6 month programme. This can be a positive or a negative thing.
8. On what policy areas does enlargement have the greatest impact? How has enlargement previously impacted negotiations on contentious policy areas, such as the Common Agricultural Policy and migration and asylum? What impact is further enlargement likely to have on such areas?

Enlargement - impact on agriculture

- Enlargement can be a positive thing for UK farmers in terms of access to new markets but it is up to the UK industry to exploit this opportunity properly.

- Most of the 12 member states that most recently joined the EU have large agricultural sectors. Despite this there was no increase in the CAP budget when they entered the EU. It is incredibly unlikely that the CAP budget would increase to accommodate any further enlargement which obviously means fewer resources for farmers in existing EU member states.

- With the 2004 enlargement a number of the member states that joined the EU had a farming structure very different to the UK that was more fragmented and inefficient. This situation is likely to be repeated with future enlargement. This can result in the CAP and other policy being driven in the opposite direction to that preferred by the UK. For example where the UK and others might want to see a movement of the CAP towards more modern, productive farming that is more focused on the market, many of the new member states want to maintain the traditional support.

- Experience has shown that the ability of some new member states to implement policy is much weaker. This can lead to distortions. Most recently issues have arisen on animal welfare legislation where extensive and expensive measures have been taken in the UK to comply with EU legislation. Some new member states struggled to implement this legislation and did not incur the costs of UK producers. However they continue to compete on the same market despite having lower costs and standards of production e.g. the welfare of laying hens directive and the Directive on the protection of pigs.

- In terms of other policies that impact on agriculture previous enlargements have meant that some policies needed to be reviewed. This has not only resulted in the policies being opened up to accommodate the entry of the new member states but has resulted in the complete review of a number of policies. For example, although not the only motivation, enlargement was one of the reasons cited for the need to review the regulation on the registration of pesticides in the EU. This legislation changed considerably with resulting negative impacts on agriculture.

30 November 2012
Written evidence from Associate Professor Susan Senior Nello, University of Siena

In replying to these questions I have used extracts from my book:

Principles behind enlargement
1. Do Articles 2 and 49 of the Treaty of the European Union provide the right principles for any further enlargement of the EU?
2. The Copenhagen criteria expand upon these principles to provide a more detailed framework for eligibility to join the Union. Do these criteria fully encapsulate the principles behind EU enlargement?

In 1993 the Copenhagen European Council agreed that ‘accession will take place as soon as the applicant country is able to assume the obligations of membership by satisfying the economic and political conditions required’. The conditions were first drawn up for the CEEC (Central and Eastern European countries) countries, but were subsequently extended to apply to all candidate countries and entail that:

- The applicant state must have a functioning market economy with the capacity to cope with competitive pressures and market forces within the EU;
- The applicant state must have achieved stability of institutions, guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;
- The applicant state must be able to take on the obligations of membership, including adherence to the aims of political, and economic and monetary union.

At the Copenhagen Summit it was also stipulated that enlargement is subject to the condition that the EU is able to absorb new members and maintain the momentum of integration. The 1995 Madrid European Council also required the candidate countries to adopt adequate administrative and judicial capacity to put EU rules and procedures into effect.

The accession criteria are presumably intended to provide some kind of objective basis for selecting countries ready to join the EU, as well as indicating to the applicant countries the tasks they are expected to perform. The introduction of the Copenhagen criteria would therefore seem aimed at replicating the experience of the Maastricht criteria but in a different field, that of enlargement.

However, although there is a certain flexibility and political leeway in deciding whether the Maastricht criteria have been met, this is far more the case for the accession criteria. This arises from the number of criteria and, in some cases, from the vague and imprecise nature of the concepts involved. This is the case, for instance, in deciding whether a country has a ‘functioning market economy’ or the ‘capacity to cope with competitive pressures’. There are different models of market economies, and no indication is given as to which model is appropriate, or how to assess when an economy has ‘arrived’. In deciding whether a country is ready to cope with competitive pressures in an enlarged EU, a detailed analysis
Written evidence from Associate Professor Susan Senior Nello, University of Siena

of its economy is necessary, together with predictions about which sectors will be able to cope in the internal EU market.

For other criteria, such as the obligation to take on the aim of political union, or the requirement that the momentum of integration can be maintained (which presumably requires some form of enhanced co-operation or flexibility) the objectives in question are far from being clearly defined.

The simple rule ‘when a country meets the accession criteria, it can join the EU’ is misleading given the degree of discretion in deciding whether the accession criteria have been met. In the end choice of who joins when becomes a political issue.

Though at the time of the Copenhagen European Council no indication was given with regard to the weights of the different criteria, subsequently the European Commission indicated that predominance was to be given to the political criteria, so a country must fulfil these before joining and must be making substantial progress towards meeting the economic criteria. The European Commission publication of 1997, Agenda 2000, stresses that ‘the effective functioning of democracy is a primordial question in assessing the application of a country for membership of the Union’.

Political criteria were introduced into the Amsterdam Treaty and taken up as Article 2 (TEU) of the Lisbon Treaty, which states: ‘the Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities…’. According to Article 49 (TEU), any country that respects these values and is committed to promoting them may apply to become a member of the Union. It is mainly on the basis of the political criteria (including treatment of minorities) that the European Commission continues to express misgivings about Turkey.

The EU has repeatedly emphasized the need for regional co-operation and good neighbourly relations before accession, (though this was unhappily forgotten in the case of Cyprus), and has stressed that this is also a condition for the former Yugoslav Republics of South-Eastern Europe.

Partly as a result of the experience of the 2007 enlargement, greater emphasis is now placed on the need to combat crime and corruption in the candidate countries. A Special Co-operation and Verification Mechanism had to be set up in Bulgaria and Romania to assist in reform of the judiciary and the fight against crime and corruption after accession.

The impact of EU membership on new Member States
3. For new Member States, what is the economic and social impact of EU membership on a) the country, b) regional areas, and c) its citizens? You may wish to comment on the following:
   i. Trade integration and the flow of foreign direct investment;

6. What is the economic and social impact of EU enlargement on the existing Member States? You may wish to comment on the following:
   i. Trade integration and the flow of foreign direct investment

Between 1991 and 1996 the EU signed ‘Europe Agreements’ with 10 CEECs deemed to have
made sufficient progress in economic and political transition (these were the same 10 that were subsequently the first to start accession negotiations). The Europe Agreements were the basic legal instruments covering the relationship between the EU and the CEEC(10). The Agreements covered trade-related issues, political dialogue, legal approximation, ‘phased introduction’ of the four freedoms (though the EU failed to grant any access to workers beyond what was guaranteed by its member state) and co-operation in other areas, including industry, environment, transport and customs.

The Europe Agreements created a free trade area between the EU and associated CEECs. Because the CEEC partners needed more time to become competitive, the tariff cuts were asymmetric, with the EU proceeding more rapidly. The removal of tariffs on certain sensitive sectors such as steel, and textiles and clothing was to be phased over several years, but by 1998 most restrictions on industrial products had been removed. The concessions granted on agricultural trade were less favourable than in other sectors, and it was only in 2003 that agricultural trade with the new member states was liberalized for products meeting EU standards.

As a result of the provisions of the Europe Agreements, a free trade area was in place before enlargement and what is significant about the level of trade between the EU and CEECs is the speed of its reorientation from Eastern to Western markets, also thanks to the Europe Agreements. According to Eurostat data, by 2004 the EU accounted for 73 per cent of the trade of the new member states (rising to 76 per cent in 2007), a share similar to the old member states. Trade between the EU(15) and new member states tripled from around €150 billion to €450 billion in the decade leading to 2008.

EU tariffs towards the rest of the world were also generally lower than those of the acceding countries, so it was widely believed that there would be little trade diversion. After enlargement trade of the new member states with the rest of the world continued to expand confirming the view that trade diversion was limited.

For many years the most dynamic part of FDI flows within the EU was between the EU(15) and the new member states (NMS). The NMS were able to attract FDI due to their geographical location and cost advantages, but also for reasons of market access. However, as a result of the economic crisis FDI to the NMS halved in 2009, shrinking back to the 2005 level. FDI outflows from the NMS proved more resilient to the crisis than the inflows to these countries (also because of capital repatriation), falling by only a quarter in 2009.

Many studies emphasize the overall positive impact of FDI and outward processing trade (or the international fragmentation of the production process) in the enlargement process. Benefits include the stimulation of investment, exports and employment, as well as knowledge spill-overs, better organization, competition, and improved quality and variety of products. FDI was also considered to offer opportunities to the EU (15) to increase global competitiveness by exploiting complementarities.

With regards to the costs to the EU (15) because of relocation of industry, the literature finds that results differ according to sector. For example, European Commission (2009)62 finds that employment in the old member states is negatively correlated with the rise in

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employment as a result of FDI in some sectors (food, clothing, publishing, communication equipment, office machinery and vehicles), while the reverse is true for other sectors (machinery, furniture, medical instruments, chemicals and tobacco). With the economic crisis fears of negative correlation have grown in the EU (15), while certain new member states have expressed concern at vulnerability because some sectors such as banking are so extensively foreign owned.

4. For new Member States, what are the political and constitutional effects of EU membership for a) Member States, b) regional areas, and c) citizens? You may wish to comment on the following:

   i. The dynamics of decision-making;

The dynamics of decision-making depends also on constellations of bargaining power and formal decision-making rules over time. These may enable a net loser at the time of enlargement to ensure a guarantee of compensation at a later stage from the winners. What then becomes more important in the accession negotiations is the voting power of the country in the Council and EP (though the Council is decisive as the simple majority threshold in the EP on most questions is lower than that of the Council.

5. Are new Member States (i.e. from the 2004 and 2007 enlargement rounds) satisfied with EU membership, or are they disappointed? Why? Is this true for both the political elites and the general population? Is Croatia satisfied with their accession process and the arrangements in place for them to join the Union?

Croatia formally applied for EU membership in February 2003, and following a favourable Opinion by the European Commission, Croatia was granted candidate status by the European Council in June 2004. The EU interpreted Croatia’s failure to deliver General Ante Gotovina to the International Criminal Tribunal on the former Yugoslavia as lack of respect for the Copenhagen political criteria, and the European Council of March 2005 decided to postpone the start of accession negotiations. Screening only began in October 2005 after General Gotovina had been handed over to the ICTY, and during the course of 2005 support for EU membership as measured in opinion polls of the Croatian population fell substantially. Settlement of a border dispute with Slovenia in 2009 helped to open the path towards accession. Croatia is due to join in July 2013.

3. For new Member States, what is the economic and social impact of EU membership on a) the country, b) regional areas, and c) its citizens? You may wish to comment on the following:

   iv. Accession’s impact on wages and living standards in ‘new’ Member

   vi. Labour migration to and from new Member States.

6. What is the economic and social impact of EU enlargement on the existing Member States? You may wish to comment on the following:

   iv. Accession’s impact on wages and living standards;
   vi. Labour migration to and from new Member States.

Analysing the EU labour market after enlargement, Boeri and Brücker (2005), updated as

Written evidence from Associate Professor Susan Senior Nello, University of Siena

European Integration Consortium (2009) both find that wages will decline slightly in receiving countries and increase in the sending countries in the short run, while the overall impact on the aggregate wage level is neutral in the long run. The aggregate unemployment is found to increase slightly in receiving countries and fall slightly in the sending countries in the short run. European Integration Consortium (2009)\(^{64}\) finds the overall level of unemployment to shrink slightly in the enlarged EU.

Kahanec and Zimmerman (2010)\(^{65}\) confirm that the effects of the 2004 and 2007 enlargements on wages and employment are small and hard to detect, and also argue that the issue of whether immigrants are high-skilled or low-skilled labour is crucial to the analysis of the impact of immigration on the economy of the recipient country.

After 1989 some experts predicted large migration flows from CEECs to Western Europe as a result of lower levels of income in those countries, and the newfound freedom of citizens of those countries to travel abroad. These fears grew as the prospect of EU enlargement drew closer.

According to European Integration Consortium (2009),\(^{66}\) in 2001 there were about 900 000 from the CEEC(8) that joined the EU in 2004 residing in the EU(15), most of whom were concentrated in Germany, Italy and Austria. This rose to about 1.9 million in 2007. In the UK there was an estimated 609,415 from the CEEC(8) and 40,023 from Bulgaria and Romania in 2007. During the 2001-2007 period the number of foreign residents from Bulgaria and Romania increased from 700 000 to almost 1.9 million.

Various studies attempted to estimate the long-run effect of migration from these new member states. Many of these studies estimated the long-run migration potential from the CEECs to the EU(15) as being between 3 and 4 per cent of the CEEC population and, therefore, manageable.

European Integration Consortium (2009)\(^{67}\) estimated that the stock of migrants from the CEEC(8) would increase from 1.9 million in 2007 to 3.8 million in 2020 under existing institutional arrangements, and to 4.4 million when freedom of labour movement is introduced by all member states. The stock of migrants from Romania and Bulgaria was estimated to rise from 1.9 million in 2007 to 3.9 million in 2020 under existing immigration arrangements and slightly more than 4.0 million with free movement of workers.

8. On what policy areas does enlargement have the greatest impact? How has enlargement previously impacted negotiations on contentious policy areas, such as the Common Agricultural Policy and migration and asylum? What impact is further enlargement likely to have on such areas?

Agriculture frequently threatened to prove a stumbling block in the enlargement process.

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\(^{64}\) European Integration Consortium (2009) \textit{Labour mobility within the EU in the context of enlargement and the functioning of the transitional arrangements}, Study carried out on behalf of the Employment, Social Affairs and Equal Opportunities Directorate General of the European Commission, \url{http://ec.europa.eu/social/main.jsp?langId=en&catId=89&newsId=497} accessed 8 July 2010.


\(^{66}\) op. cit

\(^{67}\) op. cit
Agriculture continues to play an important role in many of the new member states. With the 2004 enlargement the numbers employed in agriculture in the EU increased from about 7 to 11 million. At the same time the share of agriculture in employment rose from 4 per cent to 5.5 per cent, becoming 7.5 per cent with Bulgaria and Romania in 2007.

The new member states had the complex task of adapting to EU policies and standards, while the EU wanted to ensure that enlargement did not result in excessive transfers from the EU budget.

There was considerable debate about extending the direct income payments of the CAP to farmers in countries joining the EU. At least initially, such payments were introduced as compensation for the reductions in price support. At first the Commission argued that farmers in applicant countries would not generally experience price cuts and so should not benefit from direct payments.

According to the European Commission, prices for most agricultural products were below EU levels, and it was argued that farmers in the Central and Eastern European countries would receive the benefit of higher prices when they joined the EU, so compensation in the form of direct payments was superfluous. However, this argument was somewhat undermined by rapid price increases for agricultural products in the CEECs. The proposed differential treatment between 'rich' Western farmers and their poorer counterparts in the CEECs was subject to fierce criticism in those countries.

In March 2002 the Commission published an extensive study of the impact of enlargement on agricultural markets and incomes, confirming the view that immediate payment of 100 per cent direct payments on accession of the CEECs would lead to social distortions and inequalities. Moreover there would be non-rural beneficiaries who had generally become landowners as a result of the privatization process that included restitution in most CEECs. The report took into account four different policy scenarios: no enlargement; application of the 1999 CAP without direct payments; introduction of the CAP with full, immediate direct payments; and acceptance of the candidate countries’ negotiating positions.

The working assumption of the analysis was accession of eight CEEC candidates from 2007 (Bulgaria and Romania were assumed to join later). According to the Commission report, even without direct payments the CEEC farmers would benefit on average from a 30 per cent increase in income as a result of EU market support. With the scenario of full application of direct payments in the new member states, the average expected income gain tripled reaching a level of 89 per cent, while assuming that the applicant countries’ negotiating positions were accepted, the predicted gain quadrupled to reach an estimated 123 per cent.

At the Copenhagen European Council of December 2002 it was agreed that direct aids for the new member states would be phased in gradually over 10 years. These countries would receive direct payments equivalent to 25 per cent of the existing system in 2004, 30 per cent in 2005 and 35 per cent in 2006, rising to 100 per cent only in 2013. The new

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member states were offered the possibility of topping up direct payments through national funds and their rural development funds to 55 per cent in 2004, 60 per cent in 2005 and 65 per cent in 2006.

In order to meet problems of administrative costs and fraud, the new member states could opt for a simplified single payments scheme for three years, renewable for up to two more years. This would entail area payments per hectare on the whole of the agricultural area of the new member states. There would be no obligation for farmers to produce in order to receive these payments. The possibility of continuing this system was subsequently extended until 2013 for the CEECs that joined the EU in 2004, and 2019 for Bulgaria and Romania.

Difficulties also arose in deciding on production quotas for milk and sugar for the new member states. The Commission proposed taking 1995–99 as the reference period, but this was contested by some of the CEECs as not being representative. For instance, since milk production fell during these years due to the process of restructuring. The Copenhagen European Council agreed on production quotas on the basis of 'the most recent historical reference periods for which data is available', though in fact some concessions were granted.

A further sensitive issue was whether the CEECs would be allowed a derogation on land ownership. Land prices were much lower in the CEECs, and though a general derogation of seven years, with the option of extending the derogation for a further three years, was eventually agreed (12 years for Poland), the initial requests were higher (18 years in the case of Poland).

23 October 2012
1. On 1 July 2013 Croatia will become the 28th member of the European Union with many predicting that it will be the last such entry for quite some time with early optimism surrounding Iceland fading and the Stabilisation and Association framework in the Western Balkans continuing ever more slowly.

2. At a time of general economic crisis across Europe to hold off on enlargement would be a great mistake for the EU itself, particularly its foreign policy ambitions, for the Member States, and as importantly for the countries seeking accession. The enlargement process should and must continue in an open and transparent framework as set out in the Treaty of the European Union, the Copenhagen Criteria and the acquis communitaire. Any other approach opens the EU up to recrimination, reproach and accusations of double standards, which is almost an impossible position by which to promote the rule of law, justice and human rights.

3. The question is also not as simple as when and where to stop EU enlargement. For argument’s sake, to say that all accession should end with Croatia in order to stop the EU importing the problems of states not yet ready for membership ignores that those countries that have already started the process of gaining entry are already well on the way to being assimilated. To stop now, or at an unknown point in the future, will not insulate the EU or its Member States from any perceived dysfunction, any more than those states can insulate themselves from the economic problems Member States themselves are currently experiencing.

4. Much of the allure of EU enlargement to this point has been that it has been open, in theory, to all. This perception has come under savage pressure due to the short-term national interests of Member States, particularly over Turkey. This lost perception is a huge blow to the EU’s soft power projection and thus to the reach, power and influence of the EU and its Member States including the UK.

5. For many Turkey is the crux on which enlargement will either falter or continue. It is a struggle that we must win. For reasons of trade, transatlantic security through NATO, energy, migration, terrorism cooperation, the Arab Spring and perhaps most importantly to demonstrate that the EU is not a religious club and that we can, and we want to, build bridges and partnerships with Muslims.

6. Enlargement is a technical process with significant political ramifications for those states involved. Member State national political interests have though increasingly subverted the process. The enlargement process is in many ways a form of statebuilding, or at least state re-moulding, which is a highly sensitive issue that is not aided by Member State meddling. If a country meets the accession criteria they should be admitted to the EU, no buts.

7. The UK has traditionally been a leading proponent of EU enlargement for a variety of reasons, such as trade, but also as part of a realpolitik struggle between other Member States, namely France, who wish to have, as the phrase goes, ever closer union, whilst the UK has aimed for ever wider union. The UK’s support thus was partly a ploy to stave off further integration.
8. With the eurozone crisis the UK looks to have lost, or at least be on the verge of losing, this game. Integration is now taking place in the EU with banking and fiscal unions on the cards without the UK, which has been something that UK EU policy has aimed to prevent for roughly two decades. Is there a way back into the game?

9. Further enlargement would have many benefits for the UK, and the EU, it would though also provide the UK with more partners within the EU that would necessarily be outside, and unlikely to be admitted anytime soon to the eurozone. In a realpolitik sense alone therefore the accession of the countries of the Western Balkans and Turkey would be of great support to the UK within the balance of power of the EU.

10. Of course, enlargement should not only be considered in such terms. In a globalised world the language of ‘limited absorption capacity’ is erroneous and damaging to the UK’s and other Member States’ domestic and foreign policy interests. ‘Limited absorption capacity’ suggests the EU is a closed club – something that is contrary to our legal obligations in the Treaty of the European Union - and that we are unwilling to engage and interact with others outside the EU at a time when we need all the partners and friends, particularly commercial, that we can lay our hands on.

11. Once accession of a new Member State has taken place the supervision post-accession has up to now been inadequate. In its report of July 2012 on Romania under the Cooperation and Verification Mechanism, established in the run-up to accession to address shortcomings in judicial reform and anti-corruption, the European Commission raised serious concerns about Romania’s respect for these fundamental principles and acknowledged serious doubts about Romania’s commitment to the respect of the rule of law and its understanding of the meaning of the rule of law.

12. The Cooperation and Verification Mechanisms in Romania and Bulgaria have been useful tools in monitoring progress in their appointed areas. In future, however, the European Commission should institutionalise such measures as part of the enlargement and accession process so that there is a long period of accession not just pre- but also post-accession during which Member States can not only be monitored but penalised if reforms are not introduced such as through the loss of funding (which the Commission has done in the respect to Romania’s future structural funding since late October 2012), the loss of voting rights, and as a final position loss of membership. That would be a policy of conditionality with strength.

13. A discussion of conditionality and the tools the EU can bring to bear on and in countries highlights a major defect with the EU’s current enlargement, neighbourhood and external action infrastructure. Namely, how they work together. If you say X is where enlargement stops then you need to identify what is the EU position to countries in the neighbourhood who are not (currently) possible accession country candidates. At present, there is no clear dividing line. The EU cannot, however, rely solely on the potency of its membership and/or soft power (largely trade) as its only policy tool to engage with its neighbourhood and candidate countries. These need to see and experience concrete actions with concrete results to understand the value of the EU. For example, the EU and its Member States heavily undermine themselves with their neighbours through their restrictive visa policies.
14. The EU's architecture to deliver such results is confused. The High Representative is responsible for the External Action Service and EU foreign policy but there is a separate Enlargement and Neighbourhood Policy Commissioner as well as a separate Commissioner for Development Policy, which overlaps in many accession and neighbourhood countries. Whilst the Commissioners for Energy, Climate Action and Trade have vital roles to play in external relations as well and have independent powers to act as they see fit. Furthermore, the European Investment Bank and the European Bank for Reconstruction and Development add another layer of actors even before Member States themselves are considered or the International Financial Institutions.

15. A common transparent posture for current accession and non-accession countries should be developed with according portfolios of activities and policies to engage with countries in those categories. The current architecture and policies do not provide this. For example, within the European Neighbourhood Policy there are certain countries that some, such as William Hague in his recent speech in Berlin who highlighted Turkey, Moldova, Belarus and Ukraine's countries that should be in the EU or that are European, clearly believe deserve to be Members. But that same policy includes countries within the Southern Mediterranean that no one has realistically ever considered for membership and who have never indicated a willingness to join. So why have they been lumped together in one policy?

16. By acknowledging and working in accordance with the differences between and within its southern and eastern regions the EU can become a far more agile and receptive foreign policy actor. A clear policy of enlargement is vital but it runs in tandem to a clear policy with the near neighbourhood and the wider world. They are all inter-linked and each requires clarity and purpose.

17. For example, the Arab Spring has highlighted that the consolidation of democratic reform in the Middle East and North Africa is of vast interest for the EU and its Member States in terms of tackling migration, radicalisation, and to build our influence and relationships in the region. In a sense, such work is enlargement-lite as the EU is aiming to transform governance and the rule of law, however, it is not enlargement itself involving the acquis communautaire. A different policy is thus required that accepts the synergies with the EU's enlargement work but which stands alone from it and is as attractive to those countries the EU wishes to engage in such a manner.

18. The European Neighbourhood Policy thus needs to be re-thought. Those countries that the EU and its Member States believe could one day be possible members (largely those in the east) should have a different focus and a different policy that in the long-term aims for EU membership if so desired by the country concerned.

19. Those countries that are, at present, not considered as possible members and who have never indicated a willingness to join (those in the south) need to be redefined and recalibrated in the EU's thinking so that it focuses on policies relevant in those countries. Eventual EU membership is highly unlikely to be one and thus the technocratic approach of the enlargement process used in the European Neighbourhood Policy, in the form of action plans, should be replaced by a focus on greater issues such as how to influence the political and democratic development of these countries and bind them in a strong cooperation with the EU.
20. A redefined and differentiated policy across its neighbourhood with much greater focus on local conditions would necessarily require the EU to bolster the political analysis capability in its delegations and to bring to bear Member States’ collective weight. A coordinated EU front in this area would pay significant dividends for both the EU and the UK.

21. In conclusion, in order to clarify the future path of the enlargement process it is necessary to also clarify the competences of the EU’s and the European Commission’s architecture and policies in enlargement, neighbourhood and external action policy. It is also vital to clarify the goals the EU is pursuing in each country on its periphery and to tailor those goals and the activities they are predicated on local conditions so that the EU delivers the greatest impact.

2 November 2012
I SUMMARY

1.1 When the European Economic Community was founded, the Treaty of Rome declared, “Any European state may apply to become a member of the Community”. However, the boundaries of Europe were not defined. Its six members did not claim to include the whole of democratic Western Europe, let alone the whole of historic Europe. The increase in the number of EU member states since the fall of the Berlin Wall and increased interdependence across Europe and globally has radically altered the context for the future enlargement of a Union of 28 member states.

a) The 2004-7 addition of 12 countries has greatly increased the EU’s political and economic diversity.

b) The Copenhagen criteria for admission to the EU are consensual statements of values but unless they are rigorously applied then enlargement will be at the expense of these values.

c) Most of the countries that are seeking membership will need substantial domestic changes and time to meet Copenhagen standards.

d) The EU has not been able to enforce Copenhagen criteria on backsliding member states and absorbing all eight candidates risks imposing costs on existing member states.

e) Expanding the number and functions of EU member states without the capacity without the capacity to act effectively will lead to ‘Brussels overstretch’. It also ignores the many other institutions to which European and extra-European countries belong to deal with specific functional problems.

f) The UK government should take the initiative in demanding the strengthening of the application of the Copenhagen criteria to potential member states and the development of more effective procedures for preventing backsliding from these standards by member states.

g) The UK government should promote alternative forms of relationship with the EU besides a single-track path leading from potential candidate country to ready-or-not membership.

1.2 This submission draws on my field research across post-Communist and Balkan countries as well as old EU member states over the past two decades. Immediately, it reflects research supported by the ESRC (RES 000-03-0193) and as a Visiting Professor of the Robert Schuman Centre of the European U. Institute, Florence. See www.cspp.strath.ac.uk and my forthcoming book REPRESENTING EUROPEANS: A PRAGMATIC APPROACH. The views are solely those of the author.

II THE 2004-7 ENLARGEMENT’S IMPACT ON THE EU
2.1 The virtual doubling in the number of EU member states has had a big impact on proceedings, since every member has an equal right to be represented in all its committees. Since EU decisionmaking favours consensus, bargains and compromises must incorporate far more interests and points of view.

2.2 The diversity of the EU has increased greatly. The number of official languages has more than doubled from 11 to 23. New member states have brought with them different political legacies than old member states. The median Gross Domestic Product of the new member states is one-third that of old member states. The median rating of new member states on indexes of the Rule of Law is also much lower (see Table 1).

III PRINCIPLES BEHIND ENLARGEMENT

3.1 The political values that applicants for membership are expected to endorse—freedom, democracy, rule of law, etc.—are uncontroversial but also unclear (Articles 2 and 49 of the Treaty of the European Union). Everything depends on how they are applied by the Council to candidates for EU membership.

3.2 The EU’s Copenhagen criteria specify five relatively specific criteria that a candidate country should meet to become an EU member. It should be democratic, adhere to the rule of law, respect minority rights, have a functioning market economy, and have the administrative capacity to administer EU policies.

IV EVALUATING CANDIDATES AND POTENTIAL CANDIDATES

4.1 Currently there are five candidate countries – Iceland, Macedonia, Montenegro, Serbia and Turkey – and three potential candidates – Albania, Bosnia & Herzegovina, and Kosovo. They are here referred to as potential member states.

4.2 The functioning of the economies of six potential members suffered greatly from being non-market planned economies. The GDP per capita of the median country is now only €4,000, barely one-third that of the 2004-7 entrants. Only one candidate has GDP per capita at the level of old EU member states, and one is at the lower range of new member states (Table 1).

4.3 The strength and durability of the democratic commitment of potential candidates has yet to be confirmed. Freedom House, an international NGO, rates five potential members as only partly free. Two countries have gained a free rating only in the past few years, and only one country is a long-established democracy. Moreover, most of the potential members were recently war torn and in some armies remain significant.

4.4 The Rule of Law is weak in most potential member states. On the Transparency International Corruption Perceptions Index, three countries rank below the most corrupt member state currently in the EU, and all but one is below the median rating of the 2004 group of EU entrants.

V DEFICITS IN THE EU'S CAPACITY
5.1 The EU today has significant capacity to act, but its capacity cannot be infinite. Its influence on potential members depends on their capacity and political will to meet Copenhagen criteria and the EU’s capacity and willingness to enforce these standards.

5.2 The EU has shown limited capacity to call to account new member states that:
   a) Undermine democracy through the manipulation and/or violation of constitutional rules.
   b) Undermine the rule of law through increased corruption, fraud and tolerance of organized crime.

5.3 The eurozone crisis has shown the EU has limited capacity to deal with economies that have not accepted the constraints of fully functioning market economies.

**Problems and non-problems of further enlargement**

5.4 An increase in the number of member states from 28 to 36 would increase the extent to which the EU was an assembly of diverse states rather than a Union of similar states.

5.5 Adding half a dozen or more cultures could create a Balkan group that would have more members and different experiences than other EU groups. It could create pressures to abandon the inefficiencies of dozens of official languages and confirm English as the *lingua franca* of the EU.

5.6 The population of potential members would entitle them to up to one-fifth of the 751 seats in the European Parliament. This claim could only be met by redistributing seats from large countries such as the UK and less large countries.

5.7 The economic conditions of seven of the eight potential members would entitle them to substantial payments from the Structural Fund and Social Cohesion Funds. This would require either significantly redistributing funds away from some middle-income as well as better off EU member states or a major increase in the EU’s budget.

5.8 Further enlargement would diminish the relevance of the eurozone for EU member states, since most new members would be a decade or more distant from meeting rigorously enforced criteria for eurozone membership.

5.9 Consolidating a democracy takes more than a decade and some potential candidates are only part way to achieving democratic status. This can only be achieved through the commitment of domestic political groups. External democracy assistance and elections observed by foreign missions are secondary.

5.10 Institutionalizing the rule of law in a state requires much more than new laws and institutions. In countries where there is a tradition of the state tolerating bending or breaking laws, external incentives and pressures are of limited effect, as some experiences of recent enlargement have shown.

**VI IMPLICATIONS: DIVERSITY IN INSTITUTIONS**

6.1 Interdependence between countries creates the need for institutions to maintain a minimum of rules regulating their relationship. As a member of more than 100
Written evidence from Professor Richard Rose, University of Strathclyde

intergovernmental organizations, the UK government accepts this principle and the implications of interdependence increasingly have effects on Britain’s public policies.

6.2 The norm for intergovernmental organizations is that form follows function: a postal union will have a global membership while a Nordic union can have only half a dozen member states. The EU is unusual in being a multi-functional organization with much broader powers than the great majority of normal intergovernmental organizations.

6.3 While the EU belongs to Europe, Europe does not belong to the EU. Many institutions that affect Europeans are separate from the EU. These include NATO and Interpol, the European Bank for Reconstruction & Development, and, on the political front, the Council of Europe and the Organization for Security Co-operation in Europe. (Table 2).

6.4 European countries combine their membership in the EU with that in other institutions focussing on European concerns. The expansion of the boundaries of Europe to meet functional needs (e.g. the EBRD and OSCE) can make EU members a minority of those belonging to these institutions and the EU may not be a full member. The one institution that is exclusively European, the European Central Bank, does not include one-third of the EU’s members.

6.5 From a global perspective, Europe is a significant region but not the only one. European states are usually a minority of the members of political and economic organisations with a global reach. Equally important, the EU is a member of only one of these institutions, the World Trade Organization. In New York, Washington and other places where international organizations meet, individual countries, especially big states such as the UK, directly represent themselves.

6.6 The current policy of the British government is to limit the EU’s functions while that of the President of the European Commission is to expand them. Each policy has inherent obstacles. In addition, each is an obstacle to the other, for the EU’s Qualified Majority Voting rules can isolate the UK on many issues while the 2011 UK Referendum Act can result in the UK electorate vetoing an EU treaty.

6.7 Neither the EU nor the UK has an interest in weakening the EU through territorial overstretch by admitting countries that have a lower commitment to democracy, a functioning market economy, and the rule of law. Moreover, there is a common interest in protecting the free movement of goods, services and persons from contagion due to the admission of new member states where corruption, fraud, smuggling, false certificates of origin and other forms of flouting the law flourish.

6.8 The European Union has stretched the concept of diversity by accepting inconsistency in the application of Copenhagen criteria in assessing candidates for membership. The UK government should promote stronger application of the Copenhagen criteria to potential member states and the development of more effective procedures to prevent backsliding by existing member states.

6.9 The EU makes uniformity the norm in applying policies to member states. In doing so it ignores the extent to which this norm has not been adhered to in its practice. It also ignores member states following a horses-for-courses strategy of joining organizations with different sets of members appropriate to the function at hand. The UK government
Written evidence from Professor Richard Rose, University of Strathclyde

should promote a review of the ecology of institutions to which member states belong and a ‘form follows function’ assessment of what the EU has the capacity and comparative advantage to undertake and what is better handled by other institutions.

Table 1  POTENTIAL EU MEMBER STATES EVALUATED

<table>
<thead>
<tr>
<th>Candidate countries</th>
<th>Freedom House</th>
<th>GDP/cap €</th>
<th>Corruption</th>
</tr>
</thead>
<tbody>
<tr>
<td>Iceland</td>
<td>Free</td>
<td>31,700</td>
<td>8.5</td>
</tr>
<tr>
<td>Montenegro</td>
<td>Free</td>
<td>5,114</td>
<td>3.7</td>
</tr>
<tr>
<td>Serbia</td>
<td>Free</td>
<td>4,143</td>
<td>3.5</td>
</tr>
<tr>
<td>Turkey</td>
<td>Partly free</td>
<td>7,500</td>
<td>4.4</td>
</tr>
<tr>
<td>Macedonia</td>
<td>Partly free</td>
<td>3,300</td>
<td>4.1</td>
</tr>
</tbody>
</table>

Potential candidates

| Bosnia & Herzegovina | Partly free | 3,467 | 3.2 |
| Albania             | Partly free | 2,891 | 3.3 |
| Kosovo              | Partly free | 2,405 | 2.8 |

Median EU states

| Old EU 15 | All free | 33,500 | 7.8 |
| 2004-7 entrants | All free | 11,000 | 5.2 |


Table 2  INTERDEPENDENCE OF EUROPEAN STATES

<table>
<thead>
<tr>
<th>ORGANIZATIONS STRETCHING EUROPE'S BOUNDARIES</th>
<th>Number of members</th>
</tr>
</thead>
<tbody>
<tr>
<td>EU countries</td>
<td>Non -EU</td>
</tr>
<tr>
<td>North Atlantic Treaty Organization</td>
<td>21</td>
</tr>
<tr>
<td>European Central Bank</td>
<td>17</td>
</tr>
<tr>
<td>Council of Europe</td>
<td>27</td>
</tr>
<tr>
<td>OSCE</td>
<td>27</td>
</tr>
<tr>
<td>EBRD</td>
<td>27</td>
</tr>
</tbody>
</table>

INTERNATIONAL ORGANIZATIONS

| World Trade Organisation                    | 27      | 129 | 17 |
| International Monetary Fund                 | 27      | 161 | 14 |
| World Bank                                  | 27      | 161 | 14 |
| Interpol                                    | 27      | 163 | 14 |
| United Nations                              | 27      | 166 | 14 |
Written evidence from Professor Richard Rose, University of Strathclyde

Note: European Central Bank: percentage of EU members in ECB.

13 November 2012
Written evidence from Dr Charles Tannock MEP

Are the current criteria for membership of the EU the correct ones?

The criteria which involve observing the terms of Art 49 TFEU and applying the Copenhagen criteria are broadly correct. The issue of absorption capacity remains controversial and has been cited in the case of the Turkey's accession as a very large country by EU standards by Germany in terms of affordability of the financing required for its integration into the EU.

What is the economic, social and political impact of EU membership on the new Member States?

Generally positive as it has driven economic reforms, improved governance, democracy and human rights and all within a framework of observance of the rule of law and access to considerable EU funds particularly the CAP and EU structural funds.

How does EU membership impact on wages and living standards in new Member States and what is the effect on small and medium sized enterprises?

All new EU member states have had positive economic growth in the last decade since joining the EU and a considerable rise in wages and living standards for their populations which is probably explained in part by their EU membership which has encouraged FDI and their access to the single market.

How does EU enlargement impact on existing Member States and what is the impact on the UK?

It has opened up new markets for trading purposes and has to some extent resulted in relocation of businesses to the new EU states where costs of labour are cheaper. It has resulted in the UK's case in the arrival of large numbers of mainly eastern European migrants who are most often skilled and have integrated well into UK society.

Is there a danger of enlargement fatigue? How will the tough economic climate in Europe impact on the prospects for further enlargement of the EU?

Enlargement fatigue is very common throughout the older member states particularly after the 2007 admission of Romania and Bulgaria which had considerable problems in areas of governance and fighting organised crime and corruption and may in the view of some experts have been allowed in prematurely. The large numbers of Central and Eastern European migrants arriving in the UK has fuelled anti EU feelings and a rise of support for the secessionist party UKIP in areas where the local population perceives that jobs have been lost to the new migrants.

Croatia is the only country which will join the EU in the foreseeable future and the other candidates Macedonia, Montenegro, Serbia and Turkey will probably have to wait a long time, i.e. around a decade with the sole exception of Iceland
which could join very quickly as an EEA country if its people consent in a referendum.

24 October 2012
Written evidence from Professor Andrew Taylor, University of Sheffield

1. Enlargement now covers very broad range of cases when compared to that of 2004 and 2007, which were primarily concerned with the post-communist states of Central and Eastern Europe. The current category contains Iceland (a long-established liberal democracy but whose recent economic history poses complex problems for the EU), Turkey (a country with a very long history of engagement with the EU and its predecessors), Albania (a post-communist state); a group of political entities formed by Yugoslavia’s break-up that includes sovereign states (Macedonia, Montenegro, and Serbia), Kosovo (a formally independent state whose independence is not recognised by five EU members) and Bosnia and Herzegovina, effectively an international protectorate. Included in this category is (just) Croatia, the latest state to navigate successfully enlargement.

2. This diversity prompts the obvious question: can a single process manage successfully the cases now covered by the enlargement process? The answer depends on whether or not this can plausibly be presented as a single, unified process. In my view, and that of the Commission, it cannot be so conceived. This inevitably results in a slower and possibly incoherent process, which is why the Commission’s 2011 and 2012 enlargement strategies have been amended in a significant direction.

3. Enlargement has always had to balance the EU’s commitment to states joining the EU by providing sufficient incentives and a realistic prospect of membership within a (undefined) period with an understandable anxiety that new members will be able to satisfy the demands and obligations of membership. This must also take into account the suspicions and doubts of existing Member States about the impact of enlargement on the coherence and stability of the EU. The solution has been the progressive development and enhancement of conditionality, which requires state seeking membership to undertake extensive internal reforms in order to meet the EU’s requirements. Conditionality, in its various guises, has been concerned with long-term change and the sustainability of domestic reform. It is, by definition, a gradual process of change, with monitoring and evaluation (as well as aid) covering the transposition and implementation of the thirty-five chapters of the *acquis communautaire*, but it is not a technical process. Enlargement is, always has been, and always will be intensely political. It is not unusual to hear the question in enlargement states, ‘how many existing Member States would satisfy the conditionality to which we are subject?’

4. The fundamental principles behind enlargement have remained unchanged for many years and as such represent the bedrock of values that underpin the EU’s approach to enlargement certainly since the ‘reunification’ of Europe after the end of the Cold War. These principles, enshrined in Articles 2 and 49 of the TEU and expressed by the Copenhagen Criteria, are exactly that: principles. They offer little if anything in the way of detailed guidance on how enlargement is to be conducted either generally or in specific cases. Determining the detailed process and content of enlargement is, therefore, the task of the Commission and other European institutions and, of course, of the individual Member States. Nevertheless, a backwards look over some 20 years of enlargement experience suggests strongly that these principles have, and continue to
5. This tension is reflected in the principles’ stability in relation to the considerable evolution of the EU’s approach to enlargement as a process. In broad terms we have seen the progressive tightening of the policing of the enlargement process by European institutions, a move away from target dates and multi-state (or, ‘big bang’) enlargements to enlargement on a case-by-case basis. This tightening has come as a result of the Commission’s assessment of its experience with implementation of the enlargement mechanisms and a result of the changing political and economic environment in which enlargement has been located. This changing environment includes ‘enlargement fatigue’ in existing Member States, that the countries seeking membership pose (albeit for different reasons) considerable difficulties and problems that in retrospect make the ‘big bang’ enlargement of 2004 (for example) look relatively easy, and, of course, as the conflict over the next EU budget shows, the cost (and benefits) of enlargement. These considerations are additional to complex problems of governance – political and economic -- posed by enlargement’s impact on the EU’s institutions and operations. The Euro-zone crisis has stimulated a further round of institutional and, most likely, constitutional change whose final contours cannot be discerned yet but which will affect the enlargement states in terms of, for example, government spending, debt and competitiveness and Commission oversight of core state economic activities of taxing and spending.

6. The general attitude of the countries that joined the EU in 2004 and 2007 remains, irrespective of specific complaints and grumbles, one of ‘better in than out’. This was, for example, noticeable in Croatia’s less than smooth accession process. This general attitude also applies to states currently seeking membership (with the possible exception of Turkey and Serbia where resentment of EU ‘interference’ is considerable) where domestic and foreign policy is often subordinated to the goal of EU membership. In these states there is a recognition that the enlargement process imposes great strains on the domestic polity and economy; the EU, in line with the general provisions governing enlargement, uses conditionality, monitoring, and rule transfer to influence the evolution of these polities towards ‘the European model’ of market-oriented, liberal-democratic states. The EU and Commission is careful to stress this is not a coercive process; states are not obliged to undertake these reforms but if they are not undertaken to the satisfaction of the Commission then membership will not be forthcoming.

7. Of course, many of the reforms sought would have to have been undertaken as part of a broader modernisation process in, for example, the transition from communism or in the aftermath of Yugoslavia’s break-up. Given that there is a broad consensus in these states that the EU is ‘the only game in town’, that the prosperity represented by the EU (even in current circumstances) contrasts markedly with their own economic weaknesses means membership offers real economic gains, and that there is no viable alternative to the political-economic model represented by the EU for these states, then one can readily understand why such a high priority is placed on membership. Even though the economic and social costs of adaptation are high, enlargement is a long process, seeking membership requires often newly established (or re-established) states and/or states who see themselves as having a long and proud history of independence.
8. The experience of enlargement has not proved smooth either for the EU or states proceeding through the process. This can be seen in the Commission’s approach to Bulgaria and Romania and, latterly, Croatia. What makes Romania and Bulgaria significant is both were subject to a new process, the Cooperation and Verification Mechanism (CVM) intended to address serious problems in justice and home affairs, and corruption. In Bulgaria CVM established six benchmarks (judicial independence, accountability, transparency and efficiency; high-level and public sector corruption; and combating organised crime) on which the Commission was to report regularly. Publicly the Commissions holds that CVM has made a major contribution to reform but a closer reading suggests CVM has not delivered what was expected either by the Commission or the Member States.

9. Important progress has been made in passing legislation but strategic gaps remain and the political will to deliver the reforms has varied. The Commission identifies a lack of direction and variable levels of domestic commitment over the five years of the process, concluding external pressure remains essential but its continuity raises questions about the irreversibility and sustainability of change. In Romania’s case four benchmarks (judicial reform, judicial integrity, high-level, and public sector corruption) were identified. The Commission’s quinquennial review was scathing. A lack of progress was combined with events that raised serious concerns about the political elites’ commitment to, or even understanding of, the rule of law. Romania, the Commission argued, was not being asked to achieved standards higher than those in other Member States but to implement what was already in place and to which it had agreed. As in Bulgaria, passing legislation was not the problem; the real problem was implementation and the lack of a clear and consistent developmental trajectory. This, the Commission concluded, undermined sustainability and raised the possibility of reforms already in place being reversed; hence the need for continued external pressure.

10. This raises interesting questions about enlargement: first, CVM was instituted because of perceived shortcomings in the process that governed the 2004 enlargement. There was certainly a perception that the historical significance of ‘the return to Europe’ could not be permitted to fail, which gave grounds for the argument that states had been allowed to join the EU that were not ready. The same process was at work in the creation of the Euro. Second, CVM represented a type of ‘post-accession’ conditionality whereby the Commission could continue to monitor and police states who were now formally part of the Union. The experience in Bulgaria and Romania shows clear limits to the Commission’s power to drive through change in the face of domestic inertia or failure to cooperate. Third, it illustrates a problem familiar to students of enlargement: adaptation is largely a ‘centre-led’ process involving passing legislation, drawing up strategy documents, securing funds and spending them. The process, irrespective of rhetoric, focuses primarily on the creation and development of central capacity to, for example, transpose the *acquis communautaire*, and this tends to limit wider change and penetration. Where change occurs it is driven by the centre and by the need to secure Commission agreement that the polity in question is on the correct evolutionary trajectory that will culminate in membership. This focus on central capacity is, in effect, a centralising process and can reinforce establish beliefs and behaviours concerning the centre’s primacy. Paradoxically, whilst enlargement and the Commission’s role is
sometimes presented as substantial and transformative, what strikes one is the inability of external pressure to bring about the changes sought by the Commission and the Member States. Once membership is secured, there is a further decline in Commission influence.

11. Significantly CVM is not being applied to Croatia, which will join the EU in July 2013. Instead the Commission is preparing six-monthly progress reports covering judiciary, fundamental rights, war crimes, corruption, shipyards and steel privatisation. The failure of CVM in Bulgaria and Romania prompted the Commission to re-think ‘post-accession’ conditionality and the dangers of premature accession. It is worth pointing out that absorbing Croatia will not be massively expensive, being about 1.5% of EU spending between 2014 and 2020. Croatia’s accession has, as happened after previous enlargements, stimulated thinking on reforming enlargement, and the process undergone by Croatia was the most rigorous thus far. This re-think has taken the form of requiring an accession state demonstrate a clear track-record of achievement to the Commission and Member States to reduce the possibility of premature accession.

12. What is noticeable about the pattern of enlargement is the obvious: that satisfying the Copenhagen Criteria on creating a functioning liberal democracy and establishing a functioning market economy have never been sufficient in themselves to sanction accession. This is because what is meant by ‘satisfying’ varies not only over time but also with the political and economic context in which enlargement was located. The effects of this can be seen in the much greater visibility accorded to justice, combating organised crime and corruption, security, and the promotion (and defence of) fundamental rights in recent years. This is particularly clear in the June 2012 negotiating framework for Montenegro and is a direct consequence of the problems experienced with Bulgaria, Romania, and Croatia and which are anticipated with the remaining enlargement states, including Turkey. Essentially, the rule of law has been singled out as the basis of enlargement; this was always significant but its pre-eminence has now been explicitly recognised and enshrined in enlargement.

13. Recent decisions – Croatia’s accession, granting candidate status to Serbia, opening negotiations with Montenegro – are presented by the Commission as confirming the reality of the membership perspective of all Southeast European states, as well as demonstrating the EU’s transformative power to existing Member States, and thereby provide a clear incentive to further and deeper reform efforts. This led to the High Accession Dialogue (HLAD) with Macedonia, which is designed to circumvent the veto imposed by Greece (the Commission has signalled on four occasions that negotiations should begin) by focussing on core concerns related to, for instance, the reform of the judiciary, combating corruption, and so on. It is nevertheless significant that the Commission identified a slowing of reform in Macedonia (and elsewhere) as indicative of a lack of domestic political will and a need to revivify the active political consensus and engagement of society that a successful enlargement requires. The growth of ‘enlargement weariness’ amongst domestic populations is not unknown (support for EU membership in Croatia, for example, declined in the years preceding the closing of negotiations) and recent suggestions from Member States that visa-free travel for Southeast European citizens should be withdrawn or modified has led to some disquiet in the region. Visa-free travel is highly prized and is seen as an interim reward for progress made. Its withdrawal could have serious consequences for attitudes towards the EU in the region. There is also evidence of ‘back-sliding’ in public sector reform in
the 2004 membership states; a SIGMA/OECD report of 2009 found the process of public administration reform slowed after membership and that in some cases there had been a regression to previous patterns of behaviour.

14. Placing the rule of law at the centre of enlargement policy raises important and interesting questions about the process. This was made explicit for the first time in the 2011 enlargement strategy that was endorsed by the European Council. This was presented as a clear opportunity for states seeking membership to signal their commitment to the Union’s fundamental values from the earliest days of the process (as such this indicates the lack of specificity, for example, the Copenhagen Criteria) by, for instance, improving the operation of the judicial system. As well as emphasising broad issues of justice and security these decisions emphasised the importance of the reform of public administration as central to both democratic governance and the promotion of the rule of law; reform was also central, of course, to the development of an effective, modern, ‘European’ State. Public administration reform was not just a matter of institutional reform – this was relatively straightforward – but on transmitting and institutionalising values and norms such as openness, accountability, and transparency.

15. However, patterns of behaviour and attitudes are deeply rooted and therefore difficult to change. This explains, at least in part, the new focus in acquis transposition on Chapter 23 (judiciary, fundamental rights) and Chapter 23 (justice, freedom and security) and why these chapters have become ‘the acquis of the acquis’. Progress satisfactory to the Commission, the Council and Member States requires the demonstration of changes in institutions and attitudes and these will now come first in enlargement on the grounds that so much else flows from the rule of law. Progress must now be demonstrated by a track record of implementation and negotiations will be grounded on action plans developed by governments with Commission guidance. A significant innovation is the introduction of interim benchmarks set when negotiations are opened to demonstrate progress, and only when these are met will the Council set closing benchmarks. This is a much more structured framework than in the past and offers a clearer set of objectives to both the enlargement states and the EU. As the reform objectives will be clearer, action to achieve them should be more focussed and more easily monitored, so reforms should be more sustainable. The aim is to bring states closer to the EU-model and assure Member States that candidates can assume the obligations of membership.

16. A major puzzle is how, in the current climate, can the EU maintain both enlargement and internal reform? The pool of enlargement states is being reduced to those with the most intractable problems (for example, Bosnia and Herzegovina, Kosovo), or which divide the EU’s members (notably Turkey), even Iceland poses major difficulties. It should be recalled that the absence of a realistic prospect of membership means the pressure to undertake often painful reforms is reduced; equally, if the EU commits prematurely to membership, the pressure to reform is reduced. Once a country is a member of the EU the incentives to conform to EU demands (for example, Bulgaria, Romania, Cyprus) declines markedly. Enlargement is based on specific country programmes combined with general principles that represent a substantial reform programme such as the ‘positive agenda’ with Turkey, the HLAD with Macedonia, and so on. Realising these objectives will depend in part on resources: the Instrument for Pre-Accession (2007-2013) is €11.6bn, that for 2014 onwards is projected at €14.1bn but, as recent events have shown, determining a budget is not going to be easy. In other
words, the EU treads a very fine line in ensuring continued reform whilst avoiding stimulating domestic disaffection. The most powerful counter is the conviction that life inside the EU is better than life outside.

17. Enlargement in SEE is of great importance to the future of the EU, posing a major challenge to the EU’s transformative power. The history of enlargement has led to a more rigorous and heavily policed process, including post-accession surveillance that necessarily entails an enhanced Commission role in monitoring domestic politics. As so often in the past SEE is having a crucial effect on European politics, and vice-versa.

12 November, 2012
Written evidence from the UK Delegation to the Committee of Regions

1. This submission responds to Paragraph 7 of the call for evidence and is made by the Leader of the UK Delegation to the Committee of the Regions on behalf of the full UK Delegation.

ISSUE

2. Enlargement has now reached a point where a decision must be made about national representations in the Committee of the Regions (CoR). Assuming that the Treaty limit of 350 seats is not increased, some national delegations must be reduced in size to accommodate the next accession(s).

3. This presents an opportunity to reconfigure the national composition of the CoR to one that is closer to that of the European Parliament, i.e. to restore the voting strength of the larger countries to more closely reflect their population size and budgetary contributions, whilst continuing a degree of protection for the smallest states, which includes two Commonwealth countries.

BACKGROUND

4. The CoR is an EU body, established by the Maastricht Treaty and comprising local government and regional politicians from across the EU with a remit to scrutinise draft EU legislation, much of which is implemented at local level. Although a consultative body, its opinion must be sought by the European Commission on matters affecting local councils and regional bodies, and its recommendations are increasingly influential within the European Parliament. Additionally, it has recently been given the role of “guardian of subsidiarity”.

5. When the CoR was established in 1994, its composition mirrored the template in the European Parliament, i.e. a positive discrimination towards smaller Member States (“degressive proportionality”). However, as a result of successive waves of enlargement, the CoR has nearly doubled in size without a change in the size of the 12 original delegations, with the result that smaller countries are now overrepresented and as a bloc are able to outvote the larger countries, including the largest net contributors to the EU budget.

6. The impact on the UK has been significant: in 1994, with a total membership of 12 Member States, our 24 seats (out of 189) constituted 12.7% of the total, at a time when the UK’s population equated to 16.7% of the EU total. Today our 24 seats (out of 344) constitute only 6.9%, barely more than half our representation by population. The situation is the same for the three other largest countries – Germany, France, Italy – and to a lesser extent countries such as Spain, Poland, The Netherlands etc.

Croatian accession

7. With Croatia likely to be assigned nine seats on accession in 2013 (based on a population of 4.4 million), the total CoR membership will rise to 353, based on the current system of attributing seats. According to the Croatian treaty chapter, by 2015, a new system of representation must be agreed which will bring the total number back down to a maximum of 350, although this issue would again be reopened in the event that Iceland accedes to the EU,
and yet again in the event of any subsequent enlargement. This argues for a more flexible, dynamic solution.

8. Article 300 TFEU states that the number of seats in the CoR cannot exceed 350. Moreover, ‘(…) the nature of the composition of the Committees shall be reviewed at regular intervals by the Council to take account of economic, social and demographic developments within the Union’. Article 305 also specifies that ‘the Council, acting unanimously on a proposal from the Commission shall adopt a decision determining the Committee’s composition’.

Timing

9. In October 2010, the CoR adopted a resolution which concluded that the status quo should remain; the UK and other larger countries voted against the text - as amended by the smaller states – however the vote was carried by the combined voting weights of delegations from the smaller Member States.

10. The Commission has not yet indicated when it will make a proposal, but it needs to be implemented by the start of the next mandate (26 January 2015) if not earlier, following unanimous agreement in Council. Since the proposal requires unanimity, it would be beneficial to set out the key principles we would like to be considered by the Commission in its proposal and by UK Ministers.

TOWARDS A PROPOSAL BASED ON PRINCIPLES

11. The UK Delegation supports the various principles that have historically underpinned the allocation of places to national delegations.

- **proportionality**: delegations should be generally proportionate to population;
- **solidarity**: the very smallest countries should benefit from a minimum threshold that enables them to function effectively in the CoR;
- **degressivity**: allocations should vary from absolute proportionality in order to favour the smaller member states who would otherwise consistently be outvoted by the larger states. This is an element of solidarity;
- **fairness and burden-sharing**: in the application of the above principles, the resulting allocations should avoid extremes of benefit and sacrifice;
- **universality**: every CoR full member should have the right to participate in two commissions.

12. To these principles we would add another that could be described as “future-proofing”. Whatever solution is found for the application of the Lisbon Treaty in the context of the next accession should be dynamic, ie capable of being applied to future accessions in order to avoid repeated institutional wrangling.

13. Accordingly, we would propose that the composition of the CoR should be based on the same template as the European Parliament, the precise numbers adjusted to reflect the smaller size of the CoR. This would imply a UK Delegation of a little over 30 members, compared to the existing 24. The suggestion here is that each time the EP template is adjusted for future enlargements, the CoR is adjusted *pro rata*. 
FINANCIAL CONSIDERATIONS

14. In calling for a rebalancing in the composition of the CoR, we do not advocate an increase in its overall size, therefore the cost implications are neutral for the EU budget (and therefore neutral towards net contributing countries such as the UK). Indeed there could be savings as UK members live relatively close to the CoR’s Brussels place of work, whereas those countries most likely to have reduced participation as a result of rebalancing are more distant and therefore incur greater costs in attending meetings, costs borne wholly by the EU budget.

RECOMMENDATION

15. The UK Delegation of the CoR recommends that this enquiry concludes in favour of a fairer and more sustainable balance to the composition of the delegations in order to make them more representative of the EU population.

14 November 2012
Principles behind enlargement

1. Do Articles 2 and 49 of the Treaty of the European Union provide the right principles for any further enlargement of the EU?

The current legal basis for enlargement provides an adequate background for any further enlargement, as it addresses the minimal requirements to be met by any applicant state and at the same time retains a sufficient margin of political appreciation for any future candidate for accession.

2. The Copenhagen criteria expand upon these principles to provide a more detailed framework for eligibility to join the Union. Do these criteria fully encapsulate the principles behind EU enlargement?

For the Western Balkan states, the three Copenhagen criteria (functioning democracy, competitive market economy, adoption of the acquis) have been completed by the requirement of regional cooperation between the accession countries that reflects their problematic past and should prepare the mindset for future cooperation within the Union. While it seems advisable to retain the possibility of adding criteria according to the state of advancement and specific problems in future enlargement candidates, these principles must be made transparent from the start in order to avoid disillusionment and frustration on the side of the candidate state (e.g. as currently witnessed in Serbia over the status of Kosovo).

5. Is Croatia satisfied with their accession process and the arrangements in place for them to join the Union?

While the elites and particularly the driving political actors are satisfied with having obtained a date for accession, in the wider population a sense of disappointment dominates as the changes in the country, particularly regarding economic prosperity and the integrity of political actors (cf. corruption) are not felt to be as significant as might have been hoped at the outset of accession negotiations. This explains the low approval rates for EU accession and the lack of participation in the referendum on this issue.

The impact of enlargement on the Union

9. What might be the broader geopolitical impact of further enlargement, or of not admitting additional states who wish to join? How might the European neighbourhood be affected by the EU’s decisions on enlargement?

As EU enlargement progresses, ever new potential accession candidates are created, namely those states newly located on the fringes of the EU that sense the chance of changing sides once their neighbours have become full-fledged members. In order to maintain both the credibility of the process and the reform dynamic in the respective countries, it is crucial to maintain accession promises once made (i.e. currently for the Western Balkans and Turkey) and to support domestic transformations both financially and politically. Given the recurrent debate on the borders of Europe, only clear, transparent accession criteria can represent an
appropriate answer to potential candidates that would avoid diminishing the EU’s influence in those countries that are still far away from fulfilling the necessary requirements for integration. A prima facie rejection of certain countries on other grounds is detrimental to both the EU’s credibility as a foreign policy actor and to the stability in the respective region or country.

The appetite and capacity for further enlargement

10. What impact should the ongoing economic and financial crisis, particularly in the euro area, have on further enlargement?

The EU’s reduced resources and the need to support states within the Union makes the need for a careful assessment of future members’ preparedness for accession all the more relevant, in order to avoid admitting a country who later will require large amounts of aid to meet what was originally set as accession criterion. Yet, the current crisis should not hinder enlargement towards countries which do meet all predefined accession requirements.

12. Do a) the EEA, b) the European Neighbourhood Policy, or c) the possibility of a ‘privileged partnership’ offer viable alternatives to full membership? Could these circumvent ‘enlargement fatigue’, either as permanent alternatives or as stepping stones to full membership?

Alternatives to full membership can only function as a stepping stone, and only when it is clear that they are intermediate steps on the way to full integration. As the initial standards in candidate countries have been steadily decreasing while at the same time EU integration has been progressing and the number and depth of common policies increasing, the accession process has become very strung out and even in the case of countries with a clear integration perspective can be source of frustration. It is therefore necessary that the eventual goal of accession not be called into question in order to maintain a reform dynamic and encourage honest and deep transformations in accession candidates.

14. Have the lessons from previous enlargement rounds been learnt to improve the processes of enlargement?

The enlargement policy is one of the policies that has evolved most over the course of its existence, and it is becoming ever more refined with each new accession round. While standards are now extremely high and much attention is given to implementation over the mere adoption of legislation, the degree of sophistication in enlargement policy is overall very satisfactory. Moreover, the process of lesson-learning is ongoing, as for instance the early opening of more complicated negotiation chapters for Montenegro, following the Croatian experience, shows.

13 November 2012