

**AN ANALYSIS AND APPRAISAL OF ARGUMENTS FOR AND AGAINST AN
ENLARGED EUROPEAN UNION**

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| | |
|---|-----------|
| Overview | 8 |
| | |
| Chapter 1: Theories of European Integration and Enlargement | |
| 1.1. European Integration Theory within the broader context of IR | 15 |
| <i>i) Functional scope</i> | 19 |
| <i>ii) Institutional capacity</i> | 19 |
| <i>(iii) Geographical domain</i> | 21 |
| 1.2. Neo-functional theory | 26 |
| 1.3. Liberal intergovernmentalism | 30 |
| 1.4. Multi-level governance (MLG) | 32 |
| 1.5. New Institutionalism | 33 |
| 1.6. Neo-realist interpretations of European integration | 37 |
| 1.7. Federalism | 38 |
| 1.8. Confederalism and Consociationalism | 41 |
| 1.9. The Constructivist/Sociological Approach | 44 |
| Conclusion | 46 |
| | |
| Chapter 2: An Overview of Past Enlargements | |
| Introduction | 48 |
| 2.1. The European Coal and Steel Community | 49 |
| 2.2. The European Economic Community (EEC) | 51 |
| 2.3. Britain, Denmark and Ireland join the EEC | 52 |
| <i>(a) The changing relationship between the EC and Britain</i> | 52 |
| <i>(b) Further integration and enlargement</i> | 54 |
| <i>(c) The effect of Britain, Ireland and Denmark's entry into the EC</i> | 55 |
| 2.4. The Mediterranean Enlargement | 55 |
| <i>(a) Greece, Spain and Portugal join the EC</i> | 56 |
| <i>(b) The impact of the Mediterranean enlargement on the EC</i> | 57 |
| 2.5. The Northern enlargement: Austria, Finland and Sweden | 59 |
| <i>(a) The impact of the EFTAn enlargement</i> | 60 |

| | | |
|-------------|--|-----------|
| 2.6. | The Eastern enlargement | 61 |
| | <i>(a) The process of negotiations</i> | 62 |
| 2.7. | The 2005 Enlargement Strategy | 66 |
| 2.8. | The Enlargement Strategy of 2006-2007 | 67 |
| | <i>(a) The “absorption capacity” of the EU</i> | 68 |
| | <i>(b) Integration capacity</i> | 70 |
| | <i>(c) Integration capacity and future enlargement</i> | 70 |
| | <i>(i) Institutions</i> | 70 |
| | <i>(ii) Common policies</i> | 71 |
| | <i>(iii) Budget</i> | 71 |
| | <i>(III.i) Instrument for Pre-Accession Assistance (IPA)</i> | 71 |
| | <i>(III.ii) The Multi-Annual Indicative Financial Framework (MIFF)</i> | 72 |
| | <i>(d) Conditionality</i> | 72 |
| | <i>(e) Communication</i> | 73 |
| | <i>(f) An assessment of the Commission’s Enlargement Strategy 2006-2007</i> | 74 |
| 2.9. | The Accession of Bulgaria and Romania – 1 January 2007 | 76 |
| | <i>a. Tools and safeguards implemented for the accession of Bulgaria and Romania</i> | 77 |
| | Conclusion | 80 |

Chapter 3: Future Enlargements of the EU

| | | |
|-------------|---|------------|
| | Introduction | 82 |
| 3.1. | Non-Member States which have close ties with the EU | 85 |
| | <i>a. Norway</i> | 85 |
| | <i>b. Switzerland</i> | 88 |
| 3.2. | Iceland as a Potential Candidate Country | 92 |
| 3.3. | The Western Balkans | 94 |
| | <i>i. Candidate Countries</i> | 97 |
| | <i>a. Croatia</i> | 97 |
| | <i>b. The Former Yugoslav Republic of Macedonia (FYROM)</i> | 100 |

| | | |
|-------------|--|------------|
| ii. | Potential Candidate Countries | 102 |
| a. | <i>Albania</i> | 102 |
| b. | <i>Bosnia-Herzegovina</i> | 102 |
| c. | <i>Montenegro</i> | 103 |
| d. | <i>Serbia</i> | 103 |
| e. | <i>Kosovo (as defined by United Nations Security Council Resolution 1244 (UNSCR 1244))</i> | 104 |
| 3.4. | Turkey | 105 |
| 3.5. | Northern Cyprus (Turkish Cypriot Community) | 110 |
| | Conclusion | 109 |

Chapter 4: Enlargement and Institutional Reform in the EU

| | | |
|-------------|---|------------|
| | Introduction | 112 |
| 4.1. | Overview of Institutional Reform in the European Union | 112 |
| | <i>(a) Treaty of Amsterdam</i> | 114 |
| | <i>(b) Treaty of Nice</i> | 115 |
| | <i>(i) The European Commission</i> | 115 |
| | <i>(ii) The Council of Ministers</i> | 117 |
| | <i>(ii.a) The weighting of the votes in the Council of Ministers</i> | 118 |
| | <i>(ii.b) Qualified Majority Voting (QMV)</i> | 120 |
| | <i>(ii.c) Voting Procedures under the Constitutional Treaty</i> | 121 |
| | <i>(ii.d) Voting Procedures under the Reform Treaty</i> | 122 |
| | <i>(iii) The European Parliament</i> | 123 |
| | <i>(iv) The European Council</i> | 124 |
| | <i>(v) The Court of Justice and Court of First Instance</i> | 124 |
| | <i>(vi) The European Investment Bank</i> | 125 |
| | <i>(vii) The European Central Bank and European System of Central Banks</i> | 125 |
| | <i>(viii) Advisory Committees and Bodies</i> | 126 |
| | <i>(c) The European Convention</i> | 126 |
| | <i>(d) The Acts of Accession and the Treaty of Accession</i> | 127 |

| | |
|--|------------|
| (e) <i>The Mandate for the Reform Treaty</i> | 128 |
| (f) <i>The Lisbon Treaty</i> | 131 |
| 4.2. The Impact of Enlargement on European Union Institutional Governance | 133 |
| (a) <i>Addressing the “democratic deficit”</i> | 135 |
| (b) <i>Governance</i> | 135 |
| Conclusion | 136 |

Chapter 5: The Impact of Enlargement on Democratic Governance, Legitimacy and Political Identity

| | |
|--|------------|
| Introduction | 138 |
| 5.1. Accountability and the Democratic Deficit in the EU | 139 |
| (a) <i>The Democratic Deficit and Decision-Making in the EU</i> | 139 |
| (b) <i>Possible Ways of Addressing the Democratic Deficit</i> | 143 |
| 5.2. How has Enlargement affected European Identity and Legitimacy in the EU? | 143 |
| (a) <i>European Identity</i> | 145 |
| (b) <i>How does Enlargement affect European Identity?</i> | 148 |
| 5.3. Political Legitimacy in the EU | 151 |
| (a) <i>Legitimization through Liberal Democracy</i> | 152 |
| (b) <i>Legitimization through a new form of citizenship</i> | 153 |
| (c) <i>Legitimacy supported by economic benefits</i> | 154 |
| (d) <i>Legitimacy through the EU’s role as significant international player</i> | 155 |
| 5.4. The “finality” of Europe | 157 |
| Conclusion | 159 |

Chapter 6: The Economic Dimension of Enlargement

| | |
|--|------------|
| Introduction | 160 |
| 6.1. The Economic Challenges of the Eastern Enlargement | 161 |
| 6.2. Economic arguments in favour of Enlargements | 163 |
| 6.3. An assessment of the economic results of the Eastern Enlargement | 165 |

| | |
|--|------------|
| 6.4. The Cohesion Policy and the Structural and Cohesion Funds | 165 |
| (a) <i>The PHARE programme (Community Aid for Central, Eastern European Countries)</i> | 166 |
| (b) <i>ISPA: Instrument to support transport infrastructure investments</i> | 166 |
| (c) <i>SAPARD: Standard Accession Programme</i> | 167 |
| (d) <i>The Instrument for Pre-Accession (IPA)</i> | 167 |
| 6.5. How does Enlargement affect “the four freedoms” | 169 |
| 6.6. The Impact of Enlargement on European Monetary Union (EMU) | 170 |
| 6.7. The economic crisis and the EU | 174 |
| Conclusion | 175 |

Chapter 7: Enlargement and Justice and Home Affairs (JHA)

| | |
|--|------------|
| Introduction | 176 |
| 7.1. The Schengen <i>Acquis</i> | 176 |
| 7.2. Instruments for Managing Diversity | 183 |
| (a) <i>The Community Method</i> | 183 |
| (b) <i>Enhanced Co-Operation</i> | 184 |
| (c) <i>The “Open Method of Co-ordination”</i> | 185 |
| (d) <i>EU Aid Programmes</i> | 186 |
| (e) <i>Improvements in Decision-Making Capacity</i> | 186 |
| (f) <i>Maintaining and Improving Implementation Capacity</i> | 186 |
| 7.3. JHA and the Reform Treaty | 188 |
| 7.4. JHA and the Lisbon Treaty | 188 |
| Conclusion | 189 |

Chapter 8: One Step Beyond: European Neighbourhood Policy

| | |
|--|------------|
| 8.1. What is the European Neighbourhood Policy (ENP) | 191 |
| 8.2. Future Prospects of our “Friends and Neighbours” | 202 |
| 1. <i>The South – Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, Palestine, Tunisia</i> | 202 |
| 2. <i>The Excluded Territories – Libya, Syria and the Western Sahara</i> | 204 |

| | |
|---|------------|
| <i>3. The East – Armenia, Azerbaijan, Belarus, Georgia, Moldova, Russia and the Ukraine</i> | 205 |
| <i>4. The Secessionist Entities</i> | 206 |
| 8.3. The Black Sea Synergy | 206 |
| Conclusion | 207 |
| | |
| Chapter 9: General Conclusions Concerning the Future of EU Enlargements | 208 |
| (a) Some general remarks concerning the phenomenon of Enlargement | 208 |
| (b) Arguments for and against Enlargement | |
| <i>(i) Arguments in favour of Enlargement</i> | 212 |
| <i>(ii) Arguments against Enlargement</i> | 212 |
| | |
| Bibliography | 216 |
| | |
| Annex 1: Abbreviations used in the text | 229 |

Overview

The main theme of this study can be summarized by asking three questions:

- ❖ Why would a sovereign state wish to join the European Union?
- ❖ What are the main arguments of the Member States of the European Union in accepting or rejecting the candidates' application?
- ❖ What is the future of enlargement and what does that signify about the EU itself?

Before such questions can be answered, it would be useful to posit the fundamental question of why would such a study be necessary? The simple answer is that the European Union is undoubtedly an international player with a population of approximately 500 million. As an international economic actor it is the world's largest exporter and second largest (after the US) importer. Its citizens have benefited from amongst the highest levels of global prosperity. The GDP of the European Union is third only to that of the US and Japan. Thus, any developments in the EU could have far-reaching consequences globally.

According to the European Union's (EU) website, enlargement is defined as "one of the EU's most powerful policy tools". It is defined as "a carefully managed process which helps the transformation of the countries involved, extending peace, stability, prosperity, democracy, human rights and the rule of law across Europe". Due to increasing global instability, the objective of bringing "peace, stability, prosperity, democracy, human rights and the rule of law across Europe" is an important one. How effective has the EU been in fulfilling these goals?

Considering the fact that states in Europe, the Middle East and Africa have requested to be considered as potential members, the *perception* exists that membership will bring many benefits to the candidate countries. However, when taking into account the dissension and lack of progress in certain areas *within* the EU, perhaps membership may not be so beneficial after all?

When considering our original questions, how can we go about in answering them? At the outset, it is clear that European Union enlargement is a very complex process. It affects almost every single aspect of the EU. As the EU itself has evolved from an organization of six members to one with 27 members, so has the complexity of its institutional and decision-making procedures. It is useful to take a look at this process itself.

Chapter one titled “The Theories of European Integration and Enlargement” begins by setting the theoretical framework. Both rationalist and constructivist approaches have been explored. The “classical” (rationalist) theories of neo-realism, liberal intergovernmentalism and neo-functionalism are briefly explained, as well as the main thrusts of constructivism insofar as they pertain to the points discussed in this study. Each of these theories makes certain assumptions which can be seen to hold true, yet no single theory can explain every single facet of enlargement. Both rationalist and constructivist arguments are put forward to explain the phenomenon of enlargement. This study finds that material considerations certainly play a very important role in states seeking membership, as well as security considerations. However, the aspect of *culture* also needs to be taken into account from now on. The perception that a state is not “European” enough will lead to the loss of domestic support for enlargement.

Chapter two titled “An Overview of Previous Enlargements” will identify the main motivations of states to join, as well as the existing Member States’ motivations to *allow* a candidate to join. It is thus possible to discern certain shifts in the rationale for states seeking membership and the European Union in receiving them.

The rationale for creating the European Community in the aftermath of WWII was to make it impossible for European states to wage war on each other. Germany needed to be constrained. The means to do so was to create the European Coal and Steel Community which would eventually lead to close political union sector per sector. Even at this stage, the motivations of the six signatories were not purely economic: the smaller Benelux countries sought protection from a larger regional entity and it was believed that political

stability could be bolstered by such an entity. Britain, Ireland and Denmark's entrance was motivated mostly by economic considerations.

The Mediterranean enlargement was significant for a number of reasons. These nations were poor and had precarious political and economic systems. Here, political considerations can be considered to have played a much more significant role as a motivating factor. The fledgling democracies, after years of dictatorships, needed to be supported.

The "northern" enlargement by contrast, differed in the sense that Austria, Finland and Sweden were "ideal candidates". They had developed economic systems, strong democratic institutions and very effective social welfare systems. Why would they wish to join? The answer lies in both political and economic motivations. On the one hand, they sought the protection of the EU against Russia and to protect themselves from the instability created by the collapse of the Soviet Union. The emergent former Communist states were in a state of chaos and the increase of crime and migration could be more effectively addressed at regional level. Here, Grieco's theory of "voice" is also pertinent. In particular, Sweden, Norway and Austria had adopted much of the *acquis* without having any influence in its decision-making. Thus, by joining, these states could participate in the decision-making and agenda of policymaking.

The "eastern" enlargements of 2004 and 2007 were momentous for a number of reasons. Firstly, never before had so many states joined simultaneously. This enlargement effectively ended the division caused by the Iron Curtain. Although the potential economic benefits brought on by this enlargement are not insignificant (see chapter six), they perhaps do not justify such a "big-bang" enlargement. Rather, the foremost consideration was in ensuring peace and stability. The EU created a system of "carrots and sticks". On the one hand, financial and technical support was provided to help with reforms. On the other, systems of benchmarking and strict conditionality were applied to ensure that essential reforms would take place. This brought many issues into sharp focus: A Union with 27 members could over-tax the institutional and decision-making

framework of the EU. In any case, the Treaty of Nice only made provisions for a 27-member Union. The Constitutional Treaty which would have passed some necessary reforms was rejected by both the Dutch and the French in their respective referendums. The two main reasons put forward to explain the rejection were on the one hand “enlargement fatigue”, and on the other, concerns about the potential for Turkey to become a Member State.

Chapter three deals with “Future Enlargements of the EU”. Here the probability of further enlargements is assessed. The probability of enlargement taking place within the next few years is highly unlikely for a number of reasons: Firstly, the EU must “deepen”. By building an effective and efficient institutional framework it will be able to consolidate its new members, address any outstanding issues and streamline these new members into fully participating (and equal) members. Secondly, the candidate countries have a number of special needs. They are mostly economically underdeveloped with precarious political systems. A long-term plan to assist in the reformation of the economic and political systems of the states will be necessary. Thirdly, a number of questions such as “what constitutes Europe”, “where does Europe end” will have to be answered before any new candidacies can be seriously considered.

Chapter four titled ‘Enlargement and Institutional Reform in the EU’ seeks to identify the most contentious institutional and decision-making issues as relating to enlargement and the solutions suggested for their remedy. The two most contentious issues are undoubtedly the weighting of the votes and the Qualified Majority Voting (QMV). The provisions for these two issues as laid out by the Treaty of Amsterdam, the Treaty of Nice and the evolution of the Lisbon Treaty are discussed. It appears that under the new voting system, smaller and middle-sized states benefit, whereas larger states are at a disadvantage. The Lisbon Treaty will not deal with all the problems that face the EU, but it will be significant step forward. In terms of enlargement, if the decision-making procedures and institutional changes take place, further enlargements will possible. Some of the issues which the Lisbon Treaty may not address effectively are that of the “democratic deficit” and the problems of political legitimacy.

Chapter five titled “The Impact of Enlargement on Democratic Governance, Legitimacy and Political Identity” aims to identify and address these issues. By the very nature of the EU, due to its complexity and indirect decision-making processes, issues of political accountability and democratic deficit are very pertinent. The issues of political representation, political legitimacy and European identity are intertwined. A democratic Europe cannot exist without people’s sovereignty but this requires a sense of identity of a people as a political community. In order for people to accept a government as legitimate, they must accept that they belong together. Thus, the issue of legitimacy is a crucial one. Four potential sources of legitimacy have been identified: Legitimization through liberal democracy; Legitimization through membership; Legitimization through economic benefits; Legitimization through the EU’s role as a significant international player. Unfortunately all four sources of legitimization appear tenuous. Firstly, in terms of liberal democracy, low EP voter turnouts indicate that EU citizens are rather indifferent in that respect; Secondly, support for the EU may be eroded by resentful minorities or excluded social groups in the new Member States; Thirdly, economic benefits to new Member States may be a long time in coming (see chapter six) and in fact the periods of adjustment can be quite painful; Lastly, even though the EU’s foreign policy record is dismal (as indicated by the dissension before both Gulf Wars and its ineffectiveness in dealing with the Yugoslav crisis), and the CFSP is very much in an embryonic stage, the EU has played a significant role in reviving the Kyoto Protocol. It would appear that in certain areas such as the environment, trade (as indicated by the recent EU-Africa Summit), the European Neighbourhood Policy and enlargement, the EU plays a significant “soft power” role. Will this be a strong enough source of legitimization? Should the EU continue such successes, the answer could well be positive. Another aspect of common cultural identification is that of borders: where does Europe (and thus enlargement) end? Who is “inside” and who is “outside”? How this will be determined will prove to be a very debatable issue.

Chapter six deals with “The Economic Dimension of Enlargement”. Four main issues are analyzed: Firstly, what were the main arguments in favour of enlargement in economic

terms? The Central and Eastern European Countries' (CEEC) GDP was well below the EU-15 average, as was the standard of living. The potential economic benefits are certainly not insignificant, but a stronger argument can be made that the need to support the fledgling democracies and newly-developed market systems was the primary motivation. However, despite this fact, the "old" EU states also sought to protect their own interests. On the one hand, a very small amount of the total EU budget was allocated to enlargement. The discussion of the Cohesion Policy and the Structural Funds indicated how the resources were distributed (second issue). The third issue discusses how enlargement has affected the "four freedoms". In particular, the fear of a "flood" of workers from the new Member States led to the old Member States placing long transition periods before they could have access to the labour force, despite the movement of workers being one of these freedoms. The fourth issue is European Monetary Union (EMU). Even after the 2004 enlargement became a reality, the EU-12 (members of the Eurozone) adopted a very cautious approach to allowing the new Member States to join in the EMU. It appears that the "old" Member States have been reluctant to give up their relative advantages. However, the effects of these actions on the new Member States may have very negative consequences. If the new Member States feel they are being excluded from the EMU, a very powerful incentive for continuing reform may be lost. Also, what is the impact of the global economic crisis on the EU and enlargement?

EMU and the "four freedoms" as far as they have been applied to certain Member States, created the need to address the potential problems which would be caused by the lack of border controls and the free movement of goods, persons, and services. The Maastricht Treaty created a third pillar to deal with these issues. It was called "Justice and Home Affairs" (JHA). Chapter seven deals with "Enlargement and Justice and Home Affairs (JHA)". The JHA agenda has steadily been increasing, especially since the 2004 enlargement. In many ways, one of the most significant motivations for wishing the CEEC's membership of the Union was to address many serious trans-border threats such as crime, smuggling and illegal immigration. However, enlargement itself has made this difficult, as the differing cultures, policing methods and administrative capacities have

greatly increased diversity (and dare one say confusion?). A number of instruments are mentioned which may address diversity. An effective JHA framework will be increasingly important in the future, as most security threats (terrorism, human trafficking and illegal immigration) are transnational in nature and will require regional solutions.

Chapter eight looks at the European Neighbourhood Policy (ENP). Why is the ENP significant? In the EU's Security Strategy the various threats which face the EU globally are underlined. In terms of the logic of the EU (of which the enlargement strategy is its strongest component), supporting states to pursue political and economic reforms through the use of "carrots and sticks" is an effective way of promoting stability and peace. Although the ENP is a policy separate from that of enlargement, it is not inconceivable that in the long-term, it may sow the seeds of eventual membership by slowly bringing about reforms. Therefore, it must be considered.

In Chapter nine titled "General Conclusions concerning the future of EU Enlargements" an attempt will be made to draw some conclusions about the future of enlargement of the EU. What criteria will be used? What effect will the global crisis have on enlargement (if any)? What will the ratification of the Treaty of Lisbon mean for future enlargements? These are some of the questions which will be discussed.

Theories of European Integration and Enlargement

1.1. European Integration Theory within the broader IR context

The period after the end of WWII heralded the emergence and development of institutions of economic integration in Western Europe and provided a valuable field of application for existing theories and the impetus for the development of new theories. The theoretical accounts that emerged in the 50s and 60s offered rival narratives of why and how supranational governance developed. They also attempted to explain how close co-operation in technical and economic spheres of life could result in political integration among states. The two “big issues” which political scientists grappled with were firstly the relationship between economics and politics and secondly, the future of the nation-state as a viable and desirable method of organizing advanced human societies. The emergent European Communities offered an empirical laboratory for the further exploration of these issues. Most theorists however, intended to produce generalized explanations which could be applied beyond Europe. Attempts were made to identify the universal dynamics of regional integration that could potentially (a) explain that the emergence of the European Communities was part of a trend which would affect other parts of the world (b) help design rational institutions to secure better forms of governance in an increasingly interdependent world (Rosamond, 2000:1).

Integration theorists traded in the vocabulary of the discipline of International Relations (IR). In early IR, the relationship between the state system and war was a point of contention for theorists. In the aftermath of WWII, intellectuals and politicians turned their attention on the avoidance of war. As a result, various “schools” developed around these ideas. The federalists contemplated ways in which states could engineer a mutual constitutional settlement that delegated power to a higher form of government. Functionalists’ starting point was that nation-states were irrational and value-laden. The real material needs of people had to be met through the most efficient means. This could be achieved on a post-national, post-territorial basis. In the meantime, social scientists’

techniques were becoming increasingly refined and new ideas were being introduced into the milieu. Analogies were drawn between the processes of communication that helped to solidify national communities and the growth of cross-border transactions. The earliest theories of European integration emerged from this context.

During the 1950s processes of international co-operation and institutionalization manifested themselves in the development of the European Coal and Steel Community (ECSC). Subsequently the European Economic Community (EEC) and Euratom were established. These were unprecedented examples of intensive international co-operation among the European states. The Treaty of Paris of 1950 which had established the ECSC set forward an institutional pattern involving elements of supranationality. Using the ECSC and EEC as their starting point, neofunctionalists applying functionalist ideas began to describe how the deliberate merger of economic activity in particular economic sectors across borders could generate wider economic integration. This economic integration could lead to political integration and the creation of supranational organizations speeded up these processes. Two important assumptions came into play: Firstly, Western Europe was undergoing a profound transformation which would lead to established patterns of authority being re-ordered. Secondly, the logic of this transformation could be discerned and a new form of state above the nation state would emerge. At this time, prompted by these debates, a new sub-field of IR theory emerged, that of International Organizations which dealt with the emergence of significant non-state actors in the world polity and collective international and transnational institutions (Rosamond, 2000:2).

However, Western European politics in the mid-1960s clearly showed the persistence of the nation-state and dominance of national interests. A schism emerged in integration theory between neofunctionalists and intergovernmentalists. Whereas neofunctionalists emphasized supranational institutions (such as the European Commission) and national and transnational interest organizations as key actors, intergovernmentalists emphasized the centrality of national executives. Neofunctionalist theory was one of change and transformation but intergovernmentalism depicted “politics as usual” under new

conditions. Both theories greatly enriched more general accounts of integration theory. They both described the development path and shape of the EU-polity, but in different ways. Therefore, they were considered as competing theories. Ernst Haas posited that different integration theories had different or underspecified dependent variables (“the dependent variable problem”) and therefore were not really competing but complementary and partly overlapping (Jachtenfuchs, 2002: 650). Since the 1960s, some theorists even argued that the EU had developed a level of maturity whereby it could be compared to other state-like political systems. Therefore, theories of comparative politics could be applied (Rosamond, 2000:10).

The governance perspective shares a similar view. It explores the impact of different institutional settings and actor constellations on policy outcomes by applying general theories to the EU. Each of these streams of research has a different dependent variable: Neofunctionalism and intergovernmentalism deals with the polity; the comparative politics perspective deals with politics; the governance approach deals with policy outcomes (Rosamond, 2000:106).

Therefore, there is no single theory of European integration but different theories that are in part mutually exclusive or competing with each other. Furthermore, does the EU constitute a unique case (*n* of 1)? If it is accepted that it is a *sui generis* entity, generalizations from the EU cannot be made which would be generally applicable (Jachtenfuchs, 2002:650). The EU is a unique organization that emerged from very specific historical circumstances and therefore, it is very difficult to draw theoretical generalizations. Its institutional and legal architecture does not resemble national political systems or other international organizations. This has proved to be a particular problem for approaches which borrow from IR. If the EU is a unique case, it cannot help explain regionalism in a more general sense. Even the uniqueness of the EU has been seen as a barrier to theorizing about the EU in general terms. EU studies have become a subject of narrow focus as a sub-domain of Political Science and IR. This does not mean that “EU studies” are not important. On the one hand they can help explain the phenomenon of European Integration but they can also provide a locus for the theoretical and conceptual

development of the Political Sciences. A good example of this is the way that the study of German politics led to ideas about pluralism, federalism, interest group liberalism, etc (Rosamond, 2000:18).

By the early 1990s the “great debate” amongst theorists of European integration was that between rationalism and constructivism. (Jachtenfuchs, 2002:652). Rationalism and constructivism are social *meta-theories*. As such, they offer a set of assumptions about the social world rather than a specific hypothesis. Many substantial theories use either rationalist or constructivist assumptions through which different preferences and outcomes are attributed and which lead to different, and even contradictory, expectations concerning enlargement (Schimmelfenig and Sedelmaier, 2002:501). Although rationalism and constructivism are ontologically opposed, theoretical reflexivity can be practiced. In other words, by being theoretically aware of the underlying assumptions of their arguments, theorists can employ the best method of explanation for the case in hand (Rosamond, 2000:173).

Rationalism is the better established research school as it has undergone rigorous refinement and reached a level of coherence. There is still some debate of what constructivism actually constitutes. These two “schools” however are meta-theories or paradigms. This means that they do not lead to “testable expectations about observable outcomes”. Also, there are doubts whether meta-theories can be tested against each other. However, some researchers posit that a clear dichotomy between rationalism and constructivism will result in (a) clearer theoretical positions, (b) testable hypotheses and (c) identifying clear cause-effect relationships (d) creating variations among the substantive European integration theories (thereby creating, for example, rationalist and constructivist versions of neofunctionalism and intergovernmentalism) (Jachtenfuchs, 2002:652).

When studying European integration, what aspects must be looked at? If integration is seen *as a process of joint decision-making*, within the classical literature three

dimensions of such joint decision-making are considered of cardinal importance: functional scope; institutional capacity and geographical domain (Laursen, 2002:2-5)

i) Functional scope

Functional scope refers to the *issue* areas covered by integration or co-operation schemes. For example, the European Community began in the coal and steel sectors when the European Coal and Steel Community (ECSC) was established in 1952. In 1958 the area of co-operation was expanded to atomic energy with the establishment of EURATOM. In that year wider economic integration also took place. The Treaty of Rome established the European Economic Community (EEC), with a common market and customs union, and emphasized four common policy areas: commerce, competition, transport and agriculture. Under article 235, common policies were adopted by *unanimity* with the proviso that that these policies would be necessary for the common market to function effectively. This article thus enabled the EEC to develop policies in other areas not included in the Treaty of Rome but which would help achieve the goals of each policy area. The Single European Act of 1986 further expanded the scope to include research and development, regional policy and environment. The Maastricht Treaty on European Union (1992) added the areas of monetary co-operation, industrial policy, consumer protection, trans-European networks, economic and social cohesion, public health, education and culture. It also improved certain provisions in areas such as environment.

ii) Institutional capacity

Institutional capacity refers to the *decision-making* capacity of institutions, as well as the capacity to *implement* and *enforce* those decisions. Institutions are either of supranational nature, or they may be purely intergovernmental.

This issue has been a source of contention from the beginning of European integration. The founders of the EC regarded the creation of supranational institutions as essential to establish a stable and binding union. However, the UK and the Scandinavian countries, which joined later, regarded the intergovernmental institutions as sufficient. In 1966, the Luxembourg Compromise resulted from a serious crisis between France and the

Commission (plus five other Member States). Under the Compromise, whenever an important national interest was at stake, the right to veto could be used (unanimity approach). Even though Qualified Majority Voting (QMV) was foreseen by the Treaty of Rome, the right to veto effectively stopped its use. Already from the 1970s the unanimity approach began to create serious problems, as the EC struggled to cope with issues such as the energy crisis. The Community's institutional capacity was increased in a series of steps: In 1986, The SEA specified that legislation to complete the internal market should be adopted by QMV. The Treaty of Maastricht introduced QMV in some key chapters. However, this issue was very sensitive, and in some areas such as culture and industry unanimity would be employed.

The EU has elements of both supranational and intergovernmental institutions. The first pillar of the EU, the European Communities (EC), is mostly supranational as it consists of:

- a) An independent Commission with the right of initiative;
- b) In certain areas the Council of Ministers decide through majority voting;
- c) A legal system that supersedes the Member States';
- d) The European Court of Justice whose judgments are binding;
- e) A directly elected European Parliament (EP) which, through the co-decision procedure, has become a legislator. A number of regulations and directives must be adopted by the Council and the European Parliament before they are regarded as "binding legislation".

In the second pillar, the Common Foreign and Security Policy (CFSP) is mostly intergovernmental. The third pillar which deals with matters of Police and Judicial Co-operation in Criminal Matters is also intergovernmental in nature. Particularly in the first pillar, the blend of supranational and intergovernmental makes the EC unique. Most intergovernmental organisations have weak surveillance and enforcement mechanisms and therefore decisions are of a "recommendation" nature, initiative is grounded in the Member States and decisions require unanimity or consensus. In the second and third

pillars decisions require unanimity, but the Commission also has a share in the right of initiative.

As far as the implementation and problem-solving capacity of the EU is concerned, the ability to implement Community Directives varies greatly between Member States, as their political, legal and administrative capacities vary. For problem-solving, certain problems would require supranational institutions. In certain areas where there is great likelihood that Member States would “cheat”, strong institutions would be required. However, elaborate institutional set-ups are not required for problems of co-ordination.

iii) Geographical domain

Geographical domain refers to *membership*. Each successive enlargement changed the nature of the Community. More members mean a more complicated decision-making process. Therefore, it makes sense to expand the decision-making capacity with each successive enlargement. In 1986, when the EEC had expanded to twelve members, the SEA was passed. The Treaty of Maastricht prepared for the enlargement of Austria, Finland and Sweden. The Treaty of Amsterdam was supposed to introduce institutional reforms for the possible expansion of membership but did not do so. The Intergovernmental Conference which led to the Treaty of Nice introduced changes in the voting rules and paved the way for the momentous 2004 enlargement. Currently, if the Lisbon Treaty is adopted, it would pave the way for further expansion.

The various “schools” of EU/European Integration theory can be divided into four broad categories:

- (a) *Understanding the EU as an international organization.* International Organizations (IO) are defined as intergovernmental bodies designed in the context of converging state preferences or common interests. For liberal theorists of IR, IO’s are principle means of ensuring harmony and are thus the key to lasting peace.
- (b) *European integration is an example of regionalism in the global political economy.* Here the tendency of groups of territorially adjacent states cluster

- together to form blocs is explored. A number of questions emerge from this line of enquiry: Can the EU be compared to other regional groupings such as NAFTA or APEC? Is regionalism the result of specific circumstances? Do global and political pressures force or enable the establishment of such regional grouping?
- (c) *The EU is a useful location for the study of policy-making dynamics.* The EU is seen as complex policy system in which perspectives on policy-making developed in the context of national polities. Amongst the concepts analyzed are policy networks.
- (d) *The EU is a sui generis phenomenon.* The EU is a unique institution without historical precedent or contemporary parallel. Therefore, European integration cannot be used to produce broader generalizations (Rosamond, 2000:2-14).

As detailed above, from the 60s and 70s, as academic work on the Communities grew, another sub-discipline emerged, that of EU (EC) studies. However, it must be noted that EU enlargement has been a largely neglected issue in the theory of regional integration. Approaches such as neofunctionalism and transactionalism only touched on the geographical growth of international communities in passing. The main reasons for this are twofold: It makes logical sense to study the establishment and stabilization of regional organizations before the aspect of territorial expansion can be examined; Regional integration theory had reached its heyday before the first enlargement in 1973. Theorists now had moved towards the analysis of substantive policies and had begun to incorporate theoretical frameworks from comparative politics which tended to ignore enlargement. Even with the revival in the 1990s of IR, regional integration studies' theoretical debates centered on 'deepening' issues such as the Single European Act and European Monetary Union (Schimmelfenig and Sedelmaier, 2002:501).

Schimmelfenig and Sedelmaier (2002: 501) define the enlargement of an organization as "a process of gradual and formal horizontal institutionalization of organizational rules and norms". Institutionalization is defined as the process by which the actions and interactions of actors become normative patterns. Two different types of institutionalization are identified: vertical and horizontal. *Horizontal institutionalization*

refers to the expansion of the organizational norms to a larger group of actors (“widening”). Organizational membership and norms are formally defined. However, these norms can also be diffused informally to states which wish to seek membership or even to those states which do not wish to join. Enlargement should be conceptualized as a gradual process that takes place before and after new Member States have joined. Actors must follow certain rules and norms, usually as result of conditionality or if these rules have been embodied in formal agreements even if they are not (yet) members. New Member States may also negotiate post-accession transition periods before applying the norms, or choose to participate in EU policies at a later stage.

Four dimensions of enlargement are identified: (a) The applicants’ enlargement policies; (b) Member States’ enlargement politics; (c) EU enlargement politics; (d) the impact of enlargement.

These will now be analyzed:

- (a) The *applicant enlargement policies* refer to why and under which conditions non-members seek membership of an organization? Under which conditions do outsiders seek to change the institutional relationship with the regional organization? What kind of institutional relationship do outsiders prefer to have with the organization in question?
- (b) *Member States enlargement politics* refer to the question of under which conditions does a Member State favour or oppose the candidacy of a particular state?
- (c) *EU enlargement politics* refer to the conditions under which a regional organization admits a new Member State, or prompt it to change its institutional relationship with non-Member States. Two dimensions can be identified in this regard: the *macro* and the *substantive* dimension. The macro dimension pertains to the EU as a polity. It attempts to explain why an organization expresses a

preference of one candidate over another. Why does it prefer to offer membership rather than some other institutional relationship (or none) with the non-Member State. The *substantive* dimension refers to the substance of the organizational rules that have been horizontally institutionalized. Here, the question is to what extent outcomes reflect the preferences of certain actors (applicants, Member States and institutional actors).

- (d) *The impact of enlargement* describes the effect of enlargement on both the state which has to follow the institutional rules as well as the on the organization itself. For the organization, the effects of enlargement on the distribution of power and interests is studied, as well as how the norms, identities, goals, effectiveness and efficiency are influenced. Of particular emphasis is the impact of enlargement on new Member States and non-Member States in terms of identity, interests and the behaviour of governmental and societal actors.

Enlargement has taken centre stage as a key political process on both EU and European level. The “big-bang” expansion to a Union with 25 members and the prospective membership of the Western Balkans have meant that enlargement is a permanent and continuous item on the EU’s agenda. This has resulted in a sizeable body of literature, but has also highlighted the weaknesses of the output. The majority of enlargement literature is of descriptive and often policy-oriented single case studies. As more attention was given to the EC and the developments in the Communities themselves, new questions began to emerge. Had the EC acquired systemic properties? Were theories derived from IR offering coherent and satisfying explanations?

It has been posited that no theory of integration can adequately explain *why* the EU has expanded and why it continues to expand (Miles, 2004:253). Most theories have attempted to explain what is going on inside the Union rather than the relationship between itself and third countries. The trend is for European Integration theories to down-size (by narrowing focus of what aspects are being explored) just as the EU agenda has become increasingly complex. The need to look outside existing theoretical frameworks

to provide a complete theoretical explanation for EU enlargement process is necessary. In order to do so, scholars must move away from the “deepening” focus and must place enlargement into the larger picture. The adoption of “middle-range” theories will by definition not provide any major step forward in understanding why and how Union has grown in size and what it will mean for the functioning of the Union in the future (Miles, 2004:264).

Since the 1997 Amsterdam Treaty (and unofficially even before that) the EU has entered into an era of “differentiated integration”. The concept of “flexibility” began to be included into the discourses concerning the future of the EU. The EU has evolved into a very complex entity and EU decision-makers have many policy options open to them and the adoption of an ambitious enlargement agenda since the 1990s has led EU scholars towards “middle-range” theories and away from the search of a single “meta-theory” that can explain all the aspects of the integration process.

This resulted in more diverse discourses which incorporated notions of “flexibility” on the one hand, and also resulted in a more selective focus on particular aspects of integration on the other. One of the challenges which scholars who contemplate EU enlargement face is the fact that enlargement has great impact on a series of EU policy fields and its impact is not limited to Member States only. Thus, any coherent theory would have to take into account the effects of enlargement on Member States and their interactions with candidate countries. The fact that the effects of European integration do not respect the external boundaries of the existing Union must be explicitly recognized.

Miles (2004: 254) identifies three main elements which enlargement theory should focus on (or attempt to explain):

- The *EU accession process* must be conceptualized. The enlargements perspectives, procedures and conditions of the EU must be explored, as well the problems of negotiation and entry for candidate countries.

- The effects of *transition processes* emanating from EU enlargement on “old” and new Member States and candidate countries. The inter-relationship between the EU and the nation-state level must be explored. A distinction must be made between the enlargement politics of the applicant state and the Member State[s].
- The impact of *past and present enlargements* must be analyzed. The reforms and pressure to reform the EU in order to accommodate past and present accessions must be explored. A differentiation between macro/polity dimensions and substantive policy impacts is required. Issues on “deepening” and “widening” and the effects of growing diversity are encompassed in this element.

Various theories of European Integration will now be analyzed:

1.2. Neo-functional theory

American political scientists contributed mostly to the theory of international integration in the 1950s and 1960s. In 1958, Ernst Haas studied the ESCS and published “*The Uniting of Europe*”. In this work, Haas identified the concept of “functional spillover”. In the 1960s, Lindberg studied the CAP and concluded, as Haas had, that integration would continue the spill-over effect. Together these two theories (or the Haas-Lindberg theories) became known as neo-functional theories. Certain elements of earlier functionalist theories were incorporated, but certain new elements, such as the importance of supranational institutions were introduced (Laursen, 2002:5).

According to neo-functional logic, the process of integration occurs as follows: Firstly, two or more states agree to pursue integration in a specific economic sector. In order to ensure that the process is undertaken efficiently, they appoint a supranational bureaucracy (or “high authority”) to oversee the process. Although the integration in the specific economic sector results in some economic benefits, for greater benefits to be reaped, the other related economic sectors would also have to be integrated. Meanwhile, the specific economic sector being integrated creates “functional linkage pressures” in related sectors, under which further integration occurs (Rosamond, 2000:58).

Thus, economic integration generates increasing levels of transactions between actors within an area undertaking integration. As politics have a group characteristic, new interest organizations begin to form at regional level (particularly among groups such as trade unions). The high authority itself becomes a sponsor of further integration. It begins to develop strategies to accomplish two goals: deeper economic integration in expanding economic sectors; and at regional level, increasing institutionalization of authority (Rosamond, 2000:58).

On the domestic political level, neo-functionalists believed that the benefits of integration would become apparent to interest groups who, in order to promote their material interests, lobby their governments accordingly. State-actors, in turn, become aware of the mechanisms of linkage and increasing transactions emerging at regional level. Thus, integration is encouraged by support from domestic political systems, state actors seeking integrative agreements and the willingness to cede authority to regional institutions (Rosamond, 2000:59).

Lindberg identified three important conditions which needed to be present before political integration could occur: Firstly, central, regional institutions and policies needed to be present; Secondly, these institutions would have to be endowed with the capacity to initiate social and economic processes; Thirdly, states participating in integrative processes would have to believe that their participation would result in material benefits. Thus, “spillover” occurs when, in order to ensure that a specific goal is achieved, further actions to achieve that goal become necessary, which in turn creates the need for more actions (Rosamond, 2000:59). In Haas’ view, trade liberalization within a customs union would lead to a harmonization of general economic policies and eventually to the creation of a political community. Many scholars deemed that Haas’ theory was too deterministic as European integration was halted in the crisis of the 1960s (Laursen, 2002:6).

However, spill-over in economics would also need a “push” from a higher authority. This was called “cultivated spill-over” by Mikkelsen. “Cultivated spill-over” describes the high authority’s actions as a broker to “upgrade the common interest” of the participants. A high authority would have to have powers of initiation and be autonomous from Member States otherwise states would dissolve the international organizations once the desired outcomes had been achieved (Rosamond, 2000:61-62).

The general malaise experienced by the EEC during the 60s was addressed by Lindberg and Scheingold. According to Lindberg, further integration could lead to the deterrence of further integration, as encroachments to governmental authority could raise the political stakes between Member States. Lindberg and Scheingold identified the concept of “spill-back” according to which a decrease in sectoral scope, institutional capacity or both occurs (Rosamond, 2000:64).

Hoffman contrasted the logic of *diversity* with the logic of integration. Accordingly, diversity sets limits to the domain of spill-over. He concluded that in areas of national interest or “high politics”, states prefer the “certainty” of national self-reliance rather than the “uncontrolled uncertainty” of integration. Only in areas of “low politics” would spill-over occur (Laursen, 2002:6).

In the 1970s Lindberg and Scheingold reformulated neo-functional theory. Borrowing the concept of “System” from David Easton, they analysed the EC as a political system. Inputs in the form of demands, support and leadership are transformed into outputs in the form of decisions and actions. Through feed-back to these decisions and actions, future inputs are influenced. Leadership was added as an input, either at supranational level (Commission) or at national level (Member State national government).

Four mechanisms were identified as important to the process of integration:

a) *Functional spill-over* takes place “because tasks are functionally related to one another”;

(b) *Actor socialization (attitude changes amongst elites)* occurs when “participants in the policy-making process, from interest groups to bureaucrats and statesmen begin to develop new loyalties as a result of mutual interactions”;

c) *Log-rolling and side-payments* refer to “package deals” or bargains agreed between political actors in order to gain assent or produce coalitions for proposals. Coalition-building is a central aspect of the integration process. In order for decisions to be adopted, coalitions must be formed and decision-makers must be convinced to give their support. The Commission plays an important role as it can form coalitions by offering packages and incentives whilst advancing the interests of the Community as a whole;

(d) *Feedback* refers to public opinion. If the outputs are approved by the public, then support for the system will increase. If the public support for the outputs is low, then decision-making is made more difficult and the system may collapse.

Thus integration is defined as “*a function of the system and the support of the system multiplied by changes in demands and leadership*” (Laursen, 2002:6-8).

In particular, the concept of “spillover” may provide explanations not only for the “deepening” of the EU but also an explanation as to why states outside the EU may wish to join. Peterson and Bromberg argued that the 1995 enlargement could be explained in terms of three types of spillover:

- (a) *Functional spillover* through the creation of the European Economic Area.
- (b) *Institutional spillover* such as occurred when the EFTAN countries sought membership as their decision-making influence on the EEA was limited.
- (c) *Political spillover* as the elites became more familiar to operating in the new EU political environment.

If emphasis is placed on “external” rather than “internal” spillover which takes place beyond the Union’s boundaries, it may explain membership applications and eventual accession. A distinction between “voluntary” external spillover and “enforced” external spillover may be useful. Voluntary external spillover takes place when a non Member State seeks closer ties with the EU because it has identified a need for closer union with

the EU. Enforced external spillover occurs when third countries are required by the Union to reform domestic processes in line with EU principles as a prerequisite for membership.

Political spillover may occur when new members and their political elites bring new preferences for moulding the character of the EU. However, this may not lead to further deepening as these elites may resist or even reverse further integration. The effects of political spillover may begin even before accession as political elites of applicant states interact with the political elites of the Member States.

The contribution of neofunctionalist explanations as an explanatory model for enlargement is largely restricted to background factors. In terms of the three elements laid out in the previous section, neofunctionalism only shed light on the first (the EU accession process) and the second (the enlargement politics of both the applicant and the Member States). One of greatest drawbacks of neofunctionalist explanations (as seen through the prism of enlargement) is the fact neofunctionalism was borne out of the first enlargement of six mostly homogenous states. The Union of 25 has led to greater diversity as economic disparities between the Member States have widened, the coherence and effectiveness of EU policies have been undermined and the search for supranational consensus has been complicated by the development of multi-tiered and multi-speed European integration.

1.3. Liberal intergovernmentalism

The alternative to neo-functional theory is liberal intergovernmentalism (LI). This is a neo-realist inspired theory which emphasizes the role of states in the integration process. Under liberal intergovernmentalism, two main ideas are used to explain integration: Firstly, that of “democratic peace”, where peace is likely to be maintained because of the rise of democratic governments in post-WWII Europe; Secondly, that the rise in interdependence among European countries would make war unprofitable.

The most notable proponent of this approach is Moravcsik. In his two-part model, preferences are articulated to national governments by their domestic constituencies. These, which reflect the interests of both, are then articulated as a national *preference* towards European integration. These national preferences are brought forward to the negotiating table of Brussels, where the agreements reached are a reflection of the relative power of each Member State. Thus, the significant agreements reflect a convergence of preferences amongst the most powerful Member States. A third element of ceding sovereignty to a supranational institution is introduced. Why do Member States delegate their sovereignty to supranational institutions? Moravcsik explains this by stating that national governments transfer their sovereignty to supranational institutions to *ensure the compliance* of members who may defect. By acting individually, Member States may be unsuccessful in assuring compliance, thus endangering significant gains. Another important point made by Moravcsik is that *economic interests* rather than *security interests* have been the motivating force behind European integration. (Pollack, 2000:12).

Moravcsik thus identifies three core assumptions:

- (i) The basic actors in politics are rational, autonomous groups and individuals which act on the basis of self-interest and averting risk;
- (ii) Governments represent a subset of domestic society whose interests constrain the interests of states internationally;
- (iii) Patterns of conflict, state behaviour and co-operation reflect the nature and configuration of state interests (Rosamond, 2000:142).

These elements seek to explain how the costs and benefits of economic interdependence influence national preferences. These national preferences then are aggregated by governments who bargain at intergovernmental level at ICG's.

Neo-liberal institutionalists assume that the primary concern of states is their own *gains* and *losses*. Enlargement must provide net benefits in order to gain support (Schimmelfenig and Sedelmaier, 2002:501).

1.4. Multi-level governance (MLG)

The EU may be read as a hybrid form. It is neither a political system nor international organization. The metaphor of “multi-level governance” (MLG) captures the uniqueness of the EU in process policy terms. It seeks to avoid two traps: The first is an emphasis on state-centrism and the second is the treatment of the EU as operating at European level only in Strasbourg and Brussels. MLG analysis posits that the EU has become a polity where authority is dispersed between levels of governance and amongst actors. There are also significant sectoral variations in governance patterns. MLG analysts see the state as an arena where different agendas, ideas and interests are contested. Although autonomy and control may be at stake, states are still important but they are woven into the multi-level polity by their leaders and the actions of both subnational and supranational actors. MLG reflects the contemporary reality and may be replaced by other dominant patterns. It is an attempt to depict complexity as the principle characteristic of the EU policy system. It emphasizes variability, unpredictability and multi-actorness. Although MLG’s language on the tiers of authority may be similar to that of the federalists, MLG does not depict a polity governed by constitutional rules about the locations of power (Rosamond, 2000:110-112).

In terms of enlargement MLG emphasizes the importance of contact and cooperation between sub-national actors (such as interest groups) in pushing forward the process of European integration. The links of sub-national actors from third countries which are either contemplating membership or moving towards full membership with others in Member States often play a crucial role in encouraging membership bids and shaping EU accession debates. A prime example of this is the Europe Agreements which encouraged closer co-operation between various actors and allowed non-Member States to participate -albeit indirectly- in the EU policy process. These sub-national bodies play a crucial role in accession debates and become important institutional settings that serve as preconditions for a state’s success in joining the Union. MLG thus offers explanations for

the first and second elements noted earlier. MLG also seeks to explain the complexities of the EU policy-making system. It coincides with notions of flexibility and diversity. In terms of EU enlargement, MLG addresses the “vertical” divisions of competencies (“up and down”) within the EU’s decision-making structure (Miles, 2004:259).

The recognition of “multi-levelness” has led to attempts to produce theoretical order on the Euro-polity. Peterson identifies three levels of analysis and at each level a different type of rationality operates. At the top is the super-systemic level, where decisions are made that influence the way the EU works as a system of governance. This is the level of European integration. At the second level (systemic), policy is set and at the third level (meso) policy shaping takes place. This allows for theoretical flexibility and circumscribes the theoretical models which can be used to explain the processes at work at each level. At the super-systemic level, macro-theories such as intergovernmentalism and neofunctionalism can provide useful insights. At the systemic level, new institutionalist (see next section) explanations can be used and at the meso level, policy network analysis provides the best explanations. Here issues of ontological and epistemological synthesis come into play. Do these theories have divergent views of the social reality and differ in the processes of knowledge gathering? Are they complementary or do they compete? This will be a matter of debate amongst theorists (Rosamond, 2000:110-112).

MLG’s main weakness is its vagueness. It has been described as a “metaphor” rather than a theory. It appears at times to be nothing more than a description of the EU decision-making system and a static model that cannot predict change. This presents a problem as following the Nice Treaty the rights of both old and new Member States have been altered. Thus, MLG represents an account of the *status quo* (Miles, 2004:260).

1.5. New Institutionalism

New institutionalism incorporates literature focusing on institutional actors, evaluations of the roles of norms and socialization on the process of European integration and

research on the complexities of bargaining between actors from different levels. It should therefore be regarded as an “umbrella” term. It emerged from political science discourses and has been incorporated into mainstream European integration discourses. It is not a clearly delineated theory. It incorporates sociological, historical and rationalist perspectives. Although the vagueness of what constitutes an “institution” is new institutionalism’s greatest strength, it is also its greatest weakness. New institutionalism is not “a theory nor a coherent critique”. It is not a “grand theory” of integration as no predictions can be made. Although it provides some useful ideas, it remains too “loose” to provide an adequate explanation of the EU enlargement process (Miles, 2004:262).

The common theme of new institutionalists is that “institutions matter”. Institutions affect the outcomes between units. These units may be individuals, states, firms or even social organizations such as the EU. They structure political outcomes.

Peter Hall defines institutionalism as “formal rules, compliance procedures and standard operating practices that structure relationships between individual units of the polity and the economy” (Rosamond, 2000:115).

New institutionalism has widened the understanding of what constitutes institutions. It has shifted the understanding away from rigid, formal constitutional-legal approaches by incorporating concepts of “policy community” and policy networks. EU decision-making is steeped in norms and codes of conduct making the isolation of formal institutional codes from the normative context difficult.

Sociological institutionalism posits that institutional and cultural socialization results in *homogeneous* enlargement preferences. However, this is not borne out by the facts. By relaxing this assumption, a variation of preferences can be identified: Firstly, a single, concise and clear standard may not be present to guide enlargement preferences. Tensions between various values and norms may (and are usually) be present. Secondly, identification of community values and norms may vary among states and community actors. Thirdly, particular norms may vary from group to group of policy-makers.

Substantive policies may be influenced by norms underpinning a specific policy area. The decision-making procedures are not based on *bargaining*, but *arguing*. Actors engage in a discourse by challenging the validity of the claims of the other parties' definition of a given situation. A consensus is sought for the best argument. This process can modify old values and construct new norms and identities. It must also be noted that Member States and outsiders continuously redefine their boundaries of their community in terms of "us and them" (Schimmelfenig and Sedelmeier, 2002:515).

Historical institutionalism provides a useful account of the structure of the debates on EU accession in both Member States and the applicant countries. States take certain actions for short-term political reasons without being aware of the long-term institutional impact of these actions. Information on EU accession is often incomplete and the reasoning behind seeking membership is based on highly speculative assumptions and a limited "time-horizon". Often domestic and supranational institutional actors base their policies on enlargement on "what will be" rather than "what is". This helps explain our second element of EU enlargement.

Although the explanation of shifting national preferences as an unintended consequence posited by the new institutionalists may be interesting, third countries seek full membership on the basis of discernable economic and financial motives. Full membership is a way of achieving further economic modernization for the candidate country. New Member States accept the transfer of sovereignty to supranational institutions as a "trade-off" for full membership (and its perceived benefits). National preferences and national interests are not as unstable or unpredictable as new institutionalists believe. A prime example is Sweden which has consistently continued pursuing an agenda for greater transparency in the EU decision-making procedures. Therefore there are many intentional "lock-in" effects arising from EU enlargements.

If institutions structure political life then political institutions and key institutions such as employer and labour organizations play a crucial role in domestic EU accession debates. These institutions disseminate information and mobilize their members either "for" or

“against” membership. The stronger of these two “camps” within an institution will determine the outcome “for” or “against” membership.

New institutionalists posit that institutions “lock-in” and create “path dependencies”. This means that Member States and their political elites are “locked-in” by their participation in the supranational arrangement and through further Europeanization. Therefore, in the enlargement context this may explain why leading institutional actors continue to favour EU membership even when there may be fundamental changes in the reasoning behind their joining the EU. Even in Member States where anti-EU sentiment runs high, governments and leading interest groups can convince the electorate to remain in the EU. Over time Member States become more supranationally inclined because the costs of exiting the EU become too high.

Within the EU, EU institutions are supranational actors with their own institutional preferences. The European Parliament (EP) and the European Commission have become increasingly involved in the enlargement agenda. The Commission in particular is responsible for defining accession criteria, pre-accession strategies, and draws up “Opinions” and “Progress Reports” on candidate countries. The EP since the 1986 SEA has the power to ratify accession treaties and is consulted regularly on accession by both the Commission and the Council Presidency.

The EU institutions also play a crucial role in setting the agenda for institutional and policy reform. Enlargements affect the *acquis communautaire* of the Union. Enlargement affects the differing institutional configurations and the governance capacity of the Union. The relationship between the Member States and the EU institutions (such as the Commission) must be good if restructuring and reforms of the budgetary, agricultural and structural funds are to be effective.

1.6. Neorealist interpretations of European integration

Neo-realist interpretations of integration focus on the security dimension. Kenneth Waltz posited that European integration could be explained as a result of the US acting as guarantor of Western European security in post-WWII Europe. Thus, Member States could pursue integration without the threat from their European neighbours (Pollack, 2005:6).

According to Mearshimer, the collapse of the Soviet Union and the subsequent return of a multipolar international system and concerns about security would lead to a slowing down of European integration. By contrast, since the early 1990s statements made by the EU or individual EU leaders have connected enlargement with references to “stability”, “peace” and “security”. Thus, enlargement has been seen as a means to further EU foreign policy goals by bringing the continent together on a more stable and secure basis and since then significant steps have been taken to further integration. Attempts were then made by neo-realists to account for this, notably Grieco and Mosser. According to Grieco, by negotiating new institutions, weaker states could not only forward their views (and interests) or “voice”, but that these could have a “material impact”. Mosser went further by adding that smaller states could bind larger states into institutional rules that could provide expression of their “voice”, and also establish norms that would prohibit the use of certain types of power (i.e. the use of force) (Schimmelfennig and Sedelmeier, 2002:511).

Realists generally tend to emphasize the importance of *autonomy* and *power* of state actors in the international system. A Member State will favour enlargement or a non-member will seek membership if this will provide a means of balancing power, neutralizing a threat, or increasing its position in the international system (Schimmelfennig and Sedelmeier, 2002:511).

1.7. Federalism

Discourses of federalism have been integral to the practice of European integration since WWII. The European federalist movement grew around the key works written during the inter-war period. Many of the architects of the European communities articulated federalist goals. The concept of federalism exercises a continuous influence on the day-to-day workings of the EU and the debates about “Europe” within the EU Member States. Although federalist organizations may have played a marginal role in the history of the Communities, federalist sentiments and ideas have played a significant part in defining the problems that have arisen and their responses.

Before an analysis of federalist ideas can be made, it must be emphasized that no single, clear-cut “academic school” of European federalism exists. This results from the fact that federalism has always been framed in the context of a political project. Spinelli (Rosamond, 2000: 23) offers the explanation that federalism is a result of nonconformist thinking that national states no longer can guarantee the political and economic safety of their citizens and as a result have lost their proper rights. [Closer] European union should be driven by European citizens through a directly elected European constituent assembly and by approving through referendums the constitution prepared by this constituent assembly.

A common description of federalism is that of a constitutional settlement where authority is dispersed into two or more levels of government. Most commonly, it describes political systems in which there is a division of authority between central and regional or state government. Two separate levels of government are established which co-ordinate with each other. The government of the whole is the federal level and the government of the parts which is the state or local level. Federal systems rest on historical compromises involving the permanent agreement between territorial units. These units yield a measure of authority to common centralized institutions but they still retain a measure of autonomy. Federal systems seek the perfect balance between unity and diversity. Federalists argue that this formula allows the constituent units to perform common tasks

with maximum efficiency while maximizing autonomy and decentralization. In plural liberal democratic societies, this would be one way of ensuring constitutional government.

Federalism has proved to be a contentious concept. Some distinction has been made by scholars between federalism and federation. Federation depicts the organizational principle which is derived, whereas federalism is used to describe an ideology. As a result, further distinctions are made between normative (“ideological”) approaches and the analytical description of federalism as a form of governance. Three main tendencies are identified within ideological federalism: centralist, de-centralist and balanced. This indicates that concepts of federalism are extremely broad and range from the all-encompassing “world government” to near anarchism. Within the European Union itself, understandings of federalism have been varied. A prime example is that of the principle of subsidiarity. In accordance with this principle as defined by Article 5 of the Treaty establishing the European Community, the Union will not take action (except in areas within its exclusive competence) unless in doing so its actions would prove to be more effective than if that action would have taken place at regional or local level. For the British government this has been used as justification for the retention of national sovereignty within the EU. However, looking at this description, a case that it displays a federalist bent can be made.

Three strands of federalist theory can be distinguished which have been discussed in the context of European integration. The first is based on the ideas of Immanuel Kant who saw expanding federation as the greatest constitutional safeguard against the threat of war. The second is based on democratic theory and seeks to devise ways of ensuring efficient governance within a democratic framework so that authority is applied as close to the people as possible. The third strand is based on the contemplation of federalizing processes and tendencies. Background conditions and social movements that induce federalist outcomes are analyzed. Two starting points can be distinguished in federalist discourses. The first envisages that progress and peace results from the interaction of peoples. The second envisages that stability and harmony will result from enlightened

constitutional design. Both these starting points lead to a clearly defined supranational state and federalists tend to view statehood as a desirable or inevitable mode of governance. The aim is to achieve balance between rival levels of authority and efficiency and democracy on the other. Through constitutional means multiple sovereignties are achieved through the devolution of authority in certain selected policy domains.

Advocates of federalism indicate that this system has two distinctive advantages: The first is that federalism counters domination as one group cannot capture the entire system. The second is that a federal state becomes a stronger unit against any potential external threat. The reverse however can hold true: if a state-like entity is reproduced, then the possibilities of international conflict have not been erased. The possibility of the emergence of rival global super-states could result in conflict as the flaws of the nation-state are reproduced on super-state level.

Amongst federalist scholars, differences in how the constitutional framework should be deployed could be discerned. The first school of thought stated that a revolutionary and immediate constitutional settlement should establish a federation. The second view saw a constitutional settlement emerge gradually through advocacy. A popular movement in favour of federalism would then act as the impetus for political elites to act. Key industrial and commercial actors as well as mass publics would have to be persuaded. A popularly elected constituent assembly would draft a federal constitution which would then be ratified by national parliaments.

The EU displays the following federalist characteristics:

- a. Some Member States have adopted a common currency (the Euro). By doing so they transferred monetary policy from their national central banks to the European Central Bank;
- b. The EU budget gives EU institutions an element of financial independence even though by comparison to national budgets the amount is small (\$120 billion in 2004);

- c. EU law supersedes national law in certain areas such as intra-European trade, agriculture, social policy and the environment;
- d. The European Parliament is a directly elected representative legislature. Its powers are expanding in the area of European law-making. By contrast in areas where its powers are expanding, national parliaments' powers are declining;
- e. The European Commission may oversee negotiations with third parties in areas it has been authorized to do so;
- f. It has a complex system of treaties and laws that applied uniformly on the EU and to which all Member States and citizens are subject. These are interpreted by the European Court of Justice whose judgments and decisions are binding (McCormick, 2005:11).

Detractors of federalism point to the fact that concentrating some governing capacity at the European level creates a dangerous distance between governors and the governed. The argument that federal constitutions act as the best means of guaranteeing individual freedoms is not empirically proven.

Furthermore, what exactly would the end-point of federalism look like? Would Europe be transformed into a US-like entity or the German Lander? Would the EU be characterized by varied patterns of integration where various states are integrated to a greater or lesser extent? (Rosamond, 2000:23-31).

1.8. Confederalism and consociationalism

Although the EU features many of the characteristics of a confederal system, it is very rarely discussed in these terms. A confederation may be defined as a loose system of administration in which two or more organizational units give specified powers to a central authority but keep their separate identities. They may be motivated by reasons of convenience, efficiency or security. The central authority is weak and exists at the discretion of the members. The members are sovereign and independent and define what

the central authority can or cannot do. In a confederation of states the citizens relate directly to their own governments and only indirectly to the central (higher) authority.

The EU displays the following characteristics of a confederal system:

- a. The Member States have their own separate identities. They have their own legal systems, they can act unilaterally in matters of foreign policy and they can sign bilateral agreements with other states. There is no European government with the sole power to make policy for the Member States. The heads of government of the individual Member States are still the most important elected political leaders;
- b. There is no generalized European taxation system. Most taxes are raised by the individual Member States. The EU does however collect custom duties and levies to raise funds;
- c. The armies, navies and air forces of the individual Member States are answerable to the Member States. There is no European military or defense system, although some units have joined as a nascent European security force;
- d. The citizens of the Member States do not relate directly to any of the EU institutions except for the European Parliament (whose representatives are elected to office). Key decision-making institutions of the EU such as the European Council and the Council of Ministers are run directly by national leaders or are appointed by them (the European Commission and the European Court of Justice);
- e. A well defined European identity is absent. Although the EU has its own flag and anthem, most citizens identify themselves in terms of their national identities (McCormick, 2005:7-8).

Paul Taylor viewed the EU as a consociation. Consociationalism grew out of political scientists reflections about how deeply divided societies could achieve governing stability. Lijphart presented a model of consociational decision-making whereby a “grand coalition” exists and states have veto power. Power is distributed amongst the governing elites in proportion to the size of the population they represent. His work showed how effective institution-building and development of a consensual political culture among

elites could be a sufficient condition for the successful governance of societies with deep cultural divisions. In order for this type of system to work, society must be divided with minimal communication between the various segments of society. Communication is thus restricted between societies *and* elites and the respective elites.

Within the EU the principle of proportionality with QMV is utilized by The Council of Ministers and the veto is given some purchase by the Luxembourg Compromise which provides that “where, in the case of decisions which may be taken by majority vote on a proposal of the Commission, very important interests of one or more partners are at stake, the members of the Council while respecting their mutual interests and those of the Community” (Hayes-Renshaw and Wallace, 2006:313). Taylor states that integration of regional functional systems may sharpen rather than soften the cleavages which already exist. Elites are pulled by two opposing incentives. On the one hand are the incentives to expand resource capabilities on the supranational level in the hope of securing gains for their segment. On the other are the incentives which are derived from the need to protect the integrity and autonomy of their segment. The growth of supranational functional capacity gives rise to intersocietal activity as a side-effect. The increase in such exchanges weakens the elites’ constituencies which creates a problem for them. The status and authority of these elites is dependent on their “capacity to identify segmental interests and to present themselves as leaders and agents of a distinct and clearly defined community” (Rosamond, 2000:149).

Dimitris Chrysochoou developed the notion of a “Confederal Consociation”. He defines this type of polity as one “whose distinct culturally defined and politically organized units are bound together in a consensually pre-arranged form of “Union” for specific purposes, without losing their national identity or resigning their individual sovereignty to a higher central authority” (Rosamond, 2000:150).

This connects well to the logic of the Treaty on European Union (1992). The Member States were driven to make collective decisions because of common pressures, but

through the chosen models of integration and institution-building they ensured the maximum degree of autonomy for national governments.

This model may also explain “the democratic deficit”. The integration process has been manipulated by the institutional and decision-making architecture of the EU so that the Member States may manage the processes of community building thus inhibiting the emergence of a European *demos*. Nonetheless, a counter-argument could be that national democratic institutions are preserved by the confederal-consociational character of the EU (Rosamond, 2000:151).

1.9. The Constructivist/Sociological approach

As is clear from the examination of the discourses as set-out in the above sections, much work is still needed for the construction of an adequate theoretical agenda for examining the EU enlargement process. EU enlargement theorizing has been characterized by its insularity, lack of adequate identification of dependent variables and the neglect of important dimensions of enlargement (Miles, 2004:263).

Since the early 1990s Constructivism has become more prominent in contemporary International Relations. This is because theorists have moved towards greater meta-theoretical reflection in international politics and the desire to “revisit” established categories and concepts. It represents the connection of IR with sociological concerns about the social construction of reality. Constructivism connects IR to important strands in social theorizing. This explains the great variations between constructivist approaches. (Rosamond, 2000:171).

Constructivists agree that structures of world politics are social rather than material, i.e. structural properties such as anarchy are not fixed and external to the interaction of states. Thus, anarchy is a social construct. State behaviour is not only derived from the anarchic international environment, it also creates it. All constructivists agree that states are not

static subjects but dynamic agents and that the structures of international politics are outcomes of social interactions. State identities are not given but are reconstituted through complex historical overlapping practices that may sometimes even be contradictory. State identities are variable, constantly changing and unstable. The distinctions between domestic politics and international relations are tenuous.

This echoes structurationist thinking about the complex relationships between agency and structures. Agents are bound by structures but they may alter the structural environment through their actions. Structurationists take as their point of departure the rules, norms and patterns of behaviour that govern social interaction. Social interaction is the means by which reproduction structures are reproduced. This is a main point of departure between constructivists and other rational theorists (such as neo-realists and liberal institutionalists). Rationalists analyze actors' interests from their material position. Institutions (formal or informal) are arenas wherein interests are bargained. For constructivists interests are socially constructed and result from social interaction (Rosamond, 2000:173).

Constructivists suggest that the enlargement process will be shaped by ideational and cultural factors, particularly by notions of "cultural match" where Member States and candidate countries share a collective identity and fundamental beliefs. The motivation of third countries to join the EU is their identification of common values and their wish to be part of the "EU club" of liberal democracies and market economies (Miles, 2004:263).

Schimmelfennig draws largely on the constructivist approach and posits that states which have adopted the values and norms of the international community and share a collective identity will seek to become members of the organizations which reflect these values. These organizations in turn will adopt these states as they are seen as legitimate members. Even Member States which had many reservations concerning the inclusion of the Eastern and Central European states to the EU ultimately supported them. This is explained by Schimmelfennig as "rhetorical action". Once some Member States warmly supported the inclusion of the Eastern and Central European states, other states were

swept up in a “rhetorical commitment” which led to “rhetorical entrapment”. According to Sjursen, the drive for eastern enlargement is based on “kinship based duty”. The existence of a community-based identity motivates the EU to accept the cost of enlargement (Nugent, 2004:9).

Constructivist arguments are especially convincing as a means of providing insights into the enlargement politics of applicant states (the second element of our research agenda). This may explain why the CEEC’s were so eager to join the EU after 1989 and prove their democratic credentials. This may also provide an explanation of why Iceland and Norway have refused to join.

It does however not differentiate between groups of candidate countries and why there are differing levels of integration between Member States. It is very difficult to explain the role of state executives, domestic responses to external stimuli and the relationship between material preferences and ideational influences from a constructivist explanation of enlargement.

Conclusion

No single theory can explain the complex entity that is the EU, although the study of EU integration has provided fertile ground for theoretical development. Recently integration theories has been characterized by theoretical reflexivity and innovation through creative thinking cutting across the political sciences. Although the days of “grand theories” of European integration have passed, the intention of the neofunctionalists was to generate general theories. All the other theories mentioned in this study take into account the broader theoretical context. However, most theories have sought to explain what is occurring within the EU rather than the relationships between itself and third countries. Integration theories have become much more circumspect and less ambitious, precisely at a time where the enlargement agenda has expanded. A single comprehensive theory which will enable us to understand the nature and impact of enlargement has not yet been developed. Thus scholars need to pay more attention to the phenomenon of enlargement

within the context of EU integration. The development of “middle-range” theories will not help explain how and why the EU has grown in size and what this means for the future functioning of the EU.

An Overview of Past Enlargements

Introduction

Since the European Community/Union's inception, some aspect of enlargement has always featured and it has been an ongoing process. Since the 1950s, either membership applications have been pending, Member States have been evaluating applications, negotiations for accession have taken place or new Member States have joined the EEC/EU (Nugent, 2004:1).

According to Article 49 of the Treaty of the European Union "*Any European State which respects the principles set out in Article 6(1) may apply to become a member of the Union*". Article 6(1) in turn states that "*The Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to the Member States*". Thus, by definition the enlargement process is open-ended, as long as certain criteria are fulfilled.

Historically, since the founding of the European Community in Rome in 1957 by Belgium, Germany, France, Italy, Luxembourg and the Netherlands, a few successive enlargements took place: In 1973 when Denmark, Ireland and the United Kingdom became members; in 1981 when Greece joined, followed in 1986 by Portugal and Spain. In 1995 Austria, Finland and Sweden joined. This was followed by the so-called "big-bang" enlargement of 2004 where 10 former Communist states and two Mediterranean states joined. Finally, on 1st January 2007, Bulgaria and Romania became the newest members of the European Community.

What patterns can be discerned from these successive enlargements? What were the main arguments in favour of these enlargements, and which were the arguments against? Can some possible conclusions be drawn about the future of enlargement from these successive enlargements?

2.1.The European Coal and Steel Community

After the end of WWII, much of Europe's infrastructure was devastated, millions had perished, food production had been halved and needed to be rationed. European leaders wanted to create conditions which would prevent any future wars occurring between European countries. European leaders wished to counter the two root causes of the devastation: nationalism and the nation state. In particular, Germany needed to be contained and constrained. The increasing hostility between the world's two superpowers, the United States and the Soviet Union caused much concern in Europe. Doubts were expressed as to how much protection the US could provide against the Soviet Union and how much common ground existed between the US and Europe. Winston Churchill had suggested a "United States of Europe" operating under a "Council of Europe". This would entail reduced trade barriers, a common military and a High Court and the free movement of people. However, it would be centered on Germany and France and Britain would not necessarily be part of it.

A conference was organized in the Hague in May 1948 by groups which supported European integration. As a result of this meeting, the Council of Europe was founded in 1949, with the signing of its statute by ten western European states in London. The Council's aim was bringing closer unity of European states in a number of spheres (economic, social, cultural, legal, scientific and administrative, but not defense). The Council consisted of a governing Committee of Ministers, with one vote for each Member State and a Consultative Assembly with 147 members which was made of representatives nominated from national legislatures. Other than some progress being made mostly on human rights and cultural issues, the Council functioned as a very loose intergovernmental organization.

By the 1950s, the need for West Germany to rebuild its industrial base without threatening its neighbours was established. The fear was that the US would be a focal

point for an anti-Soviet transatlantic alliance which would pull Britain away from Europe and towards the US, and Germany's economic and military recovery would not be controlled, and thus pose a potential threat to France in the future. A possible solution was to integrate Germany's economy into a larger supranational organization thus tying it into European reconstruction. Jean Monnet, the French post-war planner focused on the coal and steel industries for three main reasons: (a) Coal and steel were the foundations of industry. By co-operating in this essential sector, production could be made more efficient and competitive and as a result, industrial development would be boosted; (b) France and Germany traditionally went to war over the coal reserves in Alsace-Lorraine and the Ruhr region was the main source of Germany's heavy industries. A supranational organization would contain German power; (c) Integration of the coal and steel sectors would make the German economy reliant on trade with the rest of Europe. This would promote industrial reconstruction, but would not result in German domination.

At a press conference on May 1950, Robert Schuman, the French foreign Minister issued the "Schuman Declaration" in which he stated that the French Coal and Steel sectors would be placed under a common authority and that this would be the first step in a European federation. The underlying logic of this step was to make "war unthinkable" between France and Germany.

On the 18th of April 1951 the Treaty of Paris was signed and the European Coal and Steel Community (ECSC) was created. The idea behind the ECSC was that eventually Europe would be united sector by sector, until a close political union would be possible. Schuman also foresaw that the two halves of Europe divided by the Iron Curtain would be reunited. The ECSC was governed by a nominated High Authority which consisted of nine members. Jean Monnet acted as the first president. Decisions were made by the Special Council of Ministers which consisted of six members. A Common Assembly consisting of seventy-eight members was created. Disputes would be settled by Court of Justice which had seven members.

Two more organizations were created, the European Defence Community (EDC) and the European Political Community (EPC). Both these initiatives failed. The EDC, which was meant to bind West Germany into a European defense system and promote European cooperation in defense, collapsed amidst French fears of German rearmament. Britain was not included despite the fact that it was Europe's strongest military power and it was impossible to develop a common European defense force without a common foreign policy. After the collapse of the EDC, the EPC followed which was meant to promote a European federation.

2.2.The European Economic Community

Despite the failure of these two efforts, in 1957, six countries signed the Treaty of Rome, under which the European Economic Community and the European Atomic Energy Community were created (Poole, 2003:17). The EEC consisted of a nine member Commission, a Council of Ministers with decision-making powers, and the Court of Justice with seven members. A parliamentary Assembly was created with 142 members which would be renamed the European Parliament in 1962.

The motivations of the six Member States to integrate during this period can be summarized as follows: France's motivation was to neutralize the German threat. The defeat of French forces in Indochina in 1954 and the Suez crisis of 1956 dealt a severe blow to its national pride; After Germany's defeat, it had been occupied by four allied powers. One sector was under Soviet control and three under western control. It sought to rebuild and rehabilitate itself under the auspices of the western alliance; Italy had been devastated during WWII. It was politically unstable with regular changes of government. The main motivation for European integration was that peace could be fostered and economic problems such as unemployment and the under-development of the south could potentially be improved; The Benelux countries (Belgium, the Netherlands and Luxembourg) had been occupied by Germany and they sought integration as a way to defend themselves.

The economic success of European Economic Community encouraged other states to seek membership. Each new Member State brought with it a new perspective and new interests. In order for these interests to be accommodated, the Community had to reformulate its goals. Over time, this process leads to closer integration.

2.3. Britain, Denmark and Ireland join the EEC

(a) The changing relationship between the EC and Britain

Britain's role in the EC/EU has been that of an "awkward partner". Since the end of WWII, its attitude towards European integration has been influenced by three important relationships: The Empire and the Commonwealth, the Atlantic Alliance and its "special friendship" with the US, and Western Europe. The last was seen as the least important. However, the changing circumstances of Britain from the 1960s and beyond lead to a re-think regarding its relationship with Western Europe. Initially in the 1950s Britain's coal and steel production far outstripped that of the six members of the ECSC. It also believed that the European Defence Community would provide limited options at a time when its defenses were already overstretched. The EEC appeared to be potentially beneficial, but its in-built supranationality did not appeal to Britain. Attempts were made to limit the scope of the EEC and to build a West European Free Trade Area (EFTA), but with no success. As a result, in January 1960 the Stockholm Convention was signed between Britain and the other West European states who were not members of the EC (Austria, Denmark, Norway, Portugal, Sweden, Switzerland and the UK) (Nugent, 2004:23).

Under the European Community, a common external tariff kept most foreign food products out of Europe and through the Common Agricultural Policy (CAP) subsidized its farmers. This made food expensive for European consumers. Britain, which imported food cheaply from Commonwealth countries such as New Zealand, paid its farmers substantially less in subsidies. The EFTA had no external tariff or common policy on farm subsidies. By 1961 however, the EC was enjoying rapid economic growth and was moving forward to more integration. The EC's market was also considerably larger at

185 million people than EFTA's 90 million. Thus, in 1961 Britain applied for EC membership (Poole, 2003:18). Initially, Denmark and Ireland did not seek membership in the 1950s for a variety of reasons. Both were mainly agricultural economies, so the ECSC had little to offer them. Also both these countries had strong ties with Britain. The close links of Denmark, Ireland and Norway's economies with that of the UK, meant that they would tie their membership bid with that of the UK (Nugent, 2004:24). President de Gaulle of France vetoed the UK's application on the grounds that the UK was not prepared to give up its close ties with the U.S and the Commonwealth and that they would be unwilling to adopt all of the EC's rules and policies. Denmark, Ireland and Norway allowed their applications to lapse along with Britain's. A second attempt at membership was made in 1966. De Gaulle once again rejected Britain's application, this time on the grounds that Britain was experiencing economic difficulties and its economy would not be able to compete in the EC.

In 1969, after de Gaulle's resignation, the four countries readmitted their applications. Pompidou, de Gaulle's successor, welcomed their applications. At this time, there was considerable economic and political turmoil in the international system, and it was believed that these countries would strengthen the EC. The EC summit held at the Hague in 1969 linked enlargement with a new budgetary system for funding the Common Agricultural Policy and monetary cooperation. In 1973, Britain, Denmark and Ireland joined the EU (Poole, 2003:19).

Norway succeeded in negotiating terms of entry in 1972 but this was rejected in a referendum over concerns for agriculture, national sovereignty and fishing (Nugent, 2004:25).

In 1973, the European Monetary System was proposed by Commission President Roy Jenkins. The Exchange Rate Mechanism (ERM), which would limit the fluctuation of Member States' currencies within a certain rate was included. This was the first major step towards monetary union. France and Germany supported this initiative, but Britain decided not to join the ERM until 1990. It was forced out in 1992, when currency

speculators attacked its currency. Britain decided not to join the common currency, along with Denmark. Both countries have reserved the right to join later (Poole, 2003:20).

(b) Further integration and enlargement

The creation of a Common Fisheries Policy late in the enlargement negotiations proved to be a contentious issue for the candidate countries. Under the CFP, all EC members would have the right to fish in the new Member States coastal waters. Access to these waters had, up to that time, been restricted. The candidate countries demanded that a transition period be granted before the CFP came into effect. Norway, strongly motivated by this fact, rejected EC membership in both referendums of 1992 and 1994 (Poole, 2003:20).

In the 1970s, attempts were made to develop a common foreign policy through a process called European Political Cooperation. Member State officials would form working groups at various levels to try to produce common positions. However, EC Members views on various issues diverged and the use of the veto (or the threat of the use of the veto) would result in ineffective declarations. As time passed Member States diplomats learned to work with each other and developed relationships of trust which resulted in some agreement and common lines on certain issues, although divisions have remained on others. In the 1990s, the EPC was renamed the Common Foreign and Security Policy (CFSP) which would become an important aspect of enlargement. The United Kingdom would play a leading role in the CFSP (Poole, 2003:20-21).

The heads of Member States' governments began to hold summit meetings several times a year after 1974, when Britain joined the EC. British leaders strongly supported the intergovernmental decision-making of the European Council (Poole, 2003:20-21).

As a result of the first enlargement, Pompidou initiated the European Regional Development Fund, a programme for providing aid to Member States. In part, this was an attempt to garner domestic support in the UK for EC membership. Although Britain was

one of the wealthier candidate countries, some of its areas had high unemployment rates, mainly due to the decline of some of its traditional industries. Out of this fund, the poorer Member States (such as Ireland) received the greatest amount of aid (Poole, 2003:25).

(c) The effect of Britain, Ireland and Denmark's entry into the EC

The entry of Britain, Ireland and Denmark into the EC changed its political dynamics. Britain by this time had ceased to be a colonial power, but its cultural, political and economic influence helped make the European Community more outward-looking (Poole, 2003:22).

One major source of friction was CAP funding. Britain believed that it was making excessive contributions to the CAP without receiving much in return. In 1984 the European Regional Development Fund was created under which Britain would be a major beneficiary. However, Britain still believed it was paying too much and objected to the fact that the returned funds were controlled and monitored by Brussels. As a result, a special rebate was formulated at the 1984 Fontainebleau Summit (Nugent, 2004:25).

Britain also continued to favour the intergovernmental approach. The British view was that the EEC should only serve as an internal market. It did not support the view that the Union required common financial, economic and social policies. The change of leadership in 1997 did signal a slight change in attitude. However, even under the Labour government, Britain has requested a number of opt-out clauses from certain treaty provisions regarding Justice and Home Affairs and Britain still refuses to adopt the common currency (Nugent, 2004:25). Britain and Denmark would also strive for reform of the Common Agricultural Policy and support free trade. Ireland paved the way for the provision of cohesion aid to poorer countries (Poole, 2003:5).

2.4. The Mediterranean Enlargement

(a) Greece, Spain and Portugal join the EC

The Mediterranean enlargement was significant for a number of reasons. Firstly, all three states (Greece, Spain and Portugal) had a number of shared characteristics: they were mostly poor states with underdeveloped economies; they had emerged from dictatorships and their newly elected governments were weak and unstable; they were located in Southern Europe. In many ways, this enlargement would provide the blueprint of the “Eastern enlargement” of 2004.

Leaders of the EC wanted to help stabilize the southern part of Europe by helping to build stable democratic institutions and healthy economies in Greece, Spain and Portugal. The EC could offer them technical, financial and political support and eventually help bring these states up to the standards of the rest of the EC. Association agreements with Greece and Spain were signed in the early 60s. Portugal joined EFTA in 1960. The EC also signed an association agreement with Turkey in 1964, in order to balance its association agreement with Greece. Greece applied for membership in 1975. In 1975 the Commission issued a report in which it stated that Greece was not ready, politically or economically to join the EC. It had recommended that a period of convergence be undergone before the accession negotiations took place. The Commission also emphasized that the EC should keep a balanced perspective in its relations with Greece and Turkey, a fact which angered the Greek side. The Commission’s recommendations were rejected by the Council of Ministers and negotiations began. In 1981, Greece joined the EC. In 1977, Spain and Portugal applied for membership. Spain’s negotiations with the EC were complicated due to its greater economic importance and size, as well as its demands for special treatment (Poole, 2003:22). In particular, fears were expressed over the size of Spanish agriculture, its fishing fleets, the possibility of cheap Portuguese and Spanish labour flooding the job market and their impact on the Structural Funds (of which they would be major recipients). However, politico-security considerations won out in the end. The strategic advantages of linking Southern Europe to the North and expanding NATO as well as encouraging political stability in this region were deemed essential (Nugent, 2004:25). Thus, in 1986, both Spain and Portugal became members of the EC.

(b) The impact of the Mediterranean enlargement on the EC

In 1977 the Council requested that the Commission produce a study on how the EC would be affected if the southern states (Greece, Spain and Portugal) became members. Accordingly, the Fresco Papers which were produced stated that the southern enlargement would cause major problems for the EC's integration agenda, namely regarding completion of the common market and launching monetary union. The Fresco Papers also identified the need for reform of the weighted voting system in order to preserve the balance between smaller and larger states. It was also recommended that more decisions be made in the Council by majority voting, rather than through the use of the veto. These issues were addressed the Single European Act in 1986 (Poole, 2003:24).

The political dynamics within the EC were greatly changed by the Southern enlargement. A north-south divide within the EC emerged between the wealthier (and mostly protestant) north, and the poorer south (mostly Catholic or Orthodox). All three states have benefited from their membership. Their economies have been boosted by foreign investment, and their democratic institutions have been anchored (Poole, 2003:26). EU policy shifted to the south of Europe, thus upgrading its importance on the EU agenda. The launch of the 1995 Barcelona Process was in some part a result of [this](#). (The Barcelona Process is the central instrument for Euro-Mediterranean relations, representing a partnership of 39 governments and over 750 million people. The European Commission has supported the Barcelona Process with the provision of over 16 billion Euros since 1995. Under the Barcelona Process the Euro-Mediterranean Parliamentary Assembly was established and the Euro-Mediterranean Facility for Investment and Partnership (FEMIP) was set up which provided over 2 billion Euros in loans to Mediterranean partners. Through trade liberalization exports from Mediterranean countries to the EU27 have grown by an average 10% a year between 2000 and 2006. At the same time imports from the EU27 have grown by an average 4%. Total Euro-Med trade with the EU (excluding Turkey) reached 120 billion Euro in 2006, (more than 5% of total EU external trade). It has thus been the engine for movement towards peace,

security and shared prosperity in a region where long-running conflicts and very little reform have often impeded progress (Commission of the European Communities, 2008:2). One of its aims is to create a free trade area encompassing all of the Mediterranean Basin by 2010. These three countries have consistently requested (and received) high levels of structural funds. All three countries have generally supported further integration. However, in the case of Greece, its often unstable economy has meant that it has had to ask for economic assistance. Although it wished to join the single currency in the first wave, it was unable to do so. Greece also has a complicated relationship with many of its neighbours, and the countries of the former Yugoslavia (a notable example is the dispute with FYROM (Skopje) over the use of the name “Macedonia”), its hostilities with Turkey and its links with Cyprus have made it very difficult to formulate a common policy for South Eastern Europe. Both Spain and Greece had threatened the use of a veto during the CEEC’s negotiations. Spain threatened to use the veto if it did not receive more structural funds. Greece also threatened a veto if Cyprus was not allowed to enter the EU (Nugent, 2004:25).

Poole (2003:25) has identified a number of shared characteristics of the southern and the eastern enlargements:

- (a) Enlargement provided an opportunity to strengthen democracy and encourage free market economies in states run by dictatorships, with state-controlled economies;
- (b) The Commission played the role of “broker” between the candidate countries and the Member States. The Commission also linked enlargement to closer integration and urged the reform of voting procedures in the Council of Ministers. The Commission’s role in the 2004 enlargement was much broader, as the *acquis* was considerably expanded;
- (c) The free movement of workers from southern Europe was delayed by seven years, as it was delayed seven years before Central European workers could seek work in Germany;

- (d) Greece threatened to veto Spain's entry if it was not given a considerable aid package. Spain threatened to veto the Eastern European states for the same reason;
- (e) Both enlargements were delayed by France's attempts to protect its farmers' interests. This made formulating a common position very difficult;
- (f) The removal of trade barriers was delayed in both enlargements in order to allow the candidate countries some opportunity to protect their infant industries;
- (g) All candidate countries wished to have a target date for admission set, something which the EU refused to do (Poole, 2003:25).

2.5. The northern enlargement: Austria, Finland and Sweden

Austria and Finland, which had, in the past, been prevented from joining the EC by the Soviet Union, could seek membership after its collapse. Despite a policy of political neutrality, Sweden also opted for membership for both security and economic reasons. By joining, protection would be provided against the possibility of the resurgence of an aggressive Russia (Northcott, 1995:262). This would also be a motivating factor for many Central and Eastern European states seeking membership.

The candidate countries had already adopted more than half of the *acquis communautaire* through their membership in 1992 in the European Economic Area. Through the EEA, Sweden, Norway and Austria could seek closer ties with the EU, without committing the EU to another enlargement during a time when the focus was on further integration. However, these states sought membership when they realized that they did not have a voice in EU decision-making, or access to a range of EU programmes (Poole, 2003:26).

In economic terms, most of the trade of Austria, Sweden and Finland was with the EU. By joining, they would have a greater say in the economic decisions which affected them (Northcott, 1995:262). Thus, in 1995, Austria, Finland and Sweden joined, bringing the total number of Member States to 15. Austria, Finland and Sweden had liberal

democratic forms of government, efficient market economies, and per capita incomes larger than that of the EU average, making their accession highly desirable (Nugent, 2004:3). By contrast, there was some debate concerning the desirability of extending the EU's border beyond these "15".

The northern enlargement was significant in that it extended the borders of the EU to the former communist states. The special relations between the new Member States and their neighbours would also come into play in the eastern enlargement of 2004. Sweden, for example, had developed close ties with the Baltic States (EU's Northern Dimension). Austria had close historical ties to Hungary and Slovenia (through the Austro-Hungarian Empire) and Finland supported Estonia's application. In order to balance the EU's southern focus, Finland suggested that a northern dimension be added, particularly in developing relations with Russia. Outstanding issues such as that of Kaliningrad, a Russian military enclave on the Baltic Sea which would be surrounded by EU territory had to be resolved. This was done during the 2002 Danish presidency (Poole, 2003:29).

(a) The impact of the EFTAn enlargement

The so-called EFTAn enlargement had a considerable impact on the EU. The enlargement from 12 to 15 meant that there was increased pressure for the reform of EU institutions. Although the EFTAn states fitted easily into the EU framework, there was an understanding that the system had been designed to accommodate fewer states. Also the influence of the Scandinavian political culture meant that there have been efforts to promote transparency, openness and democracy in EU governance. On the economic front, the EFTAn states were net contributors to the EU budget which meant there would be less EU expenditure. Austria, has been very active in the field of Justice and Home Affairs (JHA), EU asylum and immigration policy, because of the influence of its far-right parties and its geographical position. Sweden, which is one of the three countries which has not joined the Euro, has largely been active in debates concerning the EMU. Although Swedish elites have generally been in favour of adopting the single currency, a referendum held in 2003 showed that the majority of Swedish citizens opposed it. (This

also makes the position of Britain difficult, as it contemplates holding a referendum on adopting the Euro). The influence of Sweden and Finland has been important in elevating environmental and consumer protection in the EU policy agenda (Nugent, 2004:4).

2.6. The Eastern enlargement

The 2004 enlargement was different from previous enlargements in many respects. Never before had so many states joined at one time (12 new members were accepted). Ten of these states were Central Eastern European countries (CEEC's), thus formerly part of the Eastern bloc. The other two countries were Malta and Cyprus, both Mediterranean islands.

On the 9th of November 1989, the Berlin Wall collapsed. In 1991, the Soviet Union fragmented into different states. Particularly after the unification of Germany, the need for “new architecture” in Europe would open the road to eventual membership for some of these states.

After the collapse of the Soviet Union, many states of the former Eastern bloc adopted Western economic and political models. Economic restructuring proved arduous: By 1994, poll results showed widespread disillusion and pessimism of the citizens of these states because of the rise of corruption, increase in organized crime, erratic changes in income distribution, and the resurgence of nationalism and intolerance towards minorities (Northcott, 1995:287). For these states, joining the EU would provide much needed technical and financial support.

For Member States such as Finland, Germany and Austria which border the Central Eastern European Countries, integration would be a way to be protected against the potential domestic political instability of their neighbours. By bringing them into the EU system, the new democratic systems could be consolidated and strengthened. The fluidity of borders exacerbated problems such as organized crime, the unauthorized movement of peoples across borders and illegal drugs trafficking. These problems could only be

effectively tackled by a concerted approach and solutions be found on a common basis (Nugent, 2004:4).

The economic benefits would also be considerable. Increased investment, skills and technology transfer, would increase trade and result in an improved economic base. With the accession of the 10+2 countries, the EU's population would be increased by about 106 million people. Trade was expected to be increased by the expanded common regulatory framework, from the increased size in which similar macroeconomic and financial policies were being pursued and from investment incentives provided by countries with well-educated populations. Since the 1990s the Central and Eastern European economies have been growing at a faster rate than that of the EU "15". Economic integration was expected to raise GDP levels by promoting trade investment, competitiveness and economies of scale (Nugent, 2004:5).

Despite these arguments in favour of "widening" the EU, there were mixed feelings concerning the candidate countries among the original Member States themselves. Member States supported the states with which they had closest proximity (mostly as this would gain them immediate trade and security benefits). For example, the Scandinavian Members supported the Baltic candidates, Greece sponsored Cyprus, Germany supported Poland. The UK was also a strong advocate of enlargement as a more diluted EU would halt some of the integration process.

(a) The process of negotiations

Any European State wishing to become a member of the Union may address its application to the European Council which will unanimously decide after consulting with the European Commission and after having received the assent of the European Parliament (EU Art. 49). The Commission uses objective political and economic criteria to assess each applicant's ability to fulfill its obligations arising out of accession in its Regular Reports. The progress that each applicant might reasonably be expected to make through the years and the evolving *acquis communautaire* was evaluated.

Cyprus and Malta applied in 1990 for membership. By the mid-1990s CEEC's had applied for membership and enlargement gained further momentum. The reasoning behind the CEEC's application was that, following the collapse of communism, membership would help ease their re-integration in the western system. EU membership could help reinforce newly established liberal democratic and market systems. Most CEEC's also sought to join NATO. This would provide "hard" security whilst membership would provide "soft security". The EU would provide a framework of reform and policies which would guide regeneration, growth, restructuring and economic liberalization. It would also provide a market for trade.

In the early 1990s, although the EU-12 were willing to assist the CEEC's with the necessary economic and political restructuring, there was also a wide realization that much still needed to be done. Many EU decision-makers considered that membership would not be a realistic prospect for the near future. The EU was also at that stage preoccupied with the EFTA enlargement and the Maastricht Treaty.

One of the most significant steps in the enlargement process took place at the June 1993 Copenhagen European Council. EU leaders declared in the Conclusions of the Presidency that the CEEC's could become members of the EU once they fulfilled certain economic and political requirements. A set of criteria was laid out that candidate countries would be required to meet. These are the so-called "Copenhagen Criteria". This was to ensure the convergence of the political and economic systems between new Member States and existing Member States and the adoption of the *acquis*. Thus the smooth functioning and continuing development of the EU would be ensured.

The "Copenhagen criteria" and can be summarized as follows*:

* "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, the existence of a functioning market economy as well as the capacity to cope with competitive pressures and market forces within the Union. Membership presupposes the candidate's ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union (European Council, Conclusions of the Presidency, Copenhagen, June 1993).

- Stable institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;
- A functioning market economy and the capacity to cope with competitive pressure and market forces within the EU;
- The ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union.

Thus, strict conditionality criteria were introduced. A country's progress would be closely monitored. The idea of conditionality is also enforced under Articles 6 and 7 of the Treaty on the European Union, which states that a state in breach of the Union's founding principles of liberty, democracy, respect of human rights and fundamental freedoms and the rule of law can be subject to sanctions and the suspension of EU rights.

In April 1994 Hungary and Poland applied for membership. In June the Corfu European Council requested that the Commission prepare a pre-accession strategy for CEEC's. By December, the Essen European Council asked the Commission to prepare a White Paper on the integration of the CEEC's in the internal market. In June 1995, Romania and Slovakia applied to join the EU. In October Latvia, November Estonia, December Lithuania and Bulgaria had applied. By January 1996, the Czech Republic and Slovenia had applied.

The Madrid European Council of 1995 requested that the Commission produce Opinions on each candidate country and on the impact that these potential Member States would have on the EU. On this basis, the Commission issued the Communication "Agenda 2000: For a Stronger and Wider Europe". The Commission also recommended that negotiations begin with Cyprus, the Czech Republic, Estonia, Hungary, Poland, and Slovenia (these were named the "5+1 first wave states". Negotiations with Bulgaria, Latvia, Lithuania, Romania and Slovakia would be delayed until further economic and political reforms would take place.

In 1997 the Luxembourg European Council took the decisions required to set the process in motion. This process was to be comprehensive, inclusive and on-going and would take place in stages. Thus each applicant country would proceed at its own pace depending on its degree of preparedness. Bilateral intergovernmental conferences were convened in 1998 to begin negotiations with Cyprus, Hungary, Poland, Estonia, the Czech Republic and Slovenia. However, the upheaval in the Balkans in the early 1990s and the NATO campaign in Kosovo put into sharp focus the problems of South-East Europe, in particular, the inherent dangers of leaving “second-wave” countries behind. Some of these second-wave countries were rapidly catching up on “first-wave” countries. The decision at the Luxembourg meeting that Turkey’s application not be considered drew a strong negative reaction from that country. Thus, at the Helsinki Summit held in December 1999 important decisions concerning the enlargement strategy took place. Negotiations with the “5+1” states would start in 2000 and decisions based on the level of preparedness would be based on progress reports made during negotiations. Turkey was also given the status of a candidate country. By the time the negotiations got underway, it became clear that a large enlargement would take place, rather than in stages. In November 2000, the Commission set out its revised Enlargement Strategy. It consisted of a more flexible framework and a roadmap for negotiations with the aim of completing negotiations by December 2002. At the Nice Summit of 2000, The Commission’s Strategy was accepted. In June 2001 at the Gothenburg Summit, the European Council decided, based on the reports and recommendations of the Commission, that an accession treaty could be signed in April 2003 with all the candidate countries, excepting Bulgaria and Romania. These states would become members of the EU on May 1st 2004. If Romania and Bulgaria continued reforms, they could become members by 2007. In April 2003, the accession treaties were signed. Eight of the states were CEEC’s, plus Malta and Cyprus (“10+2” states). The eight CEEC’s held referendums on membership. The results were favourable and on the 1st of May 2004, they became part of the EU.

2.7. The 2005 Enlargement Strategy

The 2005 Enlargement Strategy paper provided a blue-print for the future prospects of enlargement. The focus of the paper was on Croatia, Turkey and the Western Balkans; three areas with the potential of becoming flash-points for conflict. The Western Balkans encompass Albania, Bosnia and Herzegovina, FYROM, Serbia and Montenegro and Kosovo.

Enlargement is defined in the strategy as “a carefully managed process which helps the transformation of the countries involved, extending peace, stability, prosperity, democracy, human rights and the rule of law across Europe”. The Strategy recognized the fact that the promise of membership can be a strong motive for reforms. The Commission strategy for enlargement encompassed three important principles: “consolidation, conditionality and communication”(Commission of the European Communities, 2005:12).

- *Consolidation of the EU's commitments*

The phrase “consolidating the EU’s commitments on enlargement” referred firstly to the EU’s absorption capacity and secondly to further integration. These two conditions meant that although the EU had a responsibility to ensure future security, stability and prosperity (by offering or granting membership), it had to be weighed against the EU’s capacity to function effectively and efficiently.

The Strategy also stated that the possibility of a large enlargement of multiple countries was not envisaged. The above-mentioned states were all in a different degree of preparedness and the pace of enlargement would be dictated by the rate of progress of each candidate country. This rate of progress would be continuously monitored.

- *Applying conditionality*

As with previous enlargements, the criterion of “rigorous conditionality” was to be strictly enforced with the Commission monitoring candidate countries to ensure that reforms were implemented and enforced. A country could only move next to the phase

once the previous phase had been completed. The Commission could recommend the suspension of the process if any breach of the fundamental principles of the EU occurred, or if a country failed to reach its targets. However, it was also essential that if a country met these targets, the EU fulfilled its promises and delivered on its commitments.

- *Better communication*

Largely in response to the phenomenon of “enlargement fatigue”, the need to communicate the success and importance of the enlargement process was identified. Despite the fact the 2004 enlargement had been deemed a great success, Eurobarometer polls clearly indicate that the European public had been less than enthusiastic about the prospect. The 2004 enlargement added 75 million people to the Union, boosted economic growth and added new jobs. However, enlargement was still largely blamed by the public for high unemployment and other social problems (Rehn: 2005). Improvements had been made in environmental protection and in labour standards by the new Member States. Trade and investment had increased and the Single Market had been boosted. However, some effects of enlargement had not affected citizens directly. Democratic reforms, respect for human rights and the development of the market economy had largely been driven by the strict conditionality that the EU imposed. Stability had thus been encouraged by both enlargement and the European Neighbourhood Policy. Therefore, the many misconceptions about enlargement could only be countered by an effective communication strategy. An important part of the Commission’s communication strategy was the civil society dialogue. A dialogue with key actors in the media, politics, academia and business as well as other social partners had to be sought.

2.8. The Enlargement Strategy of 2006-2007

The Enlargement Strategy of 2006-2007 (Commission of the European Communities, 2006b:18) built upon the previous Enlargement Strategy (in particular the three c’s: consolidation, conditionality and communication). Two aspects were pivotal to the Enlargement Strategy: Firstly, the EU’s capacity to integrate new members and secondly, the ability of candidate countries to assume the obligations of membership.

(a) *The “absorption capacity” of the European Union*

The term “absorption capacity” appears quite often in the political debate concerning enlargement. Its use can be traced to the Copenhagen summit in 1993, where in the official text of the conclusions, it was emphasized that “The Union’s capacity to absorb new members, while maintaining European integration, is an important consideration in the general interest of both the Union and the candidate countries”. The debate concerning “absorption capacity” picked up pace after the 2004 enlargement, especially by the Christian democrats of Austria and Germany. In June 2006, at the European Council Summit, the “absorption capacity” was widely debated and in its conclusions, it was emphasized that “every effort should be made to protect the cohesion and effectiveness of the Union.....ensure in future that the Union is able to function politically, financially and institutionally as it enlarges...”. Furthermore, it stated that in December 2006 the European Council would “have a debate on all aspects of further enlargements, including the Union’s capacity to absorb new members” (Emerson *et al*, 2006:1).

Despite the usage of the term, what the “absorption capacity” entails is not clear. The countries which championed this concept at the European Council Summit of June 2006 were Germany, the Netherlands, France and Austria (who held the Presidency). The Austrian Chancellor Schussel, stated that he preferred the German term “*Aunahmefahigkeit*”. A cultural and financial dimension was added to the currently-held definition as “the capacity to act and decide according to a fair balance within institutions, respect budgetary limits, and implement common policies that function well and achieve their objectives (Euractiv: 2006).

Jacques Chirac, France’s president, stated that the absorption capacity had a political and financial dimension- particularly if the populations have a say over whether a country is welcome or not (in France’s case, Turkey’s candidacy would be subject to a referendum).

In the case of France and Germany, the candidacy of Turkey was especially important where the “absorption capacity” is concerned. Turkey’s large population would pose a serious threat to the institutional balances of the Union, have a considerable budgetary impact and its candidacy is largely opposed by the European public. In the French case, the issue of “social and cultural absorption” has been raised, in the sense that the introduction of Turkey into the Union would endanger the Union’s cultural and social homogeneity. These sentiments are echoed by Germany, who also suggests that a “privileged partnership” with Turkey may need to be developed (Emerson *et al*, 2006:3).

The issue becomes even more complicated by the statement of the Danish Prime Minister Anders Fogh Rasmussen, who stated that the absorption capacity was “about the capacity to take in new members”. It was also stated that this capacity would not impose new criteria for candidate countries to fulfill, and that the “Copenhagen-criteria” were not criteria either, despite the fact that these criteria are the yardstick against which a candidate countries suitability is determined (Euractiv: 2006).

The British frame the debate very differently. The absorption capacity refers merely to the ability of the candidate to take on obligations of membership and the ability of the Union to assimilate the new member (Emerson *et al*, 2006:3).

Within the EU, the concept of “absorption capacity” is viewed differently by the European Commission and the European Parliament. Whereas the European Commission defines it as “whether the EU can take in new members while continuing to function effectively”, the European Parliament defines it explicitly as a criterion for admitting new Member States (At the EU Summit in June 2006, this idea was dropped (Forbes, 2006). The European Commission highlights the importance of public support and stresses the responsibility of communicating on the issue of enlargement more effectively to the public. The major difference in the definition of “absorption capacity” pertains to the drawing of geographical boundaries. The European Commission rejects the idea of drawing an “enlargement frontier”. By contrast, the European Parliament states that defining the nature of the EU and its geographical borders is essential. It also identifies

other essential components such as institutional reform as defined by a constitution, and the allocation of budget resources (Emerson, 2006:4; European Commission, 2006).

(b) Integration capacity

By November 2006, the term “absorption capacity” was replaced by “integration capacity”. Integration capacity is defined more clearly and stresses three important areas: “institutions, budgets and policies” (Euractiv: 2006).

The importance of the concept of “integration capacity” can be illustrated by the Commission’s “Communication on Enlargement Strategy and Main Challenges 2006-2007”. Annexed to this document is the “special report on the EU’s capacity to integrate new members”. In this document, integration capacity is defined as “whether the EU can take in new members at a given moment or in a given period, without jeopardizing the political and policy objectives established by the Treaties” (Commission of the European Communities, 2006b: 13).

(c) Integration capacity and future enlargements

(i) Institutions

The Nice Treaty stipulated the rules of a 27-member Union. With the accession of Bulgaria and Romania on 1 January 2007, the current EU will have 27 members. Therefore, institutional reforms would have to be made to accommodate any new Member States. As mentioned in a previous section, the weighting of votes in the Council and the allocation of seats in the European Parliament are crucial in the decision-making of the EU. In order to ensure that its institutions and decision-making processes are effective and accountable, institutional reforms would be necessary. The scope of these reforms is not discussed in the Communication.

(ii) Common policies

The need for the EU to develop, whilst expanding, common policies was emphasized. The key aspect in this area is the importance of constant assessment of the impact of common policies. It was also emphasized that not only “internal” policies such as the movement of persons, transport and border management would be assessed, but also strategic objectives such as energy and security policies.

(iii) Budget

In this area, the Union would consider the budgetary impact of each applicant. The Commission will propose a package of financial measures based on the assessment of each case.

III.i) Instrument for Pre-Accession Assistance (IPA)

As part of the pre-accession strategy, the Instrument for Pre-Accession Assistance (IPA) was introduced. This instrument, as from 1 January 2007, would replace previous assistance instruments such as PHARE, ISPR, CARDS and SAPARD. This instrument would provide funds for candidate countries and pre-candidate countries under a single set of rules and procedures thus providing greater flexibility and impact. The allocations can be revised if necessary on an annual basis. It is designed with five components which are: transition assistance and institution-building; cross-border co-operation; regional development; human resources development and rural development. The European Agency for Reconstruction, which handled the tasks of post-conflict reconstruction of FYROM, Serbia and Montenegro, would phase out its activities by the end of 2008. The Commission’s delegations would take over aid implementation, and in due course, by the countries own authorities. The IPA will co-ordinate closely with the European Investment Bank, the European Bank for reconstruction and Development as well as the World Bank and other international institutions. In order to encourage development throughout the region, a mix of grants and loans would be provided.

III. ii) The Multi-Annual Indicative Financial Framework (MIFF)

The Commission will present the MIFF in which information will be provided on the Commission's intended financial allocations in the form of a financial table covering a three year period. The allocation criteria include the beneficiary's needs, management capacity, absorption capacity and the Copenhagen criteria. Thus a link between the budgetary process and the political process is established.

It should be mentioned that under the current pre-accession assistance under the MIFF for 2006-2007, Turkey received by far the greatest amount of assistance. In 2006 an amount of 500 million Euros was set aside, with Serbia the second largest beneficiary at 167 million Euros.

(d) Conditionality

The issue of conditionality is stressed. The emphasis is on the strict application of conditionality in the pre-accession phase in order to ensure the smooth integration of the new Member State. The Commission will monitor the progress of each candidate based on political, *acquis* and economic criteria, and especially the structures which ensure the rule of law, administrative capacity, judicial capacity and measures against fraud and corruption. A chapter based on Judiciary and Fundamental Rights is provided for in the negotiating framework. Accession negotiations may be suspended if the candidate state is in breach of fundamental freedoms, the rule of law or liberty and democracy. Based on these findings, short and medium term priorities will be proposed to be included in the Accession or European Partnerships with each candidate country. Financial assistance will be geared to support the reforms identified. A further monitoring of candidate countries will be done through association agreements. Each country must comply with its bilateral obligations before membership can be considered. Precise *benchmarks* must be reached before a negotiation chapter can be opened or closed. If these benchmarks are not fulfilled, the negotiations on the chapter under review may be suspended or reopened.

The benchmarks are identified as a new tool whose purpose is to provide incentives for candidates to undertake necessary reforms from an early stage. They are measurable and linked to key elements of the *acquis* chapter. Opening and closing benchmarks are distinguished: Opening benchmarks pertain to preparatory steps such as action plans or strategies and the fulfillment of contractual obligations. The closing benchmarks pertain to administrative or judicial bodies, legislative measures, and a score board of implementation of the *acquis* and, where economic criteria are concerned, the ability to function like a market economy.

Another important feature is that the progress in passing reforms and the pace of the negotiations will be linked. Officials from Member States who are engaged in the monitoring process and officials engaged in the accession negotiations will from now on be meeting in the same working group. A dialogue with the candidate countries concerning the political and economic reforms will be fed into the negotiation process (which in turn will determine the pace of negotiations). Acceding countries must have functioning market economies *before* they become Member States. The EU will refrain from setting an accession date until the process reaches its final stage. The candidate country may set a target date for itself, but the actual date of completion of accession negotiations will always be subject to the progress made by the candidate country itself.

(e) Communication

Under this section, the issue of democratic legitimacy is addressed. Decisions leading to country's accession are taken unanimously by the democratically elected governments of the Member States and the candidate countries, this decision is then ratified by national parliaments, and finally the European Parliament must give its assent. European citizens must back any further enlargements. The need for more effective communication regarding the benefits and the challenges of enlargement is identified. The role of leaders at national, regional and local level must address the concerns of their constituents, and along with the Commission, the European Parliament, civil society, think tanks and

institutions, should provide comprehensive information. One way to achieve this is to make available factual information in user-friendly form. Crucial documents such as progress reports are already made available to the public by the Commission. This also promotes transparency.

The importance of dialogue between the EU, the Member States and the candidate countries, over a sustained period of time, is also stressed. In particular, the Civil Society of Dialogue established with Turkey in 2004 and which was extended to the Western Balkans in 2006 should be further extended in collaboration with the Economic and Social Committee and the Committee of Regions to penetrate further sectors of society and economy (Europa, 2006:1-3).

(f) An assessment of the Commissions Enlargement Strategy 2006-2007

The Enlargement Strategy seeks to address some of the problems which have arisen after the 2004 enlargement. Its emphasis on communication with the citizens of the European Union can be seen as an attempt to counter “enlargement fatigue”. In a recent Eurobarometer survey, Europeans indicated that although they believed that enlargement was an effective way of promoting peace and stability in Europe, they remained unconvinced of the economic benefits despite economic indicators showing otherwise. Some of the most pressing concerns are that enlargement can lead to an increase in crime, illegal immigration, and unemployment. For example, the metaphor of the “Polish plumber” (signifying negative rhetoric about eastern European workers) had become so widespread in France that in 2005 the Polish tourist board used the concept in a humorous way to encourage tourism in Poland (BBC News: 2005). It remains doubtful that the Commission’s proposal of making the key documents in the negotiation process available to the public will help counter these problems or even help alter perceptions.

As already mentioned, the Strategy is vague when discussing institutional reforms. The changes which would be introduced by the European Constitution will however be quite

minimal. These are discussed in greater detail under the sections dealing with the institutional aspects of enlargement.

Finally, the emphasis on benchmarks and conditionality may, in part, be attributed to the experience with Bulgaria and Romania. In particular the phrase “Thus it is clear that issues such as judicial reform and the fight against corruption and organized crime need to be tackled at an early stage” is indicative (Commission of the European Communities, 2006e:6).

Critics cite concerns about corruption in both states and, on the 31st of March 2007, as part of the accession agreement, clear proof had to be given by both countries that improvements in the field of justice and anti-corruption measures had been undertaken (Bult: 2006).

The clear emphasis on fulfilling criteria and strict assessment at each stage of the process will ensure that potential problem areas will be improved.

It should be mentioned that the danger of a potential candidate going through the entire negotiation process, fulfilling the criteria in all 35 chapters, and then being told that the absorption capacity is exhausted, should be avoided at all costs. This would derail the entire logic and strength of enlargement i.e. that the aspiration of a country to become a Member State of the EU would act as a powerful incentive for economic and political reforms.

The European Council of 14 and 15 December 2006 can be seen as a compromise between those who oppose enlargement and those who support it. While the membership perspective of the Western Balkans was confirmed it would be subject to strictly enforced membership criteria through benchmarking and the application of strict conditionality. Furthermore, the date of accession would only be indicated near the end of the negotiation process. Another precondition was that the EU needed to undertake institutional reforms to update its structure in order to function effectively.

Critics of further expansion often cite the fact that the increased number of actors in the Council has obstructed the effectiveness of the institutional structure and increased the contributions of older Member States to the budget. Fear of the negative effects on the labour market, social tension and a lack of participation in the decision-making processes coupled with a lack of communication are other arguments. The consensus is that thus far the decision-making process has not been impeded. However, for any future enlargements to take place, further institutional reform is necessary. A full account of the institutional reforms which have been instigated can be found in the chapter titled “Enlargement and Institutional Reform”.

Thus, the compromise between these two positions is that widening will take place in conjunction with deepening (Reich, 2006:2).

2.9. The Accession of Romania and Bulgaria – 1 January 2007

The accession of Bulgaria and Romania on 1 January 2007 completed the May 2004 enlargement.

The negotiation process with Romania and Bulgaria concerning their membership was delayed by nearly three years because of fears concerning their judicial systems and the failure, particularly by Bulgaria, to crack down on organised crime and the fight against corruption. There were many critics who opposed the membership of Bulgaria and Romania, citing that these countries were not ready for membership. Bulgaria and Romania signed the Accession Treaty in April 2005 with the 25 member EU. According to the Treaty, both countries would join on the 1st of January 2007 provided that the Council agreed after consultation with the Commission, otherwise accession for either country would have to wait until 2008. The Commission, decided that the incentive of allowing them to join on the 1st of January 2007 would be the best way of encouraging reforms (Watt: 2006).

The Commission monitored the reform efforts of both countries in order to ensure that they fulfilled the criteria for membership. In 2005 “Monitoring Reports” were published in which the findings of the Commission regarding the areas of concern were laid out. Two such Reports were published in May and September of 2006. The Commission’s Communication of 16 May 2006 (Commission of the European Communities, 2006d:2) stated very clearly that the “*Commission would continue to support Bulgaria and Romania’s preparation for membership...if shortcomings persist ... the Commission will take the necessary action in its role as the guardian of the treaties*”. In its Communication of September 2006 (Commission of the European Communities, 2006e), the Commission stated that further progress had been made in the problem areas that had been highlighted in its Communication in May but some concerns remained. A number of safeguards and benchmarks were highlighted in order to address any potential problem areas.

The commission was so concerned by the slow progress of reform that it set Romania and Bulgaria a set of benchmarks - with a demand for a first report by the end of March 2007.

(a) Tools and safeguards implemented for the accession of Bulgaria and Romania

A certain number of tools are available to all Members States in order to ensure the smooth functioning of the EU. There are three categories: Tools based on the *aquis* and available to all Member States; Tools based on the Accession Treaties; and tools specially invoked for the Accession of Bulgaria and Romania. Tools based on the *acquis* include: safeguard measures, competition policy measures, infringement procedures and financial corrections of EU funds. Within Member States private and public parties can refer to the national courts to implement EC Law, failing that, they may refer to the European Court of Justice. The scope of the European Monitoring Centre on Racism and Xenophobia (EUMC) extends to all Member States (now including Bulgaria and Romania). The treatment of the Roma and other minority groups will be closely monitored by the EUMC in both these countries. There are four tools available through the Accession Treaty: *Economic safeguards* may be invoked if an old or new Member

State experiences -or is about to experience- economic difficulties; *Internal market* safeguards may be invoked if serious breaches involving the functioning of the internal market occur. The scope of these safeguards covers not only the four freedoms, but also competition, agriculture, transport and other sectional policies of a cross-border nature. Bulgaria's aviation sector (craft and carriers) needed serious improvement. *Justice and home affairs* (JHA) safeguards provide for the unilateral suspension of Member States obligations in the field of judicial co-operation; *Transitional arrangements* are agreements which aim to prevent regional or sectoral disturbances. For example, the free movement of workers from a new Member State may be suspended for a period of seven years.

Other agreements can be made covering veterinary, phytosanitary and food safety rules. In both Bulgaria and Romania's case, classic swine fever had led the EU to suspend animal-based products from these countries from entering the internal market. For example, the distribution of certain food products in the internal market may be suspended for three years. These food products may only be produced and distributed nationally. After the transition period, food producers must either comply with EU food regulations, or they must stop production of the food product.

Additional measures were introduced through a mechanism of verification and co-operation based on Articles 37 and 38 of the Act of Accession. The Commission will supply internal and external expertise to provide guidance for reforms, verify progress and provide co-operation. Both Bulgaria and Romania will have to submit regular reports on progress made in fulfilling the benchmarks. The first report was due in March 2007. The Commission reported to the European Parliament and the Council by June 2007 and provided its assessment of the progress made. Accordingly adjustments were made based on the results. This mechanism will continue until all benchmarks have been reached. Should either country fail to make sufficient progress in achieving the benchmarks, the Commission will apply the relevant safeguard measures of the Accession Treaty.

Bulgaria's benchmarks pertain to three particular areas of concern: its judicial system and the fight against corruption and organized crime. They include:

- Constitutional amendments to remove the ambiguity surrounding the independence and accountability of the judicial system;
- The adoption and implementation of a new judicial system act and a new civil procedure code;
- The continuation of the reformation of the judiciary in order to enhance their professionalism, accountability and efficiency;
- Conducting of non-partisan and in-depth investigations on corruption;
- Continue implementing measures against local government and border corruption;
- Implementation of a comprehensive strategy to fight organized crime, money laundering and the systematic confiscation of criminal assets.

Romania's benchmarks include:

- Improving the transparency and efficiency of the judicial process through the enhancement of the capacity of the Superior Council of Magistracy;
- The establishment of an integrity agency to verify assets, incompatibilities and conflicts of interest which will issue mandatory decisions with the power of imposing sanctions;
- Continuation of the fight against corruption.

In 2009 the Commission published a Report in which it stated “Bulgaria is experiencing serious implementation difficulties in several EU funded programmes. It still has to demonstrate that sound financial management structures are in place and operate effectively. Administrative capacity is still weak and there have been serious allegations of irregularities as well as suspicions of fraud and conflicts of interest in the award of contracts.” In accordance with these findings, funding was suspended (Memo/08/522).

With Bulgaria and Romania joining the EU, the number of Member States was brought to 27. This is the maximum covered by the Treaty of Nice. Any further enlargements will be subject to necessary reforms taking place. This enlargement can also provide a glimpse on strategies which may be employed in the future. Many of the states which seek

membership will be considerably less politically and economically developed than the “old” Member States, particularly those of Western Balkans.

Conclusion

Since its inception in 1950 through the Coal and Steel Community, the EU has continued to expand, both in terms of its geographical size and, through spillover, its influence on a number of policy areas.

Each of the successive enlargements influenced the dynamics of the EC/EU. The 1973 enlargement of Britain, Ireland and Denmark preserved the intergovernmental approach to decision-making as Britain and Denmark (and later Ireland) did not share a vision of “closer economic and political union”. The “southern” enlargement of Greece (1981), Spain and Portugal (1986) was mostly motivated by political factors. Enlargement was seen as an effective way to bolster democracy following the end of their dictatorial regimes in the 1970s. These countries were much poorer than their counterparts and lacked the necessary infrastructure for the free movement of goods and capital. The result was aid in the form of Cohesion Funds. In a way, the “southern” enlargement could be seen as a “dress-rehearsal” for the “eastern” enlargement. The “northern” enlargement of Austria, Finland and Sweden in 1995 was easier as these states were net contributors to the EU. They also had stable democratic systems and well developed economies. Under these states’ influence attempts have been made to make EU institutions more transparent and democratic. They were also in favour of the extension of the EU into the Baltic States, Hungary and Slovenia. The “eastern” enlargement had a number of unique features: Firstly, the *acquis* had evolved and the eastern states had to play catch-up; and secondly, these former Soviet states had to establish democratic systems and market economies. Because of the nature of this enlargement, the concept of conditionality was first introduced through the Copenhagen Criteria. As has become clear from the rhetoric and actions of the Czech Republic and Poland, an intergovernmental approach will be favoured by these states. The 2007 enlargement of Bulgaria and Romania strengthened the concept of conditionality through the introduction of benchmarks. Especially in the

case of Bulgaria, reservations have been expressed about its state of readiness. In 2009, the Commission refused to pay out its instalment based on the findings of its Report. In the future, conditionality concerns will become much stricter and it is likely that the vetting process for any potential candidate will be more intense.

Future Enlargements of the EU

Introduction

The Enlargement Strategy identified future candidate countries. The next enlargements will be especially challenging for the EU because of the states' recent historical experiences (the break-up of Yugoslavia and the subsequent wars). Ethnic tensions still exist *within* and *between* the countries themselves. There are two groups of candidates: *Candidates* which are further on the road to membership (i.e. accession negotiations have been opened) and *potential candidate* countries. Turkey, Croatia and the Former Yugoslav Republic of Macedonia (FYROM) have the status of candidate countries. The potential candidate countries are the Western Balkans states (Albania, Bosnia-Herzegovina, Serbia and Kosovo (as defined by UN Security Council Resolution 1244) and Iceland.

Norway and Switzerland are not candidate countries. Yet, they have a significant contractual relationship with the EU. These relationships and their potential for full EU membership will be discussed.

The Western Balkan countries of Albania, Croatia, Bosnia and Herzegovina, Montenegro, Serbia and Kosovo are potential candidate countries. The current status of negotiations as well as the particular challenges of each country is analyzed in the sections below.

The republic of Cyprus became a member of the EU in 2004. However, the northern part of the island is not under the control of the Cypriot Government. The EU has put forward a number of measures to assist it in becoming "closer to the EU". The main means is to promote the economy of northern Cyprus through trade and financial assistance. Since 2003, about 12 million Euros have been provided for infrastructure and financial aid grants. The main idea is that once a political solution has been found for the Cypriot problem, integration will be made more smoothly through the financial aid provided. Since 2004, very little progress has been made on finding a political solution.

Another candidate country is Turkey. Turkey has had a long history of engagement with the EU. In 1963 Turkey and the European Economic Community entered into an Association Agreement. Here, the possibility of membership was referred to for the first time. In 1995 a customs union was formed. In December 1999 in Helsinki, Turkey was granted official status as an accession candidate. In 2002 the Copenhagen European Council recommended that the European Council of December 2004 should decide whether or not Turkey fulfilled the Copenhagen criteria through a Report. The European Commission found that Turkey fulfilled the Copenhagen political criteria in its Communication dated 6 October 2004.

However, despite these moves, both France and Germany have expressed grave reservations at Turkey's entry. Although the possibility of Turkey's membership has expressly been timed for no sooner than 2014, its entry into the EU has been widely opposed by EU citizens as well. The Dutch and French referendum outcomes were in part attributed to opposition of Turkey's potential membership.

The Commission recommended that accession negotiations begin but subject to conditions built around the three-pillar system. The first pillar pertains to the reform process in Turkey. Efforts will be made to reinforce and support Turkey's efforts to fulfil the Copenhagen criteria. An annual general review will take place. Should no improvement be taking place, the Commission can recommend that negotiations be suspended. The third pillar pertains to enhancing the political and cultural dialogue between the EU Member States and Turkey.

The pace of reform in Turkey has slowed down. In December 2006 Turkey refused to open its ports and airports to the Greek Cypriots, despite having to extend its customs union to all the 2004 entrant countries. In response the EU suspended negotiations on eight out of the thirty-five chapters under negotiation (The Economist: 2007).

On the 3rd of October 2005 accession negotiations were opened with Croatia. On 20th of February 2006 a Council Decision was published detailing the principles, priorities and conditions of the Accession Partnership between Croatia and the EU. A number of

reforms required for the judicial system, measures against corruption, the protection of minorities and human rights are identified, as well as the adoption of the *acquis*. Issues concerning the return of refugees and war crimes are also identified. The priorities for economic criteria which will promote economic stability and structural reform are identified.

Should Croatia fulfil its obligations and undertake necessary reforms, its candidacy is likely to become a possibility within the next few years.

The Stabilisation and Association process was launched in 1999 to help support the former Yugoslav states of Bosnia-Herzegovina, Croatia, FYROM, Montenegro, Serbia and Kosovo. Following the conflict of the Yugoslav wars, the need for a regional solution was identified. The process attempted to: establish and maintain democracy and the rule of law; ensure respect for minorities and human rights; revive economic activities.

The agreements were drafted in order to ensure that the Copenhagen criteria would be fulfilled. Once these criteria would be fulfilled, accession to the European Union would be possible. Economic and trade relations would be established between these states and the EU. Economic and financial aid would be further developed and aid would be provided for democratisation, civil society, education, the development of institutions, and the development of political dialogue. Co-operation would also be established in JHA.

More details on the current state of relations between these states and the EU will now be analyzed. In this section, the main motivations of each state for membership (or non-membership, as the case may be) will be discussed. Also, the challenges facing each state for membership will be set forth.

3.1. Non-Member States with close ties to the EU

(a) Norway

Norway has held two referendums, in 1972 and in 1994 about the issue of EC/EU membership. Both times the Norwegians rejected membership. Norway has had a complex relationship with the EU. After its first referendum in 1972, Norway remained a member of EFTA and concluded a bilateral free trade agreement with the EU. By 1990, almost 60% of Norwegian exports went to the EC, and only 22% to EFTA markets. The EEA Agreement came into force in 1994. It allowed Norway access to the internal market without the “burden” of membership (Michalski and Wallace, 1992:94).

Norway’s gas and oil revenues have enabled it to pursue an independent economic policy. However, Norwegian industry has become less diversified. The anti-EC membership lobby held that the country’s freedom of economic action would be curtailed by membership. Pro-EC groups on the other hand advocate the need to diversify Norwegian industry and to promote competition by gaining access to the EC’s internal market (Michalski and Wallace, 1992: 94).

Recent polls have indicated that there may be a shift towards EU Membership among the Norwegian public (Bevanger, 2003). A series of factors have contributed to this trend. These are discussed below:

The first factor is the effects of enlargement on Norway’s regional policy. The “Eastern” enlargement created certain challenges for Norway. Before the expansion of the EU, Norway had negotiated free trade agreements with a number of CEE states. At Norway’s request, fisheries had been excluded from the EEA agreement. However, after the CEECs became members of the EU, tariffs on Norwegian exports of certain species of fish such as salmon were imposed. Furthermore, upon membership new Member States which competed directly with Norway for fish products were exempted from paying

duties. Although trade with accession countries only accounts for 1% of Norway's GDP, it plays a significant role for Norway's coastal communities (Emerson, *et al* 2002: 40).

Norway is divided into districts on a geographical basis. It has a regional policy which is designed to give financial support to remote areas in order to attract industry and preserve the social infrastructure in the north. Norwegian agriculture depends on financial support from regional funds. These districts are also very influential in the political life of the country and have an administrative and political dimension. The groups which represent these districts provide a forum for regional interests and draw on popular support in order to protect their interests (Michalski and Wallace, 1992: 95).

Norway had requested that it be compensated for the tariffs imposed on its fish products following the accession of its trade partner nations, in accordance with WTO rules. In exchange for this compensation, the EU demands that Norway increase its contributions to the EU budget and allow for EU ownership of the Norwegian fishing fleet. The latter is especially unpopular amongst Norwegians (Emerson *et al*, 2002:20).

Under the terms of the EEA, Norway, through the Financial Instrument of the EEA, had to contribute 20-25 million Euro per year to assist in the development of the poorer regions of the EU. This made up approximately 0.013% of its GDP. The EU has demanded a greater contribution from the EEA states in order to cover the costs of the next enlargement. The EU has already indicated that Norway will have to continue contributing, even after the period foreseen in the Instrument has expired. The cost of enlargement to the EU budget has resulted in the EU requesting bigger contributions from the EEA countries (almost 20 times more). It would be difficult for Norway to request concessions in exchange for such an increase. Oil revenues had increased significantly and by 2001 it had a government surplus of 20% of GDP. The Government Petroleum Fund had reached the amount of 75 billion Euro by 2001 (the equivalent of almost 50% of GDP) (Emerson *et al*, 2002:41). Considering this financial contribution and Norway's domestic agricultural subsidies, which are paid to compensate for the limited access of processed agricultural goods to other markets under the terms of the

EEA Agreement, the total amount paid is equivalent to the net contribution it would make as a member of the EU (Emerson *et al*, 2002:114).

Norway has enjoyed low unemployment and labour shortages with the result that wage demands are significantly higher than among its main EU trading partners. High inflation (by 2007 it was 4% higher than the rate in the Eurozone) and the appreciation of the Krone against the Euro (20% above the value of the Euro upon its launch) has led to bankruptcies and lay-offs. This prompted a debate within Norway about the adoption of the Euro –even without membership (Euractiv: 2009).

Norway participates in Schengen and Dublin co-operation as well as Europol and Eurojust. It participates in EU joint actions such as the EU police mission in Bosnia. It has pledged personnel and equipment to the ESDP Rapid Reaction Force and the EU Nordic battle group (as long as it is under a UN mandate) (Rieker, 2006:307-308). Norway's participation in the EEA has meant that Norway has adopted EU Directives (and its EU obligations) almost immediately but has limited influence on decision-making procedures (Emerson *et al*, 2002:41).

Finally, concerns have been voiced about the isolation of Norway, particularly after membership of its neighbours Sweden and Finland. The membership bid by Iceland may also play a crucial role in changing public perceptions (Michalski and Wallace, 1992:99).

Despite the fact that polls conducted in July 2009 by two large Norwegian newspapers indicated that 49% of respondents supported EU membership, Norway's Socialist Left Party and the Agrarians stated that an application for EU membership would not be made for at least four years, pending their re-election. The third coalition partner, the Labour Party, did not comment on the issue (Solholm: 2009). Therefore, it appears that EU membership is not supported, for the foreseeable future, by the political elite. As indicated above, most political parties are split on the issue of membership. In order for the coalitions to survive, the contentious issue of EU membership is kept off the table. If public opinion continues to be in favour of membership (and especially if the percentage

of those in favour grows to a clear majority), Norwegian political parties will be forced to deal with this issue.

(b) Switzerland

Switzerland is closely integrated with the EU. The EU accounts for 60% of total Swiss exports and 80% of its imports and is Switzerland's main trading partner. Switzerland is the third most important trading partner of the EU generating trade volume worth 150 billion Euros per year. About 20% of Swiss residents are foreigners. A sizable proportion of these foreigners are from EU Member States and hundreds of thousands of EU citizens commute across the Swiss-EU border. Switzerland has also concluded a large number of bilateral agreements with the EU –in fact, more than with any other third country. It is also surrounded by EU Member States on all sides (Vahl and Grolimund, 2006:5-14).

Despite the high level of integration with the EU, Switzerland has opted out of full membership. Swiss voters voted against participation in the EEA in 1992. The Swiss have repeatedly been against further attempts at integration, and are fiercely proud of their independence and sovereignty.

Switzerland's main foreign policy goal in the post-war period was the preservation of neutrality. Switzerland was one of the founding members of the OEEC (later the OECD). The OEEC was established in 1948 to develop a joint European recovery programme and to supervise the distribution of aid. The Swiss Federal Council laid out the principles for Swiss accession to the OEEC. No sovereignty could be surrendered as this would potentially endanger Swiss neutrality. This position remained unchanged until the end of the Cold War. Swiss foreign policy was aimed at preserving autonomy in trade and economic policy. A distinction was made between technical or economic organisations on the one hand, or political and military organisations on the other. Membership in the latter was seen as incompatible with principle of neutrality.

The establishment of the ECSC and later the EEC was met with a mixture of scepticism and support by the Swiss. The technocratic nature of the EEC was not the issue but the end-point of European integration (“an ever-closer Union”). The government ruled out participating in the ECSC and EEC as the stated goal of creating a European political entity was incompatible with its goals of neutrality and independence.

Switzerland was, however, a firm supporter of the creation of a European free trade zone. It was a founding member of EFTA in 1960 and concluded an agreement with the ECSC in 1956 on transit of coal and steel through Switzerland. Through the following decades, a number of bilateral and sector-specific agreements were concluded. In 1972 an agreement which focused on trade in industrial goods was especially important. Although in 1973 two of its EFTA partners, Britain and Denmark joined the EEC, Swiss membership was not seriously contemplated.

In 1984 the “Luxembourg process” was launched between the EU and EFTA and would result in the EEA. The EEA Agreement enabled the EFTA states to avoid applying for membership. Switzerland preferred bilateral arrangements to multi-lateral co-operation efforts such as those suggested by the EEA. Nonetheless, Switzerland participated in the negotiations. The Federal Council insisted that in order for the negotiations to succeed, the principles of direct democracy and federalism would have to be guaranteed. In 1992 the “Eurolex” was passed whereby Swiss legislation had to be compatible with that of EU law.

Between 1989 and 1992, five of the six EFTA states applied for full membership to the EC. It appeared that the EEA was serving as a stepping stone towards full membership. A few weeks after Switzerland signed the EEA Agreement, it applied for EC membership in May 1992. Two main factors were responsible for this: Firstly, the end of the Cold War had made the principle of neutrality irrelevant. Indeed, in 1995 three neutral states became full members of the EU. Secondly, dissatisfaction arose out of its limited decision-making capabilities in the EEA.

The EEA Treaty was submitted to a referendum in December 1992. It was rejected by most cantons by a slim majority. The result was interpreted as a “no” vote for full membership, rather than the EEA Agreement. The EEA Agreement came 5 months after the application for membership. Two referendums were held, one in 1997 and another in 2001. Over 70% of voters in all cantons rejected resuming membership negotiations.

The Swiss government decided that sector-by-sector agreements between the EU and Switzerland was the best way forward in the short-term (whilst keeping the option of membership open for the future). In February 1993 Switzerland presented its proposals for bilateral sector-by-sector agreements. These sectors are:

- 1) Technical barriers to trade
- 2) Public procurement
- 3) Research
- 4) Road transport
- 5) Animal and plant protection legislation
- 6) Air traffic
- 7) Intellectual property (including labels of origins and geographical designations)
- 8) Processed agricultural goods
- 9) Statistics
- 10) Audio-visual sector
- 11) Education, trading and youth
- 12) Outward processing of textiles
- 13) Country of origin
- 14) Product liability
- 15) Customs fraud

In December 1994 negotiations between Switzerland and the EU were opened. They were concluded four years later and the Bilateral I (as the negotiated package was termed) was signed in Luxembourg on 21 June 1999. A referendum was held in May 2000 and all seven agreements of Bilateral I were approved by a 67.2% majority. The EU

ratification process was finalised in early 2002 and Bilateral I came into force on 1 June 2002.

By this time, a new round of negotiations on Bilateral II had been underway, even though Bilateral I had not come into force. Although the EU was initially reluctant to open new negotiations, concerns about Swiss custom violations relating to the smuggling of cigarettes and the development of an EU Tax Directive for which Member States demanded bilateral agreements with states (such as Switzerland) with favourable savings tax regimes, prompted the EU to the negotiating table.

Bilateral II consisted of 11 dossiers. Switzerland was particularly interested in participating in the Schengen and Dublin Agreements whilst the EU sought agreement on the taxation of savings and the fight against fraud. In line with the agreements with the EFTA countries, Switzerland agreed in 2003 to contribute to the social and cohesion funds of the enlarged EU. The negotiations progressed very slowly and were suspended for a few months.

Bilateral II was signed in October 2004. Most of the agreements are in the process of ratification. Three agreements (agricultural goods, savings tax and pensions) have already gone into force. An optional referendum held in Switzerland concerning the Schengen and Dublin Agreements was successful with 54.6% voting in favour.

The key issue at this point in EU-Swiss relations is the entry into force of all the agreements of Bilateral I and II. In the foreseeable future further bilateral sectoral agreements may be concluded. Finally, the question regarding the formal withdrawal of the Swiss application for full membership is still pending (Vahl and Grolimund, 2006:5-14).

3.2. Iceland as a Potential Candidate Country

Iceland is a member of NATO, EFTA, EEA and the Schengen Area, but it has traditionally been opposed to becoming a full EU member. The reasons for this are varied: Its dependence on fishery (and later its banking sector), its foreign policy orientation, its relations with Norway, its geographical isolation and its policy on whaling are all factors which have contributed to its reluctance to consider membership.

Iceland's economy is almost wholly dependent on the fishing industry. This has been one of the greatest stumbling blocks for EU membership, as Iceland fears that through membership they would have to cede fishing rights to other EU Member States (most notably Spain and Portugal). During negotiations for Iceland to join the EEA, Iceland (and Norway) refused to accept the EC's common fisheries policy (CFP). The CFP is based on the principle of linkage between access to resources and access to markets. A deal was made whereby only certain fishing products were granted access to EC markets and partly on a bilateral basis (Michalski and Wallace, 1992:91).

Its foreign policy after WWII was based on two premises: the transatlantic relationship and Nordic co-operation. Iceland has no army of its own and the US provides a security umbrella through strategic military bases on the island. Any suggestions regarding the lessening of NATO involvement in Europe have been met with alarm by Icelandic politicians. Iceland was a member of EFTA since 1970, but it had never been greatly integrated into the EFTA economic system. It pushed for over 20 years for free trade in fishery products.

Iceland's decision to join the EU also depended on Norway's decision to join (or not). If Norway was to join the EU, its fish products would gain preferential treatment and the EU would become virtually self-sufficient in terms of fish supplies. Another stumbling

block was that Norway and Iceland pursued whaling. Many Member States criticised both countries for hunting whales despite the International Whaling Commission's ban.

Iceland is also geographically isolated from the European mainland. As a small nation state, it guards its sovereignty and national identity (Michaski and Wallace, 1992:91-93).

The financial crisis has hit Iceland very severely. Its national currency, the Icelandic Krona, plummeted to almost half its value. The stock exchange was closed temporarily and in October 2008 the government was forced to take over three major banks. Inflation rose to 12%. This situation has led to series of protests by Icelanders. The financial crisis has forced Iceland to consider other options such as working with the IMF in the short-term, and seeking membership of the EU in the long-term. The Foreign Minister Ingibjorg Gisladottir stated that "our defence is co-operation with the IMF and ... EU membership, adoption of the euro and backup from the ECB"(Deutsche Welle, 2009).

In July 2009 the Icelandic parliament agreed to the government to bid for membership to the EU with a vote 33 in favour out of 63 parliamentarians (with 2 abstentions) (Henn, 2009). The response from EU officials was positive, with Oli Rehn, the EU's Enlargement Commissioner stating "Its strategic and economic positions would be an asset to the EU" ([Deutsche Welle](#), 2009). Iceland complies with most EU laws and has access to the EU's internal market through EFTA and the EEA. It also has a strong democratic tradition. Potential stumbling blocks in the accession negotiations are likely to be the other Member States' insistence on adhering to fishing quotas and the ban on whale hunting. Iceland has also sought a multi-billion loan from Russia. Whether this will have any effect on its NATO status or EU bid remains to be seen ([Deutsche Welle](#), 2009). The final decision on EU membership will be made by the Icelanders themselves through a referendum.

3.3. The Western Balkans

The EU had begun to engage in the region of the Western Balkans from 1996. Relations were established with Albania, Bosnia-Herzegovina, Croatia, the former Yugoslav Republic of Macedonia (FYROM), Montenegro and Serbia, including Kosovo (as defined by resolution 1244 of the UN Security Council).

The main objective of the regional policy was to support the Dayton/Paris and Erdut Peace Agreements and to create an area of stability and economic stability. Three main aims were identified:

- (a) Establishing and maintaining democracy and the rule of law
- (b) Reviving economic activity
- (c) Ensuring respect for minorities and human rights

The European Union launched the “Stabilization and Association Process” at the Zagreb summit of 2000 (European Commission: 2000).

Six main objectives were identified:

- (a) The drafting of the stabilization and association agreements. Each country would need to meet the Copenhagen Criteria. Once the criteria had been fulfilled, accession to the EU would be possible
- (b) The development of economic and trade relations *with* the EU and *between* the Balkan States
- (c) The development of existing economic and financial aid
- (d) Aid for democratization, civil society, education and development of institutions
- (e) Co-operation in JHA
- (f) Development of political dialogue (Commission of the European Communities, 1999:6)

In 2003 the Commission published a Communication (Commission of the European Communities, 2003a:3) in which it reiterated its commitment to the integration of the

Western Balkans into the EU. The experiences and know-how of the Central and Eastern European states gained through their accession processes would also be utilized.

Five measures were implemented to strengthen the Stabilization and Association Process:

- *Integration Partnerships* were introduced for the countries of the Western Balkans. A list of medium and long-term measures would be laid out and these would provide a checklist against which progress would be measured. Each country would prepare an Action Plan in order to implement the priorities laid out in the integration partnerships. The Commission would monitor progress regularly and publish Annual Reports based on the findings.
- *Institution-building* would be encouraged by the method of “twinning” whereby civil servants from the EU Member States would lend their expertise to the candidate countries. This method proved very effective for the Central and Eastern European countries during their accession process. The CARDS programme (see below for more details) organized twinning initiatives since 2002. Also the Commission encouraged the founding of an institute for higher education on public administration reform.
- *Co-operation on JHA* would be enhanced through dialogue which would be set up with countries of the region where issues such as EU visa and integration policy would be discussed. The countries would then be obligated to draw up plans of action to fight organized crime.
- *Economic development* – Measures whereby the countries abilities to take advantage of the preferential trade measures would be enhanced. The principles of the European Charter for Small Enterprises would have to be applied.
- *The CARDS programme* would continue to be the main financial instrument to support the SAA process and the budget would be increased. The Instrument for Pre-Accession Assistance (IPA) for the period 2007 - 2013 would replace the CARDS programme for 2000 – 2006.

The Thessaloniki Summit of 2003 launched a high-level multi-lateral forum, the EU-Western Balkan forum where the heads of government of the region meet with their EU counterparts. Annual meetings for the foreign ministers and ministers of JHA would also be held (European Commission: 2003).

The SAA Agreements resemble the “chapters” which are negotiated with the candidate countries. Each of these chapters has to comply with the EU *acquis* and must be fully implemented by the candidate country. The SAA Agreements have been described as a “warming-up exercise” whereby the contracted states move gradually towards compliance and “co-operate” in various domains (Emerson, 2008:2).

The SAA Agreements entered into by each of the Western Balkan states follow the same format and have the same wording. The ten Titles cover a wide range of issues. The Titles concerning trade (Title IV which sets out the terms of the free trade agreement, anti-dumping measures and safeguard clauses), the approximation of laws and competition rules with the *acquis* (Title VI which sets out obligatory compliance for competition rules, state aids, intellectual property rights and public contracts) are legally binding. The first three Titles (Title I on general principles concerning democratic principles, Title II on political dialogue and Title III on regional co-operation) are in the nature declarations of intent, without legally binding specifications. Title V which deals with economic freedoms (services, capital and labour), calls for the gradual liberalization of services. No freedom of movement guarantees are given for workers and capital controls are still in place. Titles VII until X (Title VII deals with JHA, Title VIII deals with co-operation policies, Title IX states that the EU will provide funding without specifying the amounts, Title X deals with the institutional structure of the Stabilization and Association Council) simply sketch the agenda which will have to take shape during the accession negotiations. The measures laid out in these Titles are of a co-operative nature, barring a few exceptions (such as re-admission of illegal immigrants in the JHA Title) (Emerson, 2008:2-3).

i. Candidate Countries

(a) Croatia

Croatia was part of the Socialist Federal Republic of Yugoslavia (SFRY). Amid rising tensions within Yugoslavia, Croatia declared independence on the 25th of June 1991. The Croatian Parliament confirmed its independence by abrogating all state-legal ties with the SFRY. This resulted in armed conflict and the displacement of ethnic groups, with parts of the country being occupied by Serb rebels and the Yugoslav People's Army. In January 1992 the EU recognized Croatia as a sovereign state and it became a member of the UN in May 1992. In 1995, two operations termed "Flash" and "Storm" enabled the Croatian forces to take control of all occupied territories. The Croatian Danube Region (Eastern Slavonia) however, remained under UN protection. In December 1995 Croatia signed the Dayton/Paris Peace Agreement whereby it recognized the international borders of Bosnia and Herzegovina and confirmed the right of all refugees to return to their homes. Eastern Slavonia was peacefully reintegrated into Croatia in 1998 by a process which had begun under the terms of the Erdut Agreement of November 1995 (Commission of the European Communities, 2004b:6).

Under the leadership of the HDZ Party (Croatian Democratic Union), Croatia was politically isolated. The HDZ made slow progress in returning ethnic Serbian refugees which had been expelled from Croatia in 1995. It also refused to co-operate with the International Criminal Tribunal for the Former Yugoslavia (ICTY) in the Hague. Thus, it was not permitted to join NATO's Partnership for Peace Programme, the WTO or the Central European Free Trade Agreement (CEFTA). It was also refused economic assistance from PHARE (Fisher, 2009:2).

In January 2000 Stjepan Mesic was elected as President of the Republic of Croatia. Zagreb even established a Ministry for European Integration (Fisher, 2009:1). Under his leadership, Croatia made rapid progress on certain important issues such as the respect of human rights, minority rights, compliance with the stipulations of the Dayton and Erdut

Agreements, democratisation of the media, co-operation with the International Criminal Tribunal for the Former Yugoslavia (ICTY) as well as improving relations with neighbouring countries (Commission of the European Communities, 2004b:30).

For Croatia, membership in the EU would be the natural result of its level of development and historical connection to Central Europe. Before the Yugoslav War, the Croatian population was highly westernized and was one of the wealthiest states in Central and Eastern Europe. The war and the ten-year rule of the HDZ Party (Croatian Democratic Union) damaged the Croatian economy to such an extent that it was estimated that its GDP would only reach 1990 levels at the end of 2004. Croatia now experiences high levels of unemployment and a low standard of living (Fisher, 2009:2).

From 2000, Croatia began to engage with the EU. In May 2000 the Commission adopted a “Feasibility Report” and proposed the opening of negotiations for a “Stabilisation and Association Agreement (SAA)” (For more information on the SAA, please see next section). The SAA was signed in October 2001 (Commission of the European Communities, 2004b:54).

The Croatian leadership (and Croatian public opinion) expressed certain reservations about the regional co-operation dimension of the SAA. The countries included in the SAA are: Albania, Bosnia-Herzegovina, Croatia, the Former Yugoslav Republic of Macedonia, Montenegro and Serbia, including Kosovo as defined by resolution 1244 of the UN Security Council. Croats see themselves as Central Europeans, rather than belonging to the unstable Balkans. Part of the logic behind the SAA is that these nations increase co-operation with each other. However, Croatia reluctantly accepted the terms of the SAA (Fisher, 2009:3).

The Croatian government submitted an official application for EU membership in February 2003. After the November 2003 parliamentary elections, the government changed but it reiterated its commitment to the EU (Commission of the European Communities, 2004b:6). In June 2004, Croatia was given the green light for membership

talks by the Council. In December 2004, the EU announced that it would open accession talks in Spring 2005 on the condition that it would co-operate fully with the war crimes tribunal. On March 2005, the EU announced that it would postpone the launch of accession talks stating that Croatian officials were not co-operating fully in the matter of apprehending Gen. Ante Gotovina, who was wanted by the UN War Crimes Tribunal. In 2005, Gotovina was arrested in Spain. Following the arrest of Gotovina, EU Enlargement Commissioner O. Rehn stated that “a very important obstacle in proceeding with the negotiations had been cleared away” (Moore: 2005:1).

In November 2007 the Commission released a progress report on Croatia (Commission of the European Communities, 2007a: 9-10). According to the Report major progress had been made. However the need for further efforts in areas such as cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY), reform of the judiciary and the transition to a market economy was identified. The return of ethnic Serbs to Croatia was also identified as an important priority. The Instrument for Pre-accession Assistance (IPA) provided aid to the value of 141 million Euro. The IPA assistance was aimed at institutions-building and preparation for the implementation of the CAP and cohesion policy. However, some weaknesses in the implementation of EU assistance were also identified.

In 2008 the Council adopted a revised accession partnership with Croatia. Ten key issues were identified (Council of the European Union: C/08/39):

- Proper implementation of all commitments made under the EU-Croatia SAA;
- The implementation and the updating of the strategy and action plan for judicial reform;
- Adoption and implementation of a strategic framework for public administration reform;
- Updating and accelerating implementation of the anti-corruption programme and related action plans and ensuring more co-ordinated and pro-active efforts to prevent, detect and effectively prosecute corruption;

- Implementing the Constitutional Law and National Minorities acts and tackling discrimination;
- Completing the return of refugees, settling cases for former occupancy, completing reconstruction and repossession of property and reopening of the possibility for convalidation claims;
- Reconciliation amongst citizens in the region;
- Enhancing efforts to find bilateral solutions for particular border issues with neighbouring countries and resolving the Ecological and Fisheries Protection Zone (ZERP) issues;
- Maintaining full co-operation with the International Criminal Tribunal for the Former Yugoslavia and ensuring integrity of domestic war crimes proceedings;
- Improving the business environment and economic growth potential.

In 2009 Croatia's membership bid was dealt another blow when the Czech Presidency announced that its accession talks remained blocked and no new chapters would be opened or closed because of the unresolved border dispute between Croatia and Slovenia. The dispute between these states dates from 1991 and concerns access to the northern Adriatic Sea. Slovenia wants to resolve the dispute with EU mediation but Croatia wants to refer the issue to the International Court of Justice. Enlargement Commissioner O. Rehn acted as mediator in the dispute but announced that a solution would have to be found by the states themselves. He announced that if the dispute could be settled, Croatia would enter the final phase of negotiations (Leviev-Sawyer: 2009).

(b) The Former Yugoslav Republic of Macedonia (FYROM)

The Former Yugoslav Republic of Macedonia (FYROM) did not participate in the Yugoslav wars of the early 1990s. However, the Kosovo War in 1999 seriously destabilized the country when ethnic Albanians sought refuge in FYROM. Although most of these refugees returned to their own country, Albanians in FYROM took up arms against the army under the auspices of the National Liberation Army (NLA). The NLA

launched a guerilla campaign and attacked army officials, police stations and planted mines. Eventually they even captured some villages. FYROM's army launched a campaign using tanks, artillery and combat aircraft. The conflict resulted in a loss of life and it devastated the country's infrastructure. It was reported that atrocities had been committed by both sides (Bouwknegt, 2008).

The Stabilization and Association Agreement (SAA) was signed in April 2001. FYROM was granted candidate status in 2005 after its application in March 2004. In the Commissions Progress Report published in 2006 (Commission of the European Communities, 2006b:6), it was noted that although FYROM had made progress in the implementation of the SAA, it did not fulfill all of its obligations, particularly in the sectors of telecom liberalization and the protection of intellectual property. In January 2006 the revised European Partnership was adopted and the government presented an action plan for its implementation in February 2006 as well as a National Programme for the Adoption of the *acquis*. FYROM maintained full co-operation with the International Criminal Tribunal for the former Yugoslavia (ICTY) (Commission of the European Communities, 2006b:17).

In 2008 the ICTY sentenced Johan Tarculovski to 12 years imprisonment for crimes committed against ethnic Albanians in the village of Ljuboten. The former Interior Minister Ljube Boskoski was acquitted of all charges. The attacks had been undertaken by the Interior Ministry's regular and reserve troops (Bouwknegt, 2008).

It was noted in the 2008 Progress Report that progress had been made by FYROM in a number of areas such as visa issues, illegal immigration and the fight against human trafficking. It is also taking positive steps in becoming a full functioning market economy. Concerns were raised concerning the treatment of the Roma minority as well as the resurgence of "hate speech" (European Parliament, 2009).

The European Parliament recommended that accession talks be opened. However, it would first have to develop friendly relations with its neighbours and settle the dispute

over the use of the name “Macedonia” with Greece. (Euractiv, 2009). Greece has objected to the use of the name “Macedonia” (which is the name of a province in Greece) by FYROM. A series of UN-mediated efforts have been made to try to solve the dispute, but very little progress has been made (Tziampiris, 2007).

ii. Potential Candidate Countries

(a) Albania

Albania officially applied for membership to the EU in April 2009. Albania, a former communist state with a population of 3 million, is amongst the poorest nations in Europe. A Report by the Commission published in November 2008 noted that corruption and organized crime was a very serious problem in Albania. It also has high levels of money laundering and drug trafficking (Vucheveva, 2009:2).

In July 2009 parliamentary elections were held in Albania. The elections were held as a crucial test of democracy as a precursor for EU membership (The Telegraph: 2009).

Albania’s path towards EU membership will be a long one. The Commission will make an assessment of Albania’s progress. The Member States will then have to decide by unanimity on whether to grant it EU-candidate status. If such status will be granted, accession negotiations will begin chapter by chapter (Euobserver, 2009). Germany and the Netherlands demanded the vetting of future candidates will have to be much stricter following concerns about the state of readiness of Bulgaria and Romania (Waterfield, 2009).

(b) Bosnia-Herzegovina

Bosnia and Herzegovina signed the SAA Agreement in June 2008. Following the end of the 1992-95 war, Bosnia and Herzegovina embarked on a series of economic reforms in key sectors. Economic growth was underpinned by sound macroeconomic policies.

Expanded public consumption and investment led to wage increases of around 44% in the period 2000-2007 (Cuc, 2008:1).

Despite the progress made in the economic sector, ethnic tensions in Bosnia and Herzegovina between the three ethnic groups of Croats, Muslims and Serbs have resurfaced. In a meeting held in Brussels in November 2008 between the EU, Russia and the US, which have supervised Bosnia and Herzegovina under the terms of the Dayton Agreement, it was decided that the transfer of control from the High Representative to EU authorities could not take place (The Financial Times, 2008).

(c) Montenegro

Montenegro, a former Yugoslav republic, had entered into a loose federation with Serbia in 2003. Montenegro held a referendum and declared independence by a narrow margin despite the fact the EU opposed Montenegrin secession from Serbia at the time. Unlike Serbia, Montenegro is not targeted by the International Criminal Tribunal for the former Yugoslavia. However, the country's administrative capacity is widely considered to be inferior to that of Belgrade. In its latest report, the Commission rated the efficiency of Montenegro's judiciary as "low" and identified corruption as "a widespread and particularly serious problem". Pro-independence politicians repeatedly argued that Montenegro would have a better chance of becoming a member of the EU as an independent country. In the autumn of 2007, Montenegro signed a Stabilization and Association Agreement (SAA) with the EU, which is seen as a stepping stone on the way to membership of the bloc. Montenegro presented its official application for EU membership in December 2008 (BBC, 2008).

(d) Serbia

Serbia is also a former Yugoslav republic. In October 2005 negotiations for the Stabilization and Association Agreement were launched. However, these were suspended due to a lack of progress on Serbia's co-operation with the ICTY. In July 2007 Radovan

Karadzic's was arrested. Brussels declared that Serbia was co-operating with the war crimes court in the Hague and this opened the way for Serbia's EU membership. By April 2008 the Stabilization and Association Agreement was signed. In July 2009 the EU proposed to grant Serbia visa liberalization. However, Serbia's path towards EU membership was derailed after an internal power-struggle between newly-elected (and pro-EU) President Boris Tadic and (conservative) Prime Minister Vojislav Kostunica. One of the factors which contributed to the situation was the declaration of independence of ethnic Albanians in the southern Serbian province of Kosovo. Kosovo makes up 15% of Serbia's territory. Kostunica announced in 2009 that "Kosovo was more important to Serbia than the EU" (BBC, 2009).

(e) Kosovo (as defined by United Nations Security Council Resolution 1244 (UNSCR 1244))

Two months after unilaterally seceding from Serbia in 2008, Kosovo made it clear that it intended to join the EU by 2015. This could create a number of problems for the EU, especially as a number of EU Member States (Cyprus, Greece, Spain and Slovakia) are reluctant to recognize Kosovo's independence. At the June 2008 European Council, the EU reiterated that Kosovo (as defined by United Nations Security Council Resolution 1244 (UNSCR 1244)) had a clear European perspective. The EU has played a leading role in ensuring the stability of Kosovo. It deployed a European Security and Defense Policy (ESDP) mission in the rule of law area, and it also appointed a Special Representative. The European Commission provides recommendations on how to approach and achieve the targets that the Council has set out in the European Partnership for Kosovo.

On 11 July 2008, the Commission hosted a Donors' Conference for Kosovo in Brussels. At the Conference, the Commission called upon donors (EU Member States, non-EU donors, and international financial institutions) to contribute to Kosovo's socio-economic development and help bridge a funding gap of some €1.4 billion years for the period 2009-2011. The amounts pledged exceeded €1.2 billion, with a total EU contribution (Commission + EU Member States) of almost €800 million.

The EU is the main trading partner of Kosovo and also with reference to foreign direct investments, which in 2007 represented 10.0% of GDP. The EU27 accounted for more than half of total economic inflows (European Commission, 2009).

3.4. Turkey

Turkey and the EEC/EU have had a history of long engagement. Turkey applied for associate membership of the European Economic Community in September 1959. In 1963 the Ankara Association Agreement was signed between Turkey and the EEC in order to bring Turkey into a customs union. This was supplemented in 1970 by the Additional Protocol. The agreement for creating a customs union was only finalized in 1995. In 1987 Turkey made a bid for full EEC membership. Its status as an EU candidate country would only be recognized at the 1999 Helsinki Council. By December 2006 the Council decided that due to Turkey's failure to apply to Cyprus the Additional Protocol to the Ankara Agreement, no chapter would be provisionally closed and eight chapters covering various areas (e.g Fisheries, Transport Policy, Free Movement of Goods and others) would not be opened until it fulfilled its commitments Turkey refuses to recognize the Republic of Cyprus and will not open its ports and airports to Greek Cyprus (Euractiv, 2009)

This illustrates the often fraught relationship between Turkey and the EU. Even though four decades of relations between these two entities has existed, the perception of most Europeans is that Turkey is an outsider to Europe and that relations had to be established for policy reasons. Eurobarometer polls have clearly indicated that the majority of Europeans are not in favour of Turkey's membership (Kramer, 2006:24).

Even though Turkey is a NATO member it is geographically situated in Asia. In terms of its culture and religion (the majority of Turks are Muslim) it has more in common with the Arab world than Europe. Many Europeans fear the "Islamisation" of Europe should such a large and populous nation of 80 million citizens become an EU member (Soler i Lecha. 2006:115).

The main arguments for Turkey's membership can be summarized as follows:

- Turkey's membership would have significant geo-strategic importance. The accession process would lead to political stability, the full establishment of democracy and the promotion of economic prosperity in Turkey;
- Turkey's "success story" would then act to promote Western-style democracy and economic prosperity to the wider Middle-East;
- Turkey's inclusion in the EU's foreign and security policy would help to stabilize a very volatile area;
- Turkey, with the assistance of the EU, could be promoted to a regional energy hub and would supply Europe with crucial natural gas and oil supplies;
- The membership of a Muslim country would signal the end of the EU as an exclusive "Christian club". The prospect that any state which fulfills the criteria for membership can join would encourage the "modernizers" in other Muslim states;
- Turkey's membership could promote the development of "Euro-Islam". Turkish Muslims are generally accepted not to subscribe to the more radical forms of the Islamic religion. This could also stem the tide of conversions to more radical versions of Islam which have occurred in certain European states.
- Turkey, as an emerging market economy, could greatly contribute to the EU's economic growth;
- Turkey's membership (with its large youthful population) would help solve many problems associated with the demographic decline in the EU.

The arguments against Turkey's membership can be summarized as follows:

- Turkey does not belong to Europe geographically. Therefore it cannot be considered as a candidate country as it is not a European country;
- Turkey does not share a common Western heritage. It differs in terms of its political and cultural-ideological history;
- Turkey's differing political culture would lead to constant problems in the EU decision-making process and in the implementation of EU decisions;

- Because of Turkey's large population and geographical size (it would be the largest and most populous Member State), its national interests would dominate the EU's agenda. It would also have great influence over EU institutions and decision-making procedures;
- Turkish accession would open the door to other non-European countries (notably Morocco and Israel). This unlimited enlargement would overwhelm the EU's policy-making capacity and the EU would be converted to a simple free trade area;
- Turkey's low level of development would require the transfer of vast amounts of the EU's structural funds and agricultural support. The vast amounts required would overwhelm the EU's financial system;
- Germany in particular fears another wave of mass migration created by the difference in economic development;
- Turkey has been very slow in implementing many reforms required in order for it to fulfill the Copenhagen Criteria. Reports by the Commission and the European Parliament constantly cite human rights infractions, the treatment of minorities, the Kurdish question, Turkey's reluctance to acknowledge its past (the Armenian Genocide question), the treatment of women and its relations with its neighbours (for example Greece and Cyprus). Another important issue is the role of the military in political life (the military often interferes in the political process as they act as "watchdogs" of the secular Kemalist ideology). (Kramer, 2006:28-30)

The "for" and "against" arguments clearly illustrate the fact that the EU Member States are deeply divided about Turkey's candidacy. They can be briefly divided as follows:

| <i>States in favour of Turkey's membership</i> | |
|--|--|
| <i>UK</i> | Strategic reasons/dilution of integration drive |
| <i>Spain, Portugal, Italy</i> | Strengthening of "Mediterranean Grouping" instead of Central European bias |

| | |
|---|--|
| <i>Ireland, Finland, Sweden</i> | Geo-strategic reasons/fulfillment of commitments to enhance EU's credibility |
| <i>Belgium, Slovakia, Slovenia, Hungary</i> | Best way of ensuring "Europeanization" of Turkey/fulfillment of EU's credibility |
| <i>Poland, Estonia, Latvia, Lithuania</i> | Open to the possibility of Turkey's accession, however support the candidacy of the Ukraine before that of Turkey |
| <i>States against Turkey's membership</i> | |
| <i>Czech Republic</i> | In favour of a "privileged partnership" with Turkey |
| <i>Austria, France, Netherlands, Luxembourg, Denmark, Germany</i> | Opposed to membership of Turkey. Integration would be jeopardized by Turkish Accession. Germany prefers a "special relationship" |
| <i>"Special cases"</i> | |
| Greece and the Republic of Cyprus | Support Turkey's membership only if latter solves serious outstanding conflicts with both states. Greece's new premier, G. Papandreou has hardened stance against Turkey |
| (Adapted from (Kramer, 2006:25-28)) | |

3.4. Northern Cyprus (Turkish Cypriot Community)

The Republic of Cyprus (or Greek Cyprus) joined the EU on the 1st of May 2004 as a divided island. The Northern part of Cyprus (the Turkish Cypriot community) is also in the EU but the government of Cyprus does not exercise effective control over the area. EU legislation in this area was suspended under the terms of the Protocol 10 of the Accession Treaty of 2003. Turkish Cypriots have all the same rights as EU citizens. Once

a settlement has been reached between the two sides, EU law will apply to the entire area (European Commission, 2009b).

The division of the island was the result of the Turkish invasion and subsequent occupation of the northern part of the island following a Greek-supported coup attempt. Northern Cyprus is self-governing and still occupied by the Turkish army, but is not recognized internationally.

The island has been divided by the “Green Line”. The Council approved the Green Line Regulation (Council Regulation No 866/2004) on the 29th of April 2004 which deals with the movement persons and goods across the Green Line.

The EU has stated that it supports “renewed negotiations between the leaders of the two communities...under the auspices of the UN, to reach a comprehensive settlement leading the re-unification of the island” (European Commission, 2009b).

In 2006 the EU approved an aid regulation for the benefit of the Turkish Cypriot community. The aim was to end the isolation of the community and to lay the groundwork for the eventual re-unification of the island. Over a period of five years, a sum of 259 million Euros would be given. The aims of the Aid Regulation package are as follows:

- Social and economic development;
- Reconciliation, confidence-building measures, support for civil society;
- Building contacts between Turkish-Cypriots and EU citizens, providing information on the EU;
- Development of infrastructure (energy, transport, environment, water supply and communications);
- Implementation of the *acquis communautaire* (once a settlement has been reached)

Conclusion

The Western European states of Iceland, Norway and Switzerland (although Norway and Switzerland have not currently sought candidate status they have close ties with the EU) are ideal candidates in many ways: They have well-developed economies (notwithstanding the economic crisis currently experienced in Iceland) with sound infrastructure and long democratic traditions. They are net contributors to the EU budget. By contrast, the Western Balkan states are characterized by very different conditions. Bosnia and Herzegovina, Montenegro, Serbia (and Croatia to a lesser extent) and especially Albania and Kosovo will all require significant funding to help prove their economies, build democratic institutions and help stem the violence, corruption and crime which is so prevalent in these societies. Croatia's reform process has proven results, and under the French Presidency, it was announced that it could look forward to membership by 2012 (on condition that its dispute with Slovenia has been solved and that the Lisbon Treaty is ratified). It is a possibility that Iceland and Croatia will become members at the same time, as enlargements usually take place in blocs.

The challenges facing the Western Balkans mean that membership is a much more far-off prospect. However, the reform process cannot be abandoned as the inherent instability in this region caused by ethnic tensions, crime and corruption could create serious problems for the EU Member States. It is clear though that following the experiences of the EU with Romania and Bulgaria, once the accession process has begun, very strict vetting procedures and controls will be put into place, to ensure that the EU project will not be placed in danger.

Turkey's candidacy will be a "hot potato" issue for many years to come. Although some progress has been made in terms of reforms, Turkey lags behind in many crucial areas. It refuses to implement the stipulations of its agreements by refusing to open its ports to the Republic of Cyprus. This puts into question its readiness (or even willingness) to fulfill its obligations. Public opinion in Europe is strongly opposed to Turkish membership and this fact cannot be ignored by European governments. Turkish membership is seen as a long-term process which could last for more than a decade. This means that there may be

a gradual shift in public perceptions. As things stand at the moment, Turkey's membership would overwhelm the EU's financial and decision-making capacity. It is not inconceivable that its candidacy will be put into the back-burner as other more "European" states (such as the Ukraine) may be preferred.

Very little progress has been made regarding the situation in Northern Cyprus. Both newly elected leaders (Mehmet Ali Talat by the Turkish Cypriots and Dimitrios Christofias by the Greek Cypriots) have expressed their intentions of negotiating a solution. The relationship between Turkey and the EU is likely to further complicate the situation. The EU has adopted a gradual approach to solving the problem, but the solution is unlikely to be forthcoming in the near future.

Enlargement and Institutional Reform in the EU

Introduction

The linkage of enlargement to treaty reform is not a new concept. The Commission has traditionally urged reform after each successive enlargement, but this fact was largely resisted by the heads of government as they felt that national prerogatives would be lost. However, the proposed “eastern” enlargement meant that a system which had been designed for six Member States would be unable to deal with twenty-five or more members. Thus, this fact necessitated the need for reform. A very limited agenda was introduced which was very much within intergovernmental logic. Three main areas were identified for reform: The weighting of votes in the Council of Ministers; the introduction of majority vote for more issues; and the number of commissioners that each state could vote for. The Amsterdam Treaty emerged from the ICG of 1996 but it failed to address most of the issues that had been raised. It focused instead on Justice and Home Affairs. The Treaty of Nice introduced in 2000 was an attempt to move forward with the enlargement agenda. It fulfilled the legal requirements by meeting the minimum reforms required for enlargement to proceed. It was decided that more far-reaching reforms would be negotiated at a later date. The 2007 enlargement of Bulgaria and Romania meant that the maximum number of states foreseen by the Treaty of Nice had joined (27) and no more enlargements could take place without further reforms. Negotiations for the Constitutional Treaty began. The Constitutional Treaty evolved into the Reform Treaty until its present form, the Treaty of Lisbon. In the sections which follow, the contents of each of these Treaties will be analyzed as well as the current status of the Lisbon Treaty.

4.1. Overview of institutional reform in the European Union

Since the establishment of the common market in 1957, a relative few number of reforms concerning European Community/Union institutions have occurred. One of the first important reforms was the establishment of a single institutional structure for the three Communities in July 1967. A single institutional structure was provided the European

Coal and Steel Community, the European Economic Community and the European Atomic Energy Community. The Single European Act of 1987 introduced the co-operation procedure, the greater use of Qualified Majority Voting (QMV) and the reduction of unanimous voting in the Council of Ministers. This was a significant development for the completion of the single market, as it enabled the adoption of 280 measures to this effect. Had national vetoes had been applied, the process either would not have been completed, or it would have been greatly delayed. Furthermore, attempts have been made to address the “democratic deficit”, particularly in increasing the role of the European Parliament (EP). In 1979 direct elections were introduced and the powers of the EP in legislative decision-making procedures have steadily increased by reforms introduced in 1987, 1993 and by the Treaty of Amsterdam. The IGC which led to the Treaty of Maastricht in 1993 introduced the co-decision procedure which gave the EP the right to veto under certain circumstances. At the 1996-97 ICG, the co-operation procedure would be replaced with a simplified co-decision procedure.

By the end of the 1990s and the prospect of immediate enlargement a very real possibility, a consensus grew that institutional reform would be necessary. The institutional structures of the Union had, in the past, only been superficially adapted to accommodate previous enlargements. In essence, the Union operated in the same way as it had when it consisted of six members. The fundamental issue concerning the institutional structure of the EU was whether it should be adopted to accommodate a larger and more diverse membership, and if so, how could this be achieved? A number of diverse views emerged relating to this question. Some were in favour of a looser, less integrated structure where Member States would play a greater role individually and the principle of subsidiarity would be strictly applied. Others advocated a more integrated, federal Union with clearly defined areas of competency for the EU and Member States. Another view supported the idea of “variable geometry” with a multi-tiered system and greater flexibility. Certain elements of these ideas have been incorporated. For example, the Treaty of the European Union introduced the three-pillar structure which combined both intergovernmental and supra-national (Community) elements. The Treaty of

Amsterdam introduced the idea of “flexibility” whereby some Member States would pursue closer integration on some issues, should other states not wish to do so.

(a) The Treaty of Amsterdam

The Intergovernmental Conference (ICG) of 1996, which was launched at the Turin European Council, was an early attempt to prepare for future enlargement. However, the resulting Treaty of Amsterdam did not resolve many of the issues raised. The Treaty of Amsterdam however, did make specific provisions concerning the 2000 ICG in its *Protocol* regarding institutions in the context of enlargement. It specifically mentioned that at least one year before the membership of the Union exceeded twenty members, a conference of representatives of the governments of the respective Member States would take place with the aim of reviewing the provisions of the Treaties on the composition and functioning of EU institutions. Belgium, France and Italy issued a Declaration whereby they stated that the conclusion of the first accession negotiations would be conditional on the strengthening of the institutions.

Various European Councils also concluded that an ICG had to be convened to deal with institutional matters. Notably, the Cologne European Council of June 1999 confirmed that an ICG needed to be convened to deal with the institutional issues that had been left unresolved in Amsterdam, but had to be dealt with before enlargement. The Helsinki European Council of December 1999 extended the mandate to include: the size and composition of the Commission; the weighting of the votes in the Council and the extension of Qualified Majority Voting (QMV). The Feira European Council of June 2000 added the issue of enhanced co-operation. The Commission requested that a group of experts prepare a report on the impact of enlargement on the institutions of the EU. This report was presented on October 1999 and was followed by the Commission’s opinion titled: “Adapting the institutions to make enlargement a success”. The ICG was convened on 14 February 2000.

(c) The Treaty of Nice

The ICG of 2000, which resulted in the Treaty of Nice, attempted to address many of the issues not resolved by the Treaty of Amsterdam, and opened the way for the institutional reform needed for enlargement. It had a very clear mandate to revise the Treaties in four crucial areas: (i) the size and composition of the Commission; (ii) the extension of QMV; (iii) the weighting of the votes in the Council; (iv) enhanced co-operation.

(i) The European Commission

The European Commission drafts laws and regulations for approval by the Council and European Parliament. The European Commissioners are appointed by Member States' governments, in consultation with the Commission president. Each holds various portfolios in accordance with area of competence of the directorate to which (s)he has been appointed (Mitchell, 2005).

A number of potential problems were identified concerning the European Commission following enlargement. In an enlarged Union (and enlarged Commission) it would be difficult to create meaningful portfolios for all the Commissioners. Even if portfolios were created for each Commissioner, some would be more significant than others, which would create a hierarchy of Commissioners. By increasing the number of Commissioners, and subsequently the number of portfolios, new Directorate-Generals would be created which would further complicate the Commission's activities. Other concerns were expressed about the recruitment of staff from the acceding countries which would be unfamiliar with the inner workings of the EU and would have different administrative practices and traditions. Another concern was the proliferation of official languages and the subsequent problems and workload which that would create (these two problems are of course relevant for other institutions as well) (Miller, 1999:12).

According to Article 213 of the EC Treaty, the composition of the European Commission consists of at least one national from each Member State, but not more than two from each Member State. In the Union of 15 members, the Commission consisted of 20

members. Ten Member States had one national each and five Member States had two nationals each.

The Treaty of Amsterdam *Protocol* provided a temporary solution concerning the size of the Commission in an enlarged Union. It allowed the appointment of only one Commissioner per Member State (initially, some of the larger Member States had two Commissioners), with a maximum of 21 Commissioners (Miller, 1999:1).

The Treaty of Nice amended this arrangement in two phases):

In the first phase, the revised procedure introduced by the Treaty of Nice results, for the period 2004-2009, in the appointment of 25 Commissioners (one from each Member State, with Italy, Spain, the United Kingdom, France and Germany each losing their second Commissioner). The President is nominated by qualified majority by the European Council. The Council also draws up a list of nominees for Commissioners, by a qualified majority. The nominee for the Commission President and the list of commissioners are approved by the European Parliament before being formally appointed by the Council, through a qualified majority (Yataganas, 2001:21).

In the second phase, the *Protocol on the Enlargement of the European Union* states that once the EU consists of more than 27 members, the number of Commissioners will be less than the number of Member States, but only if agreement can be reached on an equitable system of rotation (Phinnemore, 2004:120). The exact number of Commissioners would be determined by the Council acting unanimously. The criteria for the rotation would be based on two principles: Firstly, all Member States would be treated equally with regards to the sequence and serving time of their nationals at the Commission; Secondly, the college had to represent the demographic and geographical range of all of the Member States of the Union. Under no circumstances could two nationals from one Member State be members of the Commission.

At the European Convention, a rotation system of 15 Commissioners with full voting rights was suggested, with additional non-voting Commissioners being appointed from other Member States. This was opposed by the smaller states. In an attempt at compromise, it was proposed that a national from each Member State be appointed as Commissioner. The Commission would be structured in groups of at least seven, covering its main areas of competence (Phinnemore, 2004:120).

The need for a strong Commission has been acknowledged, particularly by the smaller Member States. As the Commission has the sole right of initiative in drafting legislation it is seen by the smaller states as the only source of protection against domination by the larger states or *ad hoc* groupings of states pursuing the same interests. However, the stronger Commission must be balanced by more openness and efficiency (Miller, 1999:14).

(ii) *The Council of Ministers*

The Council of Ministers is the main legislative and decision-making body of the EU. It is composed of representatives of the Member States (Mitchell, 2005). It is the major decision-making branch of the EU. Once the Commission has proposed a new law or policy, it is discussed and amended by the Council of Ministers and the European Parliament. The proposal then is sent to the Committee of Permanent Representatives (COREPER) which looks to clear any problems and explores the political implications of the proposal. COREPER acts as a link between Brussels and the Member States, conveys views of national governments and keeps capitals in touch with developments in Brussels. It also makes decisions, prepares Council agendas, oversees committees and working parties, decides which proposals go through to the Council and which of these proposals will be accepted or left for debate by ministers (McCormick, 2005:90). The proposal is then sent to the Council of Ministers for a final decision. It is preferred that a decision be reached by consensus, thus avoiding a formal vote. If an issue must be voted on, there are three options available to ministers:

- *Unanimity* gives Member States the power to veto decisions. It was used in new policy areas or when existing policy frameworks were

amended. Its use has been restricted to certain policy areas such as foreign and security policy, asylum, immigration, economic policy and taxation. The Treaty of Amsterdam introduced a “constructive abstention” whereby a Member State would not be obliged to apply a particular decision, but would acknowledge that the EU was committed.

- *A simple majority* is used mainly if the Council is dealing with procedural issues or working under treaty articles. The use of a simple majority has declined following the broader use of qualified majority voting (QMV) following the provisions of the SEA and Maastricht.
- *Qualified Majority Voting (QMV)* is used when ministers have been unable to reach a consensus. Each minister is given a number of votes based on the proportion of the population of his Member State, instead of one vote. Following successive enlargements, the determination of a formula for the weighting of votes and QMV are two of the most contentious issues for the Member States.

(ii.a) The weighting of the votes in the Council of Ministers

The issue of relative voting weights between Member States has been a subject of debate since German unification in 1991 and since the enlargement of 1995 which included Austria, Sweden and Finland. The weighting system in place for a six-member European Community was being thrown off balance by the introduction of the three “small” members states (Wallace, 2001:14). The issue resurfaced in 1994 and resulted in the “Ioannina compromise”. Out of the total of 87 votes (based on a Union of 27 members) at least 62 votes must be in favour for the adoption of the act. The five largest countries (Germany, France, Spain, Italy and the United Kingdom) only have 48 votes in total, thus they cannot impose their will upon the smaller states, and vice versa. In order to get a qualified majority, a combination of large, medium and small states is needed, thus ensuring balance. The larger states have made some attempts to change this, as they

believe that they are under-represented and that the blocking minority was too high. With 12 Member States the blocking majority was 23. With the addition of Austria, Sweden and Finland the blocking minority was 26 (out of a total amount of votes of 87, the majority vote required is 62). Under the compromise, majority decisions had to consist of 65 votes, when Member States representing 23 to 25 votes opposed the measure (Mathijsen, 2004:76).

These changes, along with the adoption of the Declaration on “*The Protocol on the institutions with the prospect of enlargement of the European Union*” at the Amsterdam Intergovernmental Conference, which extended the “Ioannina compromise” until the entry into force of the enlargement (Mathijsen, 2004:76), have been criticized: Firstly, as many Member States as possible had to be engaged in any given decision, for the stability of the decision-making process to be ensured. Under the QMV, some states, (regardless of size) could be outvoted. In practice therefore, decision-making procedures in the EU were mostly consensual. The issue is thus whether or not efficient consensus-building can be maintained in the enlarged EU (Wallace, 2005:15).

The system of the weighting of the votes using the “Ioannina compromise” came to an end following the re-weighting of votes in the Council of Ministers by the Treaty of Nice. With the prospect of enlargement looming, it was essential that a formula for the weighting of the votes be sought for two main reasons: Firstly, the *Protocol* on the institutions with regard to the enlargement of the European Union which had been annexed to the Treaties by the Treaty of Amsterdam linked the question of the weighting of votes to the size of the Commission. It provided that those states which had lost their second member in the European Commission would gain votes in the Council in exchange, either by the re-weighting of votes or by dual majority. There was a danger that trading members for votes confused the role of the Commission, whose members should be independent and represent the general interest of the Community (Mathijsen, 2004:77). Secondly, the balance between the Member States for decision-making in the Council would be affected under the old system as many new Member States had smaller

populations. At the ICG many different solutions were sought such as linking the weighting to the size of the population or a double majority system.

(ii. b) Qualified Majority Voting (QMV)

As the aim of the Treaty of Nice was to prepare the European institutions for enlargement, certain provisions were adaptable due to the fact that it was not clear when and which candidate countries would become Member States. The Treaty of Nice contained two provisions to this effect: The first was Article 3 of the *Protocol* on the enlargement of the EU whereby a new definition of QMV was introduced with new weighting for the 15 member Union, which would come into effect in 2005; the second consisted of two Declarations annexed by the IGC to the Treaty of Nice whereby the common positions of the Member States on the question of the weighting of votes was set out. Accordingly, a decision was adopted by the Council if it received a favourable vote of the majority of the members of the Council. A total of 237 votes was allocated to the 15 Member States. The Qualified Majority Threshold was set at 169 votes. As the accession would take place before 1 January 2005, the date set by the Nice Treaty for the application of the new weighting system, this provision was replaced by the Accession Treaty which would be applicable from the 1st of November 2004 (with a transitional period between May and October 2004). The provision of the Accession Treaty on the weighting of votes was based on the Nice Treaty and provided for 25 Member States.

Since 1 November 2004, decisions in the Council are adopted if:

- The majority of Member States agree to the proposal;
- Each Member State has a certain voting weight and the proposal receives a “qualified majority” of weighted votes (232 votes out of 321 votes) (see below for more details);
- The proposal is supported by Member States representing 62% of the population of the EU (Kirsch, 2004:1);
- When a decision is made by qualified majority, a member of the Council may request that a check be made that the decision is supported by at least 62% of the population of the Union

(“demographic clause”). Should this not be the case, the decision will not be adopted. In this way, decisions taken will be truly representative.

Under these new rules, larger Member States nearly treble their number of votes and their voting strength increases. Spain and Portugal gained almost as many votes (27) as Germany (29) despite having almost half the population of Germany. The largest member-states (France, Germany, Italy Spain, Poland and the UK) control the majority of the votes in the Council (Phinnemore, 2004:121). For a qualified majority, 232 votes are required out of the 321 (usually for a decision to be adopted).

Using the Banzhaf indices, a mathematical model of voting analysis, it is concluded that the system is mostly equitable, although the smaller states, it can be argued, fared the worst in the distribution of weights (Plechanovova, 2003:4). Plechanovova (2003:13) concludes that making Council voting more democratic means giving more voting power to larger Member States, at the expense of medium-sized and smaller states. Other analysts site that Germany and Romania are under-represented, and Spain and Poland are over-represented. More importantly, the majority quota required is too high and may result in the Council of Ministers not being an effective decision-making body.

(ii. c) Voting procedures under the Constitutional Treaty

Under the proposed Constitutional Treaty, QMV will be the most frequently employed method. When the method of voting by unanimity or simple majority is employed, it must be specified. From 1 November 2009, QMV will be based on a “double majority” rule when the European Council or the Council of Ministers must decide on proposals of the Commission or the EU Minister in Foreign Affairs. The votes will no longer be weighed. The majority will now be obtained if at least 15 Member States (55 %) are in support of the decision in question and these Member States represent at least 65% of the total population of the EU.

When considering proposals that do not emanate from the Commission or the proposed Minister of Foreign Affairs, the qualified majority consists of 72% of the Member States representing 65% of the population of the EU agreeing to it.

A blocking minority must consist of at least four Member States, thus ensuring that three out of the four “large” Member States cannot block a decision.

In order to provide a transition between the Nice system of weighted voting and the Constitution’s double majority system, in cases where three quarters of the number of countries necessary to form a blocking majority, or three quarters of the population necessary to form a blocking majority exist, the continued discussion of an act could be requested. Once more, this method of voting has come under intense scrutiny. Analysts of voting theory charge that the Constitutional Treaty assigns the most power to the largest and smallest Member States, leaving middle-sized Member States at a relative disadvantage. The attempt at a compromise of the high quota system of the Treaty of Nice, to a lower level by the Constitutional Treaty (65% of the population and 55% of the states), does not improve the situation. A number of experts suggest that the most democratic method which ensures the fullest representation, transparency and effectiveness is if the “influence of each country in the Council is proportional to the square root of its population (Penrose Square Root Law) (Kirsch, 2004:1). Potentially, the QMV allows representatives to manipulate voting procedures, allowing them to block or veto minority opinions within the Council. The Council’s external veto power erodes effective decision-making as member governments do not wish to create a deadlock, and use their veto power very selectively (Mitchell, 2005).

(ii.d) Voting Procedures under the Reform Treaty

The rejection of the Constitutional Treaty by the French and the Dutch referendums placed the issue of institutional reform on the back-burner. The issue was revived by the German Presidency which placed it top of the agenda. At the European Council of 21-22 June 2007, the Reform Treaty was agreed upon. The issue of voting in the Council was,

once more, one of the most contentious issues. The Czech Republic and especially Poland were both opposed to changes in the voting system as defined by the Treaty of Nice. Under the Treaty of Nice, Poland has 27 votes and Germany has 29 votes. Under the Constitutional Treaty, the relative votes are determined by population. Germany has 82 million inhabitants and Poland has 38 million. Following the method of determining votes based on population, Polish votes would equal 46% of Germany's votes. Poland demanded that the Square Root Formula or Penrose Rule be used. This is adopted in order to ensure that each Council member should have equal power in the Council that is proportional to the square root of the nation's population. The reasoning behind this is that the Council of Ministers is not voted in by proportional representation in an EU-wide referendum, which would have resulted in the equal distribution of power for every EU citizen. Decision-making in the EU is a two-step process: First national elections take place, then governments vote in the Council (Baldwin and Widgren: 2007). This system is more beneficial for smaller and middle-sized states, but less advantageous for larger states (Kaczynski, 2007).

A compromise was reached whereby, in the Reform Treaty, the Treaty of Nice system could be in force until 2014. Between 2014-2017, the double-majority system would be used as originally foreseen in the Constitutional Treaty (55% of the states representing 65% of the population). The Nice "blocking" system may be used. From 2017 onwards, the double majority system would be used (Duff, 2007:5).

(iii) The European Parliament

The European Parliament has made various proposals to the IGC's with the aim of increasing its powers and eventually becoming an equal player with the Council of Ministers. Under the Treaty of Amsterdam, the EP's role as co-legislator was strengthened. The co-decision procedure was extended to eight new Treaty articles and fifteen existing articles which had formerly been subject to the co-operation procedure. This would potentially increase the EP's scope to use the power of veto. Thus, the EP has gradually increased its powers. With each successive reform, it is becoming an institution with equal status to that of the Commission and Council (Mathijssen, 2004:72).

From 2004, the European Parliament consists of 732 MEP's. This was the number envisaged at Nice for a 27-member EU. During the accession negotiations, the seats which were earmarked for Romania and Bulgaria were redistributed. For almost all of the EU-15, the number of MEP's were reduced (except Germany and Luxembourg, whose number remained the same). The larger new Member States were allocated a higher number of MEP's (Phinnemore, 2004:121).

(iv) The European Council

The European Council, in anticipation of enlargement, adopted new rules concerning its organization and proceedings in order to ensure its effective functioning in an EU of 25 members. Among these are:

- (a) the limitation of the duration of meetings to two days;
- (b) the enhancement of the preparatory role of the new General Affairs and External Relations Council;
- (c) the limitation of the size of the meetings;
- (d) the strengthening of the role of the Presidency as chair. In the 2003 IGC, and at the European Convention, the idea of a full-time president of the European Council received a positive response (Phinnemore, 2004:126).

(iv) The Court of Justice and Court of First Instance

The number of judges in the Court of Justice and the Court of First Instance was increased following enlargement (from 15 to 25). The Court continues to meet in chambers of three or five judges. The Grand Chamber remains at 11 judges. According to the *Joint Declaration of the Court of Justice of the European Communities*, adopted when the Treaty of Accession was signed, the Court of Justice may request that the number of Advocates-General be increased (the Advocates-General were not increased from the original eight) (Phinnemore, 2004:126-127).

vi) The European Investment Bank

The number of directors was increased from 25 to 26. The alternates on the Board of Directors was increased from 13 to 16. This is accompanied by a redistribution of directors so that one is nominated by each Member State and one by the Commission. The distribution of alternates is based on population size. The four large Member States nominate two each and regional groupings of Member States nominate between one and three alternates. The Commission also nominates one alternate. Six non-voting experts made up of three members and three alternates can be co-opted to the Board. Decisions can henceforth be adopted by one-third of the Board representing 50% of the EIB's subscribed capital. When qualified majorities are required, the requirement is 18 votes (instead of the previous 17) representing at least 68% of the subscribed capital. This gives the larger Member States more influence in decision-making. The vice-presidents of the EIB's Management Committee are increased from six to eight (Phinnemore, 2004:127-128).

vii) The European Central Bank and European System of Central Banks

None of the acceding states become part of the eurozone until two years after they join the EU. Nonetheless, the General Council will include the governors of the national central banks of the new Member States. The Governing Council remains at 18. The Executive Board continues to consist of six independent bankers. The voting system has changed. Previously, each national central bank governor had one vote. Now voting rights will rotate among national central bank governors through a complex series of Member State groupings based on GDP rather than population size. Under this new system, a maximum of 21 votes will be available. One each for the six members of the Executive Council and 15 rotating among national central bank governors (Phinnemore, 2004:127).

viii) Advisory Committees and bodies

- *Committee of Regions and Economic and Social Committee*

On both these committees the distribution of members is as follows: Germany, France, Italy, and the United Kingdom (24), Spain and Poland (21), Austria, Belgium, Czech Republic, Greece, Hungary, the Netherlands, Portugal and Sweden (12), Denmark,

Finland, Ireland, Lithuania and Slovakia (9), Estonia, Latvia, Slovenia (7), Cyprus and Luxembourg (6) and Malta (5).

- *Euratom's Scientific and Technical Committee*

It is now comprised of 39 members (previously 38) (Phinnemore 2004: 128).

(c) The European Convention

The ICGs which culminated in the signing of the Treaty of Amsterdam in 1997 and the Treaty of Nice in 2001 did not resolve many of the key institutional questions. A Declaration was annexed to the Treaty of Nice (Nice Declaration) in 2000, which set up the European Convention. This was a continuation of institutional reform beyond the ICG of 2000, and consisted of three steps: Firstly, a debate was launched on the future of the EU; Secondly, the Laeken European Council in 2001 would set up a European Convention on institutional reform; Thirdly, an ICG would be convened in 2004 (Grabbe, 2002:113-117).

The European Council, meeting in Laeken in December 2001, adopted the Laeken Declaration, in which a commitment to making the EU more democratic, transparent and effective was declared. The Convention was an institutional innovation, as its aim was to prepare the ICG in a transparent and open manner. The main stakeholders of the debate participated. Thus, representatives of the governments of Member States and the candidate countries, representatives of national parliaments, representatives of the European Parliament and the European Commission, observers from the Committee of Regions, the EESC and other European social partners (such as NGO's) participated.

The European Convention (as set up by the Laeken European Council), was charged to address four key issues on the future of the EU:

- The definition and division of powers (competencies) in the EU;
- The simplification of the Union's instruments;
- The role of national parliaments;
- The Charter of Fundamental Rights (Grabbe, 2002:113-117)

The work of the Convention consisted of three phases. The first phase was the listening phase, the second a studying phase and the third a drafting phase. During the listening phase, the Convention initiated a number of debates at various levels. A website was created for citizens to participate in the process directly. A Youth Convention was held between 10-12 July 2002 in order to allow young people to formulate their vision of Europe. Conferences were held in the Member States and the candidate countries in an effort to launch national debates. The various observers from various Committees and NGO's ensured diversity in the debate. The Convention had decided to secure consensus on its proposals, rather than resorting to voting, even for the final version of the text. Once the first phase was concluded, eleven working groups were set up which dealt with: (1) the role of subsidiarity; (2) the future of the European Charter of Fundamental Rights; (3) the legal personality of the Union; (4) complementary powers; (5) the role of national parliaments; (6) economic governance; (7) social Europe; (8) external action; (9) simplification of procedures and instruments; (10) defense; (11) the area of freedom, security and justice. The working groups were charged to identify the issues which were likely to achieve consensus and which were not. The preliminary draft of the constitutional text was submitted to the Brussels European Council in October 2002. Discussions on various points continued while the Praesidium was drawing up the final version of Part I of the Constitutional Treaty. By February 2003 the Convention had reached the final phase. The Praesidium would propose new articles after discussions. These would then be incorporated in the text. Parts I and II of Constitutional text were submitted to the Thessaloniki European Council. Parts III and IV dealt with policies of the Union and QMV. After many discussions, these were incorporated into the final text and consequently the final text was submitted to the Italian Presidency on the 18th of July 2003. In June 2004, at the IGC of 2004, the draft European Constitution prepared by the Convention was approved (Grabbe, 2002: 113-117).

(d) *The Act of Succession and the Treaty of Accession*

It must be mentioned that many of the actual institutional arrangements emerged during the accession negotiations. The Treaty of Nice was drawn up before the number of states

and exact date[s] of accession became known. The *Protocol* on enlargement and the Declarations which were annexed to the Treaty of Nice provided for provisions on the allocations of Parliamentary seats, Council votes to the new Member States and QMV threshold to be legally determined by the Treaty of Accession. These provisions were inserted into the Act of Accession which was annexed to the Treaty of Accession (signed on the 16th of April 2003) which was then ratified both by the EU-15 and the 10 acceding states and entered into force on 1 May 2004. Thus, as from 1 May 2004, the Union is founded on the EU and EC Treaties as amended by the Treaty of Nice and the Treaty of Athens. However, none of these attempts can be said to have brought about significant changes in the EU's institutional structure. Governance and the EU's institutional arrangements will be determined (and amended), for the time being, by the Act of Succession (2002). Undoubtedly, changes will occur through the process of constitutional reform, and the needs of an enlarged Europe (Phinnemore, 2004:118).

(e) *The Mandate for the Reform Treaty*

The European Council of 21-23 June 2007 agreed on a Mandate for an IGC to be convened to renegotiate the Constitutional Treaty (or Reform Treaty, as it had been renamed). The Commission and the Parliament gave their final Opinions on the 10th and 11th of July and the IGC opened proceedings on the 23rd of July 2007 (Duff, 2007:1).

The main points of the proposed Reform Treaty can be summarized as follows:

Concerning the Charter of Fundamental Rights, the UK was firmly opposed to its inclusion (it was one of the so-called "red lines"). A Protocol was annexed whereby the European Court of Justice and national courts would be unable to treat the Charter as directly justifiable in cases brought against the UK government. Poland made a unilateral declaration in which it sought to prevent the Charter being used to influence national legislation in the field of public morality and family law. The Charter of Fundamental Rights will be annexed to the Treaty but it will be cross-referenced against the Treaty on European Union and will have legal binding force (Duff, 2007:3).

The Reform Treaty did not replace the existing Treaties, it amended them. The Treaty on European Union was comparable to Parts I and IV of the Constitutional Treaty. The Treaty establishing the European Community was amended as the Treaty on the Functioning of the Union (comparable to Part III of the Constitutional Treaty). These amended Treaties had the same legal status and, if adopted, would come into force at the same time. The Union will have a single legal personality. The primacy of EU law was reaffirmed by a declaration. Most of the changes brought about in budgetary, legislative and decision-making procedures as defined by the Constitutional Treaty would be incorporated into one of the two amended Treaties. The preamble and most of Article 1 on the principles establishing the Union had been removed, as well as Article 8 concerning the symbols of the Union. It should be mentioned that the symbols such as the flag, anthem and holiday already exist. Only a motto does not exist (Peers, 2007:6).

The procedure for the EU to accede to the European Convention on Human Rights would change from QMV in the Council to unanimity and national ratification. The Court of Justice will ensure the adherence to the provisions of the Charter (Barroso, 2007:1).

The Constitutional Treaty had proposed a “Union Minister for Foreign Affairs”. Although no changes were made concerning the functions and position of this official, the name was changed to “High Representative of the Union for Foreign Affairs and Security Policy”. The UK also inserted a declaration wherein a very minimal interpretation of common foreign and security obligations was given. A special legal base was also created concerning data protection in security matters. The High representative would also be the Vice-President of the Commission (Barroso, 2007:2).

The European Parliament would have three representatives at the ICG and had to submit a proposal for the redistribution of seats in 2009 and 2014 by October 2007 (Duff, 2007:2). The majority of European laws would be adopted jointly by the European Parliament and the Council of Ministers. The scope of decisions taken by QMV would be

increased to over 40 new issue areas and would reduce the risk of any Member State blocking the decision-making process and impeding Union action (Barroso, 2007:2).

National parliaments would have eight weeks (instead of six weeks) to raise objections to any draft laws on the grounds that the proposed law breaches the principle of subsidiarity. The “yellow card” mechanism would be supplemented by a procedure whereby the Commission, should it wish to maintain a proposal despite opposition from over half the national parliaments, may refer its justification and the reasoned opinions of the national parliaments to the European Parliament and the Council for a decision pertaining to subsidiarity. National parliaments would also be given the right to veto EU legislation in the field of Family law. A new article would be inserted which would codify the role of national parliaments (Duff, 2007:5).

The double majority rule applied for Council decisions (55% of Member States and 65% of EU’s population need to support proposed EU’s legislation to pass by qualified majority). The new voting system would only apply in 2017 when additional provisions making it easier to block a decision would also apply. This is termed the “Ioannina Clause” and allowed for a minority of Member States to delay key decisions taken by QMV in the Council “within reasonable time”, even if they do not dispose of a blocking minority. This clause was not included in the actual Treaty text, and Member States could therefore alter this provision without having to change the Treaty.

A stricter delimitation of competencies had been given. Following the IGC this would either result in some competencies being returned to Member States or being conferred to the Union. The “flexibility” clause would be amended to ensure that it did not extend the powers of the EU, particularly in the area of foreign policy (Duff, 2007:6).

An “emergency break” clause (without the possibility of “flexibility”) was added to the provisions on social security for migrant workers at the request of the UK (Duff, 2007:6). Other provisions for the “emergency break” on certain criminal law procedures would be altered to make it clear that EU leaders must act by consensus if an issue was referred to

them. If no agreement could be reached concerning proposed legislation pertaining to the European public prosecutor or police operations, then at least one third of the Member States could proceed with the legislation without the others (“flexibility”). This provision was also retained for criminal law legislation (Peers, 2007:8).

The proposed new article on the objectives of the Union had to be redrafted following French opposition to the term “free and undistorted” competition. A *Protocol* would be inserted whereby the Commission would ensure that “Competition will not be distorted”.

New provisions were inserted concerning security and energy supply and the need for energy solidarity among Member States was identified. The area of national security was the sole responsibility of the Member States. Under a new clause, national security took precedence over EU obligations in the field of administrative co-operation (Duff, 2007:6).

A new objective in the EU’s environmental policy was its commitment to fight against climate change (Duff, 2007:2).

The “citizens’ initiative” would allow citizens (1 million) to request that the Commission presents an initiative on any subject which falls under the Union’s competency on their behalf.

Most importantly, for the issue of enlargement, reference would be made to the Copenhagen criteria as well as any other conditions for eligibility for membership as defined periodically by the European Council.

(f) The Lisbon Treaty

Following the IGC, leaders agreed to the text of the Reform Treaty on October 2007. EU leaders officially signed the new Treaty (now called “The Lisbon Treaty” at a Special Summit in Lisbon on 13 December 2007). The Lisbon Treaty would have to be ratified

by all 27 Member States. A provisional date of 1st January 2009 was put forward as the date that the Treaty would enter into force provided that it had been ratified by all the Member States. However, Ireland held a referendum on the 12th of June 2008 in which the Lisbon Treaty was rejected by a majority of 53.4%. Ratification continued in eight other countries but certain politicians (such as the Czech leadership) stated that the Treaty was “dead” or “pointless” (This was the statement of the Polish President who refused to sign final approval of the Treaty in the Polish Parliament). Some commentators even suggested that Ireland be asked to leave the Union should the Treaty be rejected in a second referendum. By February 2009, 23 Member States had ratified the Treaty: Austria, Belgium, Bulgaria, Cyprus, Denmark, Estonia, Finland, France, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg, Malta, The Netherlands, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the UK. Germany’s Constitutional Court ruled that the Treaty was compatible with Germany’s Constitution but additional parliamentary safeguards would have to be out in place to ensure that German MPs participated fully in EU legislation.

The Irish government agreed in December 2008 to hold the new vote by November 2009, in return for a set of EU "legal guarantees" aimed at addressing various concerns raised by voters. Despite assurances that the new Treaty would not affect Ireland’s tax sovereignty, it was feared that tax harmonization would threaten Ireland’s low corporate taxation rate (12.5%) which was seen by many as a key feature of Ireland’s economic success. Concessions were also requested on certain "family" issues such as abortion, euthanasia and gay marriage. The Irish also expressed concern that if they became involved in EU defense policy, it would threaten traditional Irish state neutrality. French President Nicolas Sarkozy stated that under the new Lisbon deal "every Member State will have a commissioner" - another concession to Ireland. The original plan was to have fewer commissioners than Member States, from 2014 onwards (Chrysochoou, 2008). The Irish "protocol" will be attached onto an EU accession treaty. The second referendum was held on the 2nd of October 2009 and this time it was approved by a 67% majority. Despite having expressed reservations earlier, Poland subsequently ratified the Treaty on the 10th of October 2009. The Czech Republic refused to ratify the Treaty. Euro-skeptic

Czech President Vaclav Klaus had sought an “opt-out” option for the Czech Republic from the Charter of Fundamental Rights which was granted (Metro, 2009:5)*. By November 2009, all 27 Member States had ratified the Treaty of Lisbon and it was expected that it would be in force by December 2009 (Reinfeldt, 2009).

4.2. The Impact of Enlargement on the EU institutions and Governance

One of the criticisms laid out for the EU institutions is that they do not perform efficiently and are essentially un-democratic. Coupled with this are concerns that they are not developed enough to function efficiently in a more complex, diverse and multitudinous European Union. It must be stated that these problems are not caused by enlargement, but they will certainly be magnified by enlargement (Wallace, 2005:16). The EU has made some attempts to address these problems, as mentioned in the previous sections.

The institutions of the European Union should have the ability to adapt to changes in society and shifting circumstances, whether these changes are caused by globalization or through political processes. Although initially envisaged as a strategy to make war an unthinkable option for European States, the EU has gradually expanded its mandate into other areas of European policy, covering many different policy fields. This expansion of its role will have to be reflected in its institutions. For example, at the moment, the Common Agricultural Policy (CAP) takes up almost half of the EU budget, and yet, this is a policy area of little interest to European citizens. In order to be able accommodate its changing policies, the funds and resources (administrative and financial) will have to be re-deployed. For example, the directorate-generals who deal with traditional areas such as internal administration are well supplied with staff, whereas newer areas such as Justice and Home Affairs are supplied with small teams stretched to the limit.

* Translation author's own.

Another problem created by the expanded agenda of the EU is that it has well-defined economic governance, but its governance on social issues is not as well developed. In the area of the Single Market and the single currency, an elaborate framework based on sound principles has been put in place, with sound regulations for the movement of goods and services. In other areas, such as minority rights, the rights of the citizen or the balance of power between national and regional governments, few rules exist. These issues will be magnified in a more diverse EU of 25 members, and common standards and policies for these areas will have to be developed. Issues such as unemployment, immigration, crime, asylum policy and the protection of minority groups have been identified as areas of prime importance by European citizens themselves. The EU must be able to come up with equitable and effective solutions (Mitchell, 2005; Grabbe, 2002:113-117).

The issue of *flexibility* (or “*enhanced co-operation*”) was raised at the ICG of 2000. In an EU of 25, on many issues, states may be unwilling or unable to participate in a specific policy area. Should some Member States be allowed to proceed with closer co-operation, whilst others abstain, permanently or temporarily, from the same obligations? Flexibility could be used to “opt-out” out of collective regimes. This could create a “two-tier” system for members, where one group is “in”, and another is “out”. Potentially “first class” members and “second class” members could be created. Flexibility might also be used to deny new Member States a voice in decision-making. The new states have to be initiated into the process of give-and-take inherent in constructive consensus-building. If the citizens of the new Member States feel that they are being excluded in the decision-making process (and their interest not being taken into account), this could potentially erode domestic support for the EU (Wallace, 2005:34; Phinnemore, 2004:129-130).

Furthermore, should new methods of policy-making be adopted to accommodate the increasing diversity of interests and capacities? The “open method of co-ordination” which is based on “peer review, best practice and bench-marking” and may be used instead of the traditional “Community-method” involving regulation and the possibility of

judicial review. However, how can the uniform application of rules and laws and policy coherence be guaranteed under this method? (Phinnemore, 2004:129-130).

(a) Addressing the democratic deficit

Another aspect to be taken into account is the “democratic deficit” (whether real or perceived) which results from the architecture of the EU’s institutions. The decision-making process is often through informal negotiations among and within the policy-making bodies of the EU, permitting little input from the public sphere. Although the decision-making bodies, namely the European Parliament, the Council of Ministers and the European Commission have been designed to check and balance each other, citizens have very little direct influence on these bodies. Only representatives to the European Parliament are elected directly, but the European Parliament lacks binding legislative power. Enlargement may potentially make its citizens feel that that the EU is “remote” and “far removed” from them. For example, the closed nature of the proceedings of the Council, and the lack of input from Member States, has often resulted in the perception that the Council suffers from a democratic deficit (Mitchell, 2005). At the European Commission, the drafting of laws and regulations take place behind closed doors. Therefore, there is an inherent democratic deficit in this institution (Mitchell, 2005).

(b) Governance

It useful to begin this discussion with a definition of the term. As defined in the European Commission’s *White Paper on Governance (2001)*, “*European governance refers to the rules, processes and behaviour that affect the way in which powers are exercised at European level, particularly as regards openness, participation, accountability, effectiveness and coherence. These five "principles of good governance" reinforce those of subsidiarity and proportionality*”.

An attempt at achieving “good governance” was made by the European Commission in its *White Paper on Governance (2001)* whereby the need for a “*responsible and*

responsive EU Governance” was identified. It states that due to the level of integration, citizens of the EU expect the EU to find solutions to many complex social problems, yet on the other hand, these citizens either distrusted or were apathetic about its institutions and its policies. Unlike a national government, the EU cannot deliver and develop policy in the same way. It has to build partnerships and rely on a variety of actors.

Five political principles were emphasized: openness, participation, accountability, effectiveness and coherence. The White Paper seeks to get more citizens involved in the shaping and delivery of EU policy and promote greater openness, accountability and responsibility. Also a need for more coherence in its policies was identified as this would lead the EU to be “stronger at home, a better leader in the world and enable it to tackle enlargement”. Emphasis is placed on more consultation and transparency, more and better expertise, the application of new policy tools and enhancement of the *Community Method* – clear allocation of decision-making responsibilities of the Council, EP and Commission.

However, this attempt has been criticized, as the terms in which the proposed solutions are made are vague and bureaucratic (McCormick, 2004:155).

Conclusion

The importance of institutional reform is essential for the smooth running of the EU. If the logic of further integration and enlargement is to be followed through, then the adoption of the Lisbon Treaty is utterly essential. One of the paradoxes of the EU is that despite the fact that the EU has greatly contributed to the stability and economic wellbeing of many states (such as Ireland), there still is some resistance amongst its citizens of acknowledging that role. One of the reasons for this lies in the fact that the decision-making procedures of the EU are “far-away” from the average citizen and incredibly complex. If the road to reform is to continue, the actions and results of the EU will have to be communicated in a much more effective way to its citizens.

The ratification of the Lisbon Treaty will be a very positive step forward for the European Union. It will reinforce the EU's capacity to act in a number of areas:

The election of an EU President will reinforce the EU's cohesion in external affairs. Europe will be able to "speak with one voice" on a number of issues, whether diplomatic, security and defense. Particularly, the EU will play a crucial role in combating climate change and through the solidarity clause, ensure energy security for the EU.

The extension of QMV to over 40 new cases will substantially strengthen the area of freedom, security and justice (fsj) as these cases span issues such as external border controls, asylum, immigration, police co-operation and criminal law. The "communitarisation" of the Third Pillar is a fundamental reform.

The Impact of Enlargement on Democratic Governance, Legitimacy and Political Identity

Introduction

Through the enlargement of 2004 and the prospect of further enlargement, pressure has increased on the EU to address the complexities of its institutional decision-making procedures as perceptions about the “democratic deficit” have been growing. The EU was initially envisaged as a union of nations as a means of preventing future wars amongst its members, and its original focus was on trade and economic integration. However, this changed through its continued expansion and the extension of the scope of the EU’s mandate. One of the issues this process has raised is the incongruity between popular democratic representation on the one hand, and expansion on the other (Mitchell, 2003).

The European integration process itself has been *sui generis*. As it went along, it defined itself as regards to its policies, institutions, identity and borders. The development and foundations of European integration have not been informed by a distinct political self-definition, nor by an “ending” beyond the description of “an ever closer Union”. These characteristics and attributes have contributed to its policy, processes and institution-oriented approach. However, after the 2004 enlargement, the need for a well-defined polity, armed with necessary competencies, with effective democratic institutions and procedures, armed with social and democratic legitimacy and with a distinct political identity and defined borders was identified. A system of democratic governance which has sufficient legitimacy requires the semblance of a border and boundaries. The rule of law and democracy both require a political identity and a bounded area in order to exercise legitimate popular authority (Baykal, 2005:11).

What effect does “deepening and widening” have on democratic governance, legitimacy and political identity? As will be shown these three important issues are inter-related and

of crucial importance to the wider debate on enlargement. Each aspect is discussed below:

5.1. Accountability and the Democratic Deficit in the EU

The current enlargement has increased diversity in the EU and this may have a negative effect on the problems of the democratic deficit and the European identity (or sense of belonging) as the different arrangements of governance deepen the problem of legitimacy and the lack of a European *demos*. The need for Europe to define what being European means in concrete political and geographical terms is essential. Drawing a boundary between those who belong and those who don't is prerequisite for legitimate democratic and bounded polity underpinned by solidarity and mutual trust (Baykal, 2005:37).

Whether the democratic deficit is "real" or "perceived" is beside the point. Even the perception that a democratic deficit exists, represents a democratic deficit. This issue must be addressed, as it threatens the legitimacy of the EU. The democratic deficit is largely due to the institutional architecture of the EU which promotes a circulatory decision-making process which permits little direct input from the European public sphere. The negotiations within the key decision-making bodies of the EU are often informal in nature, not transparent and the decisions reached often are unpredictable in nature (Mitchell, 2005).

a. The Democratic Deficit and Decision-Making in the EU

The Single European Act resulted in Member States handing over some of their sovereignty by accepting a system of Qualified Majority Voting in some circumstances in the Council of Ministers (Thomassen and Schmitt, 1999:5). QMV allowed Member States to manipulate voting procedures, sometimes leading to the vetoing or blocking of minority opinions in the Council (Mitchell, 2005). The use of QMV led to pooled sovereignty in circumstances where the Member States no longer have the right to exercise veto power. In this way, decision-making had been removed from the scrutiny

and control of national parliaments. Although the structure and the process of the EU do not approximate those of a modern state, they often have state-like functions. EU law takes precedence over national law in areas where the EU has explicit treaty competencies. This expression of supranationality means that the Union is endowed with independent authority with its own sovereign rights, an independent legal order to which Member States and citizens are subject in areas where the Union is competent. The institutional structure of the EU is a hybrid of intergovernmental and supranational institutions (Thomassen and Schmitt, 1999:6).

The transformation from national government to multi-level governance has led to problems of accountability and effectiveness as consensus has been sought. The decision-making process is removed from the sphere of EU citizens to an informal setting of EU representatives (Mitchell, 2005).

The European Commission, the European Court of Justice, and the European Parliament (EP) are supranational institutions. The European Council and Council of Ministers are intergovernmental organizations. Officials of supranational institutions are not accountable to national governments in the way that intergovernmental institutions are. Under the perspective of democratic theory, decision-making in intergovernmental level is subject to scrutiny. The position taken by national governments during the negotiation process is subject to the control and scrutiny of national parliaments who in turn represent their national electorates (Thomassen and Schmitt, 1999:6).

Power and influence in the EU is divided (although not equally) between the EP, the Council of Ministers and the Commission. These bodies act as checks and balances against each other. In the EU's multi-tiered system, the only input European citizens can resort to is through their representatives in the EP. The EP does not have any legislative power, only the right to co-decision which it shares with the Commission. In practical terms, the EP plays a very limited role in constitution-making. Rather, its influence lies in the day-to-day policy-making within the EU. However, in areas where the EP has direct influence, it tends to assert itself (Mitchell, 2005).

The Council of Ministers is the main legislative and decision-making body of the EU. As already mentioned, members of the Council must gain the support of their national parliaments on their position regarding any given issue. However, the negotiation procedures often take place behind closed doors and Member States may not offer sufficient input, mostly because they do not allow national parliaments to extract commitments from ministers before Council meetings or hold them accountable for any decision reached.

In the Commission, the democratic deficit results from the fact that the drafting of laws and regulations often take place behind closed doors by officials without any input from the regions or locations which will be directly influenced by these decisions. Similarly, a number of “satellite organizations” have been established in Brussels which claim to represent European public opinion on a number of issues, when in fact these consultants may be out just as of touch with public opinion as some of the officials of the Commission (Mitchell, 2005).

The multi-level governance structure of the EU is characterized by a technocratic system which encompasses national, sub-national and transnational institutions with the input of a large variety of public and private actors.

The networks which exist between these institutions and the negotiations which take place are informal in nature and occur behind-the-scenes. Relations are not organized according to a hierarchy, but occur both at horizontal and vertical levels. Multi-level governance often deals directly with sub-national local authorities. There are some concrete advantages to this system as the separation of central, regional and local authorities into autonomous bodies allows them to create autonomous linkages directly with the transnational institutions of the EU. One of the main disadvantages of the network system is that it may allow more powerful and organized stakeholders to succeed at the expense of more resource-poor and inexperienced players. This is the result of the

informal structure of the negotiations. With so many actors and institutions taking part in the decision-making process, accountability becomes very difficult.

Another important factor is that the Commission funds many of the organizations involved in this process. The input received from these NGO's may reflect the views of the Commission, thus not taking into account any fresh perspectives (Mitchell, 2005).

Under democratic theory, the *size* of a polity, has a direct effect on the individual's vote. Using Dahl's definition, the *demos* can be defined as "a group of persons who should govern themselves in a single democratic unit". There is a trade-off between the *size* and the *scope* of democracy. If we argue that the greater the weight of the citizen, the more democratic the system, then the converse holds true, i.e. that the *larger* the system, the *less democratic*. There is also a trade-off between the *weight* of the vote of each participant in the democratic process and the *weight of the decision* itself. This means that a participant has an interest in decision-making at the most effective level. Decision-making at a level that is incapable of conducting an effective policy with respect to the major challenges in society is just as unsatisfactory as political processes and institutions that do not conform to democratic standards.

The principle of subsidiarity, as defined by Article 5 of the Treaty establishing the European Communities, is intended to ensure that decisions are taken as close as possible to the citizen. Checks are made to ensure that Community action is justified after assessing the possible results of action taken either at national, regional or local level into account. The Union only takes action in areas within its exclusive competence unless action at Union level would be more effective than that taken on national, regional or local level.

b. Possible Ways of Addressing the Democratic Deficit

What possible remedies can be applied to address the democratic deficit? What can be done to counter the perception that “Europe” is “too complex...too technical...too boring to be of concern to ordinary voters... and seen to become, by mutual consent, a matter for elites”? The root of the problem as indicated is the complexity of institutional architecture and obtuse decision-making procedures which leave EU citizens apathetic and confused about their rights. The addition of more Member States will only serve to complicate matters (Mitchell, 2005).

There are two possible ways of addressing the democratic deficit:

- (i) The creation of a legal framework is necessary whereby a regulatory setting would be promoted which would allow for the equal representation of all participants. These formal rules would be embedded in constitutional principles and would ensure the equality of all representation. By clarifying the role of each EU institution to the public, a key flaw in the multi-governing system, which is more focused on the process rather than the outcome, would be addressed. The Lisbon Treaty was such an attempt.
- (ii) The principle of subsidiarity should be strengthened which would encourage the accountability and transparency of EU institutions. Many citizens lack the practical know-how needed to launch an effective lobbying campaign and may lack the resources and political connections to do so. The structure and processes of negotiations should be formalized and institutional safeguards should be put in place to ensure the equitable representation of less powerful actors (Mitchell, 2005).

5.2. How has Enlargement affected European Identity and Legitimacy in the EU?

Does a European *demos* exist? European identity can be defined as citizenship in the sense of a system of rights and duties at the European level distinct from national level,

or as a sense of collective European identity. The normative view is that a democratic Europe cannot exist without people's sovereignty; however this requires a sense of identity of a people as a political community. The empirical view is that a sense of community underpins legitimacy which is a condition for a stable political system (Thomassen and Schmitt, 1999:11-12).

The Treaty of Maastricht brought significant changes to the European Community. The Community was transformed into the European Union. The European Union was no longer a strictly intergovernmental organization but had some supranational elements. Thus, the basis of the EU's legitimacy had changed. Indirect legitimation as mediated by the Member States was no longer sufficient. Each successive enlargement brings with it two fundamental questions: How deep and how wide? In other words, how deep should political integration be and how far should it expand? Enlargement is no longer an elite-driven process, so the support of EU citizens is essential. This crucial fact was illustrated by the Dutch and French referenda. Thus, the issue of *legitimacy* is a fundamental one. The identity issue pertains to the issue of the widening of Europe. What exactly does the term "*European identity*" signify? What are its components? Although research has shown that a cultural European identity exists based on historical, religious or other commonalities, there is no concise definition which would encompass all these different elements.

According to the Treaties, the EU is founded "on the principles of liberty, democracy, respect for human rights and fundamental freedoms and the rule of law" (Article 6 TEU). According to Article 151 of the TEC, the diversity of cultures would be promoted in accordance with the principle of "unity in diversity", whilst "bringing the common cultural heritage to the fore". Fundamental rights are guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and through the Charter of Fundamental Rights which will be referred to by the Lisbon Treaty. Thus, the identity of the European Union has been defined mostly politically. Where accession is concerned, any "European state" can apply for membership as long as it fulfills the "Copenhagen criteria" which means it must have stable and democratic institutions, a

functioning marketing economy and adequate administrative structures. The issue of conditionality was further strengthened in the Lisbon Treaty. No limit to expansion is mentioned and the borders of the EU are not defined. However, in order for the expanded EU to be a viable entity, the need to define its borders and have political legitimacy became crucial, especially after the Maastricht Treaty endowed the EU with new competencies in a range of areas and strengthened its competency in other fields such as foreign affairs, security and defense. The debates leading to the Lisbon Treaty highlighted the differing views concerning European identity.

a. European Identity

The enlargement of the EU forces both citizens and EU policy-makers to reflect on their existing identity. This process includes the acceding and the established Member-States of the Union. In practical terms it would initially appear that through European integration the EU becomes more powerful with the addition of new markets and states, and the acceding states gain significantly from the well-established economic and political entity that is the EU. However, other factors also come into play, notably those concerning national and European identity. The focus has been mainly on issues such as the disparity of wealth and not about the compatibility of the acceding state's cultural identity with the existing ideas of Western European identity. Thus far, the Central and East European states appear to be both within geographical and cultural parameters of the Union. However, as potential European expansion begins moving towards the South-Eastern edge of Europe (The Ukraine, Georgia and, in particular, Turkey), questions regarding who should belong in the Union and the need for a common identity have been asked (Thiel, 2005:6).

There is also a very strong link between European identity and legitimacy (which is discussed in detail below). Easton identifies that a "we-feeling" (a subjective feeling among the members of a collective i.e. that they belong together) is a necessary precondition for individuals to co-operate politically. Without this binding factor, a regime would eventually disintegrate (the former Yugoslavia is a good case in point).

Political co-operation must function within a structure (institutions and procedures) which constitute a regime. The regime must be accepted by the citizens in order to fulfill its functions. Collective identity plays a number of roles in the political system: (1) It is a source of acceptance of a regime as it is perceived by the members of the collective as an expression of the collective. The regime must correspond to the citizens preferred value orientations. If it does not, the regime will not be perceived as legitimate; (2) It is a precondition for support i.e. a collective identity must exist before a regime can be established; (3) Majority conditions must be accepted by all. This is especially relevant for the EU as decision-making by unanimity is replaced with QMV in certain areas; (4) It produces solidarity among members of the collective. This is an important point for the EU due to the economic disparities between certain groups and the redistribution of wealth which will take place to address them (Klingemann, 2006:15).

Extensive research on European identity has been undertaken in which the European identity is based on historical, religious or other commonalities. Nonetheless, a concise definition encompassing all these factors does not exist. Michael Bruter's research concerning attitudes towards the separate civic and cultural components of a European identity indicated that European identity did not translate into support for EU integration. Rather, European identity is linked to civic ideas about the EU (Thiel, 2005:1).

Juergen Habermas proposes a transformation of Western European societies from national to transnational communities. This means a shift from "ethnos" to 'demos". This approach is linked to the idea of "constitutional patriotism". Under constitutional patriotism, citizens do not identify with a cultural and ethnic identity, but with constitutional principles that guarantee their rights and duties. However, this approach does raise some unanswered questions regarding third-country nationals and ethnic minorities living in EU countries that are excluded. The inclusive principle of identity is an essential point for theorists who posit that a new European identity is emerging that incorporates national sub-identities but at the same time allows for cultural and ethnic differences which are embedded in the broader social context. The unsuitability of the nation state as a model for a just and plural system of transnational governance is

generally recognized. Although common histories, experiences and characteristics may help foster an identity, they can also be exclusive and oppressive and are therefore not a suitable basis for a transnational identity structure (Thiel, 2005:2-3).

The Europeanization of domestic collective identities occurs according to the specific characteristics of each nation and Europe. However, it is not only the state's conception of Europe which plays a part. The EU also plays an active role in the formation of collective identity. The EU, through its tight network of policies and competencies has a tangible influence on domestic political spheres. Another factor is that too many states are now members of the EU for a nationalized notion of the EU or Europe to prevail. The enlargement negotiations made this point clear through the debates concerning how much the new members would compromise their national interests during integration in the EU (Thiel, 2005:3). However, this does not mean that some form of identification with "Europe" is not present. A Eurobarometer poll indicated that a narrow majority of members of the EU defined themselves as both national and European (49.8%). More significantly, a majority of those polled indicated they were "proud" to be European and felt "quite attached" to Europe (Klingemann, 2006:21).

The EU began as a political integration project as envisaged by European elites. The citizens of the EU showed more instrumental support and less affective identification, as they sought to profit from the Union's policies. However, it cannot be postulated that public support of the EU is underpinned wholly by material concerns. A "permissive consensus" existed amongst the EU public which constrained or facilitated European integration, but which did not determine its direction or pace. However, over the last 10-15 years, there has been a marked reversal of this consensus. In part this is due to the electoral gains of nationalistic parties in the Member States, low support for European elections and treaties and the democratic deficit. The spillover of economic integration into the political and institutional level does not apply to the identity factor of integration. Critics point out that the European project was an economic and not political project in order to overcome the historic hegemony which had resulted in the devastation of the

wars of the twentieth century. This point is hotly disputed, as it reaches to the core of what European integration is about (Thiel, 2005:3-4).

Another salient point is that identity formation and integration is a divisive and exclusive process, both within the EU and outside of it. Within the EU, European integration is seen as a catalyst for disparities between different socio-economic groups. The mobile elite will move towards a European identity, and the less mobile populace will prefer national solidarity. One of the main weaknesses of this viewpoint is that it deems that *mobility* is the decisive factor. However, other important factors should be taken into account such as political involvement, knowledge etc. The idea of exclusion is an important one for researchers of collective identity. In terms of enlargement (widening) the collective identity of both the acceding state and the Member State must be adjusted. The enlargement of 2004 was seen as a “litmus test” for cultural plurality (Thiel, 2005:5).

b. How does Enlargement affect European identity?

Thus far, during the accession process, very few questions were asked about the compatibility of the acceding state’s cultural identity with the existing (Western) European identity and about the “finality” of the EU. Two factors mitigated this fact. Firstly, the acceding states existed within the geographical and cultural boundaries of “Europe” and the 2004 enlargement was seen as a political necessity in order to deal with detrimental post WWII situation. Secondly, many of the citizens of the CEEC’s displayed a higher level of identification with the European identity than that of the citizens of the “old” EU (Thiel, 2005:8).

The possibility of EU expansion to the South-East of Europe was the beginning point for a debate concerning the geographical and cultural borders of the EU and whether common identification could be rallying point for further integration. The debate has intensified with the possible accession of Turkey (Thiel, 2005:6-7).

The “shared-heritage” argument postulated by many politicians as a means of constructing a European identity is highly problematic in a Union of 27 members. This argument is also rejected out of hand considering European history and the role that the governments, the church and competing powers played in many conflicts. If the argument of a “historic reconciliation” is used as a justification of enlargement, how can it be applied to Turkey, which has always been defined as the “other”? Cultural convergence of states such as Turkey and some Balkan states is highly unlikely. Research undertaken indicated that in terms of value orientations (on issues such as the equality of women), there were few differences between the North-South, however, this was in stark contrast to the value orientations of Turkey and the South-Eastern states (Klingemann, 2006:23). Many linkages do exist though, either in the form of Association Agreements or immigrant workers from these states working and living in the EU. It has been postulated that the inclusion of such culturally different states such as Turkey could provide a counter-weight to the US model of promoting democracy.

Another effect of the increase in membership and population of the EU is greater heterogeneity in national interest and national identities. Even with the expansion of the use of QMV, the conflict potential for decision-making in the EU will increase. The process of Europeanization will steadily lead to a convergence of divergent national interests, but the more states involved, the more difficult to reach agreement. Enlargement has been seen as a means of thwarting Member States with federalist ambitions. In response, more federally-minded states may pursue more advanced forms of integration within a smaller convergent core. The development of “variable geometry” and enhanced co-operation certainly supports this theory. Overall, this would lead to a looser model of co-operation.

The retention of public support for an increasingly diverse EU is a particular challenge. The traditional models of European identification built upon cultural commonalities are no longer sustainable. The EU will have to focus on delivering effective and political governance in order to gain the allegiance of its citizens. European identity, as formulated during the 19th century in nation-states cannot be achieved at EU level. The development

of national identities is the result of a long-term historic process in Europe. The historic process includes experiences of conflict between nation-states (and subsequent experiences of suffering) as well as nation-building via the homogenization of language and religion. These historic experiences are the basis of a national collective identity. Thus, the *demos* of nation-states is derived from the *nation* and the nation creates the collective identity. Where European identity is concerned, none of these prerequisites are present. There is no common historical experience, nor a common language or religion. Neither is there a definite border (Klingemann, 2006:18). Further enlargement will mean that the only basis of common identification will be based on common civic values, democratic practices, respect for diversity and human rights. This is the basis of the arguments of those who are in favour of Turkey's membership.

The Maastricht Treaty introduced the creation of a European citizenship as a promoter of European identity. However, in practical terms, it only introduced the freedom of movement, and was therefore not very effective as a source of popular allegiance. The idea that European identity is complementary to national identity should be stressed rather than the idea that a transnational identity threatens the national identity. EU citizenship *per se* is still very strongly attached to national citizenship and therefore is still too weak to be an effective promoter of pan-European unity. Of course, the issue of the xenophobic tendencies illustrated by many EU citizens is also problematic.

Thus, enlargement challenges the institutional capacity and economic cohesion of the EU. Increased membership will make socio-political cohesion difficult to achieve. It will also make a common cultural identification very difficult. The EU's attempt to construct and preserve a common cultural identification for Europe is in stark contrast to the impetus of enlargement. The introduction of different religious and ethnic backgrounds will further weaken the common reference points of European identity. Although further integration will homogenize the Member States, any transnational identity will be subordinated by the diverging interests and the national identities of the Member States (Thiel, 2005:8).

5.3. Political Legitimacy in the EU

The definition of legitimacy presents a problem. Within the realm of political science and politics, it has proven to be a vexing concept. Essentially it can be defined as a normative claim made by a government, state or power that it must be obeyed and respected. This concept touches many other normative and empirical concepts of political science, such as power, authority, rights, sovereignty and the state. No standard, universally accepted definition of legitimacy exists and it has been the subject of extensive debate (Ansell: 2001: 8704). Furthermore, how can it be defined or measured? How much is needed?

The literature pertaining to the subject can be divided into the normative or the empirical approach to the concept (Ansell, 2001: 8704). Normative theorists state that forms of legitimization depend on established ethics and principles, especially those derived from democratic norms and values. Thus, for a normative legitimate polity, a popular mandate for governmental activity and a system whereby the government is chosen by public sanction are essential components. Moravcik argues that in the EU's case, all these criteria are fulfilled, therefore arguments concerning the "democratic deficit" or "legitimacy deficit" are misplaced. However, empirical theorists such as Weber argue that legitimacy is equal to the *perception* of legitimacy. Weber linked legitimacy to the willingness of individuals to comply with a system of rule ("legitimacy orders") or obey the commands given to them ("imperative commands"). However, both compliance and obedience require a *belief* in the legitimacy of the system of rule or command (Ansell, 2001:8705). Government authority must be accepted by the people. Under this understanding of legitimacy, the EU has a problem, as indicated by the low levels of electoral participation and satisfaction levels recorded by various polls. Empirical legitimacy has no prerequisites and a possible means of achieving a high level of legitimacy would be through *performance*. Theorists such as Beetham and Lord have suggested that a form of citizenship based on human rights could be provided for, as well as social and economic benefits. Another source of legitimacy for the EU would be through fulfilling the role of being a significant international actor, thus winning citizens' support.

Lipset's definition of legitimacy is "the capacity of the system to engender and maintain the belief that the existing political institutions are the most appropriate", whereas effectiveness is defined as "actual performance, the extent to which the system satisfies the basic functions of government as most of the population and other powerful groups within it.... see it" (Ansell, 2001:8705).

Enlargement may have the following effects on legitimacy. Firstly, enlargement may dilute the EU's democracy with the addition of more countries (and more citizens) and greater homogeneity. Secondly, the potential for a new form of citizenship may exist. It should be noted that if the perception arises that the new citizens' benefits translate into losses for older citizens, these citizens may grow to resent the gains made by their fellow citizens. Thirdly, the extent to which the EU can become a significant player on the global stage must be assessed. An effective foreign policy may become a source of internal allegiance.

a. Legitimization through liberal democracy

Liberal democracy, with its promise of freedom and popular control, is often thought of as the appropriate system of government for the EU. However, although liberal democracy works well on the nation-state level, it does not seem to be so readily transferable on EU level. This fact is illustrated by the fact that voter turnouts for EP elections have declined steadily. Polls have indicated that citizens know little about the processes and structures of the EU, and have a lack of trust in its institutions and express suspicion about its actions. Thus, even before the accession of new countries, the EU had a low level of institutional support. It has been postulated that the lack of knowledge may lead to the lack of interest and suspicion. Enlargement is a means whereby awareness may increase. Although this increased awareness can encourage interest in EU affairs, it will not create a sense of effectiveness. In fact, enlargement increases the representation deficit in two ways. Firstly, in order for effective decision-making to take place during enlargement, QMV must be extended within the Council of Ministers. The Treaty of Nice

extended QMV to 28 areas. QMV will be extended in order for the EU to operate effectively with more members. Secondly, the Treaty of Nice re-allocated voting weights in the Council of Ministers. The result of this re-allocation was that the EU-15 states had a lower percentage of votes after accession and in relation to their populations, they also had lower percentage of votes in the Council of Ministers and a smaller percentage of seats in the EP as compared to the new Member States. This was the result of the fact that most of the new Member States were smaller states, which have a favourable balance of voting rights in the EU. Polls taken in the new Member States indicated that they had a higher level of trust in the EU than in the old Member States. Legitimization through liberal democracy seems more effective for newer states, although in the long term performance will determine the long-term results (Mather, 2004: 113).

b. Legitimization through a new form of citizenship

Most of the citizens of the CEEC's had limited experience of citizenship under constitutional democratic government. All experienced authoritarian or dictatorial regimes at some stage of their recent history. Before enlargement, only four countries—the Czech Republic, Latvia, Lithuania and Slovakia experienced longer than three continuous years of constitutional government during the twentieth century. Membership of the EU would on the one hand assure their political autonomy and on the other hand guarantee citizen's rights as derived from liberal democracy.

A Eurobarometer poll in 2001 showed that a very low number of citizens in the acceding states trusted their domestic public institutions. The application of the *acquis* and the Copenhagen criteria placed a framework for constitutional and institutional liberal democracy. The subsequent improvements of the CEEC's public institutions will undoubtedly be beneficial for the citizens (and be perceived as such). However, in practical terms, although the candidate countries met the Copenhagen criteria in essential points (the implementation of functioning democratic governmental institutions, improved judicial standards, the execution free and fair elections), a number of concerns have been raised in Commission Reports, particularly pertaining to corruption and human

rights issues. The Commission has expressed concerns over the treatment of ethnic minority groups such as the Roma in certain CEEC's. In terms of political legitimacy, this point is particularly salient. Political legitimacy may be undermined by disengranted ethnic groupings. At the moment, the EU is seen as a grouping of sovereign states, but this may not best serve the European population. Batt has suggested that the concept of "fuzzy statehood" may be more fitting for Europe. Under this concept, Europe is defined by political fragmentation, and the devolution of state power with the resurgence of national and ethnic minority identities. At EU level the importance of legitimizing sub-state nationalities and movements whilst providing supranational security in relation to the world outside its borders cannot be underestimated. The EU should have a policy in place which will encourage Member States to address the concerns of their groupings otherwise the lack of legitimacy will be entrenched and institutionalized (Mather, 2004:113).

(c) Legitimacy supported by economic benefits

The expectations of financial gains by the citizens of the new Member States are high. The improved economic standards (encouraged by the financial and technical aid provided by the EU) and based on the economic growth experiences of the EU-15 have led to expectations of greater affluence. However, although the long-term economic prospects of the new Member States are expected to greatly improve, their effects may not be immediate. In fact, the transition period could prove quite painful and difficult, as their administrative and financial systems have to be adapted. The main challenge is of course the fact that the citizens of the new Member States have a much lower level of personal affluence (see Chapter six). During the negotiation process, the EU-15 sought to protect their own interests even while acknowledging that the CEEC's required financial assistance. This resulted in new states not having the same access to EU resources as the existing Member States. A case in point is the distribution of EU subsidies. It was argued that the new states would not be able to absorb more than 30-75 per cent of the subsidies (Mather, 2004:113).

(d) Legitimacy through the EU's Role as a Significant International Player

The beginning point of this discussion is: What is meant by foreign policy and how is it connected to enlargement? Sjursen and Smith consider enlargement as foreign policy. The enlargement process is “influenced by explicitly political objectives that aim to reshape the political order in Europe”. Although enlargement has significant impact on the internal development of the EU and its decision-making procedures, the EU’s enlargement policy is addressed to and affects actors outside of it. Therefore, Sjursen and Smith assert that the CFSP is not the exclusive foreign policy mechanism of the EU. It should be noted that enlargement is not addressed by the Common Foreign and Security Policy (CFSP) but spans all three pillars (Sjursen and Smith: 2001).

Enlargement may enhance the EU’s performance legitimacy by increasing its international standing. Enlargement certainly makes the EU a more powerful and influential player on the world stage. However, in terms of foreign policy there have been very few instances of a common approach to various crises. A good example is the 2003 Iraq crisis. Most of the candidate countries supported the US/UK decision to go to war and increased internal EU divisions. Thus, for the EU-25 it may be even more challenging to be an effective actor in the world stage because of many problems such as institutional deadlock and internal dissension, even though its presence on the world stage will be more pronounced due to its increased size and expanded borders (Mather: 2004:113).

Logically, the addition of more states to the EU (and the consequent increase in heterogeneity) would exacerbate this problem. Even at the launch of the CFSP under the Maastricht Treaty of 1992, by the reformulation of the European Political Co-operation (EPC) as the Common Foreign and Security Policy (CFSP) which constituted the second of the three pillars, doubts were expressed that such divergent interests, capabilities, connections and traditions would allow the establishment of a common policy in such a sensitive area (Cameron, 2002:3). In terms of legitimacy, since its inception, the European public strongly supported –and supports– closer co-operation in foreign and

security policy. This has led to a “capability-expectations gap”, in other words, the public wishes the EU to deliver certain results which are not in keeping with the capabilities that the EU has developed in this area.

The continuing respect of the international community may depend on the success of enlargement as a means of bringing peace and reconciliation throughout Europe (Mather, 2004:113). The EU’s soft power capabilities have been recognized as contributing to international security. The EU’s “civilian power” promotes democracy, development through trade, foreign aid and peacekeeping (Cameron, 2002:16). The 2004 enlargement is a case in point: All the new Member States aligned their foreign policy positions with EU foreign policy statements and declarations and associated themselves with EU joint actions. During the accession negotiations the EU’s *acquis* on foreign and security policy attempted to increase the commonalities in three important areas: Firstly, an applicant state had to demonstrate its capability to contribute to EU initiatives such as the Rapid Reaction Force and the EU Police Force/Mission. Secondly, it had to adapt the EU’s broad position on foreign policies. Thirdly, states should have reasonable relations with neighbours and/or traditional adversaries. The chapter regarding foreign and security policy was closed early in the negotiation process signaling that the criteria were relatively easily adhered to. Consequently, it may be posited that the new Member States have been brought in line with the older Member States and that the EU could “speak with one voice ” (Mather: 2004:113).

However, the limitations of EU foreign policy should also be noted. Before war on Iraq was declared by the US and its allies, the dissension amongst the European Member States became very clear, especially as the “new” Member States issued a declaration of solidarity for the US behind the back of “old” Europe. Although Member States may have common values and interests, a common vision to guide the EU’s foreign and security policy does not exist. National interests will continue to prevail especially given the intergovernmental character of the CFSP (Schmitt: 2003).

5.4. The “finality” of Europe

As mentioned earlier, major changes re-enforced the necessity to define the “finality” of European integration. “Finality” as it was defined by the European constitutional debate referred to the completion of European integration by adding political integration. The goal, purpose and limits of integration as well as institutional reform had to be defined as necessitated by the continued survival of the system. Discussions about a European Constitution came to the fore, but there were widely diverging views about the type, shape, legal status and substance of a constitutional text. On the one hand, the constitutional process sought to enable the EU to cope with a massive enlargement. The enlargement process itself follows the logic of rule-following in order to achieve membership. The constitutional process is open and flexible regarding changes (although subject to a time-frame), but the enlargement process is not, as rules must be complied with (but without a fixed time frame). Thus, in the constitutional process these rules and norms have a structuring role, but it is the constitutional process which will determine the rules and norms which will play a significant structuring role (Weiner, 2002:14).

The end of the Cold War increased the EU’s dilemma with regards to its borders and boundaries as the Union has no fixed territory delineated by definite borders over which it can exercise its authority. The end of the Cold War left the EU without any clear geographical, cultural or political boundaries. The enlargement process will continue to redefine the EU’s borders. Each enlargement will subsequently bring more aspiring members. This continuous expansion which is constituted by members, acceding and candidate countries, diminishes the possibility of a homogenous Union. Although diversity can bring many advantages, nonetheless every polity requires the resemblance of a boundary in which fairly similar units interact in order to govern and function effectively and democratically. Boundaries define what kind of polity the EU is or will develop into. Three problems are encountered in this context:

- (a) Should the Union define itself by geography?
- (b) Should the delineation of the EU be conclusive or open-ended?

(c) Should the boundaries be porous or rigid?

The more Member States in the EU, the greater the chance that there will be an increase in diversity in the political, cultural, social and economic spheres. A European polity progressing to a pre-defined end result would require a delineation of its geographical boundaries. This would enable a degree of homogeneity amongst its members and democratically legitimate governance. A closely knit political entity requires greater homogeneity and demarcated borders. The collective political identity of such a polity would have to be based on substantial commonalities to ensure the effective functioning of the system.

An open-ended polity would be better suited to accommodate members with greater diversity in the economic, cultural, social and geographical spheres, and does not require a definite delineation of borders. The borders would be permeable and flexible and would shift according to the practical and normative requirements of the polity. Members would be included or excluded on the basis of shared objectives and projects. The need of finding a justifiable balance between governability, efficiency and democratic legitimacy would be increased under such a system.

Smith identifies four types of boundaries for the EU: geographical, institutional/legal, cultural and transactional. Thus, a non-Member State might be outside the cultural boundaries but within the institutional/legal boundaries of the EU (by adopting some of its rules and procedures). Due to the divergent capabilities and expectations of the current members regarding the rewards and requirements of EU membership, a model of concentric circles or core/periphery model exists. The model of concentric circles brings the discussion of the “sharpness” or “softness” of the EU’s borders into focus. The EU has porous borders through which interaction occurs at a very high rate. These soft, permeable borders would enable the EU to overcome the outside-inside division and also to extend its governance beyond territorial and geographical limits. Regardless of how “soft” these borders will be, some kind of delineation of borders is still necessary. The complex web of external relations and association agreements further complicate who is

“inside” or “outside”. The delimitation of borders appears to be a politically motivated and heterogeneous process where political homogeneity has been more important than geographical continuity. The challenge of the Union is to find the right balance between the stability and efficiency of borders and the normative legitimate criteria by which to draw them. For some scholars such as Weiler, this is not an insurmountable task, as long as the boundaries of Europe are determined pragmatically (i.e. limiting the size in order to ensure democratic governance) rather than on racial or religious grounds or artificially (on the grounds of the historical boundaries of Europe) (Baykal, 2005:51).

Conclusion

Through the provisions of the Lisbon Treaty, attempts have been made to address the “democratic deficit” and the accountability of the EU. The European Parliament will play a more active role in the legislative process of the Union by an increase in the use of the co-decision procedure. Under the terms of the Lisbon Treaty, most European laws will be adopted jointly by the European Parliament and the Council. National parliaments will also be more involved in the decision-making procedures. An effort has been made to preserve the institutional balance of the Union whilst reinforcing the principle of subsidiarity. The Charter of Fundamental Rights will be binding for most EU Member States (except for those that opted out, such as the UK).

The Economic Dimension of Enlargement

Introduction

What are the costs and benefits of enlargement on the EU's economy? What were the main arguments in favour of expansion in the economic sphere? Can these arguments be used to predict future enlargements of the EU?

The force which has driven European integration forwards has been economic integration. The creation of a European market exchange has been at the heart of economic integration (Ambrosi, 2004:159).

The prime reason for seeking membership for almost all Member States has been the perception that the EC/EU has been successful in promoting trade growth and prosperity. The opening of the internal market to an increasing number of individuals has been the engine of success. This has come at the cost of national economic maneuverability, as the EC/EU either guides or enforces key policies ranging from competition law to macro-economic management. Nonetheless, the perceived benefits appear to outweigh the disadvantages, as far as membership is concerned.

Even though the motivations for seeking membership (and accepting members) may be mostly economically motivated, political considerations are also important. The Mediterranean enlargement is a good case in point. In Greece's case, the Commission stated that Greece should not be considered for membership because it was not ready in economic terms. However, the European Council opened negotiations because political and security concerns outweighed any other. By allowing Greece to join the EC, its fledgling democratic system could be bolstered. In the 2004 enlargement economic factors were undoubtedly a significant motivator, but the over-riding considerations were

that the newly established democratic institutions had to be safeguarded and that soft security could be provided by the EU (Nugent, 2004:59).

The European integration of the former socialist countries (CEEC's) was particularly challenging. Internal economic exchanges had previously been dictated by central planning authorities and no major private firms existed. As no private capital existed either, capital markets, commercial banks, credit markets were absent. Thus the entry of these into the Single European Market meant that a great deal of heterogeneity was introduced as the economic and administrative backgrounds were very different from the market oriented institutions and traditions of the EU (Ambrosi, 2004:159).

6.1. Economic Challenges of the Eastern Enlargement

Some of the challenges which the EU would have to deal with effectively were:

- a) In order to improve European infrastructure (especially the rail system), large amounts of finances would be tied up and diverted from developments in technology.
- b) Although the 12 new Member States of the 2004 enlargement increased the EU's population by 28 percent, its GDP was only increased by 7 percent and its Purchase Power (PP) by only 15 percent. There was also considerable variation of GDP between the states themselves. Cyprus has a GDP of 60 percent of the EU average, whereas Bulgaria and Romania have a GDP of one quarter that of the EU average (Baltas, 2004:147). According to the Second Cohesion Report the new Member States had a much lower standard of living and the population living in regions with GDP per head less than 75 percent of the EU-15 average increased from 71 million to 174 million. These disparities needed to be addressed, and thus the effect on the EU-15 was two-fold. On the one hand, existing funds had to be transferred from the EU-15 to the accession countries. On the other, in preparation of the effects that the 2004 enlargement would have on EU institutions, a series of

reforms were instigated (Zuleeg, 2001:22). The Commission's *Agenda 2000: For a Stronger and wider Europe* attempted to reform policies pertaining to two areas that account for most of the EU's expenditure: The Common Agricultural Policy (CAP) and the Structural Funds (see below). The three main recommendations were: Moving away from price support to direct income support in the CAP; Targeting Structural Funds more effectively to address economic and social deprivation and maintaining budgetary expenditure to 1.27 percent of total EU GDP. After many discussions between the Member States, and the consequent modifications of some of the proposals, particularly regarding the CAP and Structural Funds, the proposals were accepted at the 1999 Berlin summit (Nugent, 2004: 50). If the standard of living in the new Member States was not raised, the danger of large scale migration would be great (Zuleeg, 2001:3). This was certainly a concern for the EU-15 who placed long transition periods preventing citizens from the new Member States from entering the work force of the EU-15 states.

- c) The varying extent of institutional reform, legal systems, public administration and markets will pose many problems for the CEEC's to function effectively in the SEM. The prevailing culture of a Member State, may lead individuals to think and act in ways which are not appropriate in competitive market systems. One way to redress such a problem is through the use of monitoring by the Commission of targets set by bench-marking, as well as co-ordination with new Member States.
- d) The CEEC's economies would be subject to greater competition in the Single European Market (SEM) (Baltas, 2004:147).
- e) Low-skilled workers in the EU-15 would be negatively affected by an influx of low-skilled immigrants in terms of wages and employment opportunities. High skilled workers however, were likely to gain in both categories.

- f) Enlargement could place great strain on the budget. The new Member States required financial assistance by the EU. The EU-15 states, although recognizing the needs of the new Member States, still wished to receive EU funding from various projects. Nonetheless, they did not wish to increase their individual financial contributions as this would create domestic financial strain. Budgetary expenditure was set to 1.27 percent of total EU GDP at the Berlin summit in 1999.

6.2. Economic arguments in favour of Enlargement

The main arguments in favour of enlargement were:

- a) Enlargement would increase trade and investment. However these effects are likely to be felt in the medium to long-term. Benefits from trade and investment, increased wealth and competitiveness in the new Member States would create a more diverse and competitive Single Market. Static short term trade effects were expected to be outweighed by longer, dynamic effects. Initially, consumers in the CEEC's would have limited income and therefore, the macroeconomic impact of their membership would be limited for the EU, but it was expected to improve in time. The economic reforms adopted by the Member States would eventually increase their Purchase Power, and in turn this would increase demand for goods and services (UK Department of Trade and Industry, 2004:6-10).
- b) Following accession, the EU would become the world's largest exporter, with a 20 percent share of the world's exports.
- c) Intra-EU trade would be increased by 9 percent.
- d) The new Member States' compliance with EU regulations meant that businesses of the old Member States operating in the new Member States would benefit from

- a less risky and more familiar operating environment (UK Department of Trade and Industry, 2004:10).
- e) The GDP per capita of the EU-15 was about 30 percent below that of the US. This raised concerns about the competitiveness of the EU in the global market. At the Lisbon European Council of 2000, the Heads of Government identified increasing competitiveness as one of the most important goals of the EU. At this meeting, the Lisbon Strategy was developed with a double aim of improving competitiveness through structural reforms, improving innovation and completing the internal market. However, none of the former CEEC's reach the GDP per capita of the EU-15. Only Cyprus and Slovenia are on par with the weaker EU-15 Member States, Greece and Portugal. Thus, economic cohesion in an integrated market economy became more important than in previous rounds of enlargement. This could have a direct effect on future economic policies which may emphasize the redistribution of resources rather than building a dynamic European economic structure.
 - f) Overall higher economic growth and a larger Single Market with almost 500 million consumers.
 - g) By creating a single regulatory framework, international crime could be dealt with more effectively.
 - h) Consumers would benefit from greater access to more goods and services.
 - i) A cleaner environment as industries have to enforce the *acquis* dealing with environmental matters. (Zuleeg, 2001:8).

6.3. An assessment of the economic results of the Eastern Enlargement

In the Commission's Communication of 2006, an assessment was made of the results achieved by the 2004 enlargement (Commission of the European Communities, 2006c:3). The Commission concluded that the forecast expectations were met. The new Member States experienced strong economic growth (3.75% for the new Member States, 2.5% for the EU-15). The income of new Member State increased from 44% to 50% of the EU-15 average. Employment also increased. Fiscal discipline and the co-ordination of economic policies have led to economic stability. Interest rates have moved towards EU-15 levels. It should be noted that public debt is generally higher in some EU-15. In terms of employment, the Member States which allowed citizens of the new Member States to work experienced positive employment results.

Some areas of concern were identified. These were particularly in the internal market and agriculture. The new Member States were lagging behind in adopting the Competition *acquis*. In the agricultural sector, the productivity levels of the new Member States were considerably lower than that of the EU-15. The new Member States also had very high levels of unemployment.

6.4. The Cohesion Policy and the Structural and Cohesion Funds

The term "cohesion" was first formally used in the 1986 SEA. The cohesion policy attempts to reduce the social and economic disparities between the richest and poorest regions through the redistribution of financial resources.

In order to address the chasm of the acceding states in terms of political and economic development, financial aid had to be provided by the EU-15. In fact, financial aid was provided even before accession negotiations were underway. From 1989 funds were provided with a view of eventual membership. A number of financial and legal instruments were introduced to prepare the states for membership. As the negotiations

progressed, the instruments were fine-tuned to the needs of the candidate states (Zeff, 2004:181).

(a) The PHARE programme (Community Aid for Central, Eastern European Countries)

- i) PHARE is a pre-accession instrument and is the main channel for the European Community's financial and technical co-operation with the CEEC's. PHARE is designed to assist the candidate countries in implementing the *acquis*. It also assists national and regional administrations, regulatory and supervisory bodies in the candidate countries become familiar with Community objectives and procedures;
- ii) PHARE also assisted in the development of industry and infrastructure by mobilizing the investment required, especially in demanding areas such as environment, transport, working conditions and product quality;
- iii) Since 1994, PHARE's tasks have been adapted to the priorities and needs of each individual CEEC. The PHARE programme was revamped and granted a budget of over 10 billion Euro for the period 2000-2006 (about 1.5 billion per year). Although the PHARE programme was originally reserved for the countries of Central and Eastern Europe, it is set to be extended to the applicant countries of the Western Balkans (European Commission, 2007).

(b) ISPA: Instrument to Support Transport Infrastructure Investments

- i) ISPA projects are aimed at promoting sustainable mobility;
- ii) They enable the beneficiary countries to comply with the objectives of the accession partnerships. This includes "interconnection and interoperability

between national networks and the trans-European networks, as well as access to such networks”.

(c) SAPARD: Standard Accession Programme

SAPARD aims to assist in agriculture and rural development by:

- i) improving investment, the processing and marketing of agricultural and fishery products, improving structures for quality, veterinary and plant-health controls in the interests of food quality and consumer protection;
- ii) the protection of the environment through better farming techniques, management of water resources and the conservation of the rural heritage;
- iii) the management of forestry;
- iv) provision of technical assistance;
- v) the design and implementation of local and regional rural development strategies for Bulgaria and Romania (European Commission, 2000:8-9).

(d) The Instrument for Pre-Accession (IPA)

The IPA is the Community's financial instrument for the pre-accession process for the period 2007-2013 and replaced SAPARD and the other 2000-2006 pre-accession instruments. Assistance is provided on the basis of the European Partnerships of the potential candidate countries and the Accession Partnerships of the candidate countries. The IPA is intended as a flexible instrument and assistance depends on the progress made by the countries which receive aid and their needs as laid out in the Commission's evaluations and annual strategy papers.

The IPA divides the beneficiaries into two categories: Candidate countries (the former Yugoslav Republic of Macedonia, Croatia, Turkey) or potential candidate countries (Albania, Bosnia and Herzegovina, Montenegro, Serbia including Kosovo as defined by the United Nations Security Council Resolution 1244).

The IPA consists of five components, two which are aimed at *potential* candidate countries and three which are only aimed at candidate countries namely:

- i) The “*support for transition and institution-building*” component is aimed at financing capacity-building and institution-building;
- ii) The “*cross-border cooperation*” component is aimed at supporting cross-border cooperation between the beneficiary states, with the Member States or within the framework of cross-border or inter-regional actions.

For candidate countries:

- iii) The “*regional development*” component is aimed at assisting in the implementation of the Community's cohesion policy, and in particular for the European Regional Development Fund and the Cohesion Fund. The Cohesion Fund is not a structural fund even though it was created to develop infrastructure in the EU-15's less developed Member States (Greece, Ireland, Portugal and Spain);
- iv) The “*human resources development*” component, which concerns preparation for cohesion policy and the European Social Fund. Four redistributive funds known as structural funds exist to promote cohesion. These are: The European Regional Development Fund; The European Social Fund; the European Agricultural Guidance and Guarantee Fund and the Financial Instrument for Fisheries Guidance. The structural funds have three main objectives: The first is to assist underdeveloped regions (objective one); the second assists the economic and social conversion of urban and planning systems (objective two); the third aims to modernize training systems and the promotion of employment (objective three) (Zeff, 2004:181).

- v) The "*rural development*" component, which concerns preparation for the common agricultural policy and related policies and for the European Agricultural Fund for Rural Development (EAFRD).

During the run-up of the 2004 enlargement, there was a lively debate concerning the expense of the funds and widely differing views on their future distribution. It was also accepted that they do not greatly reduce economic differences between Member States. Nonetheless, any major reforms were postponed until after enlargement and this will continue to be a highly contentious issue, especially as any decision concerning the size and distribution of the Structural Funds can only be reached by unanimity.

6.5. How does Enlargement affect “the four freedoms”?

In order for the free movement of goods, persons, services and capital to be possible, a shared regulatory framework is needed (Ambrosi, 2004:163-166).

- a) *The free movement of goods:* All new Member States had agreements for most products with the EU before the accession. However, “non-tariff” barriers have been a problem. In order for these to be removed, all Member States must share technical standards and certification of goods which require a great many administrative changes in the new Member States.
- b) *The free movement of persons:* In the EU-15, the free movement of persons has not provoked a flood of workers from another country. In fact, the internal movement of workers in EU-15 has been stagnant. There have been very grave concerns regarding the flood of migrants from the new Member States to the EU-15 countries. Consequently, long transition periods were negotiated by the EU-15 in which citizens of the new Member States would not be granted full access to labour markets. Another aspect connected with the free movement of persons is the varying quality of education and professional qualifications. As the new Member States are subject to EU laws concerning the mutual recognition of

- diplomas and certificates, the issue of quality control has been one voiced by employers. Attempts have been made to address disparities by reforms to the public educational institutions in order to guarantee the competence of workers in compliance with Union norms.
- c) *The freedom to provide services*: Trans-border markets in services have been under-developed in the EU, mainly through prohibitive practices by administrative measures as a means of fending off competition. A balance between the protection of regional interests and protectionism was sought during the accession negotiations. However, the EU-15 were granted many concessions and the new EU states will have to deal with a considerable amount of protectionism.
- d) *The free movement of capital*: This was particularly challenging due to the CEEC's experiences. The CEEC's were still adjusting to the private ownership of capital. Even though Malta and Cyprus did not need fundamental reforms of their economic systems, some reforms were required. For example, Cyprus had to deal with its off-shore banking sector. Financial and insurance services are a very sensitive area of co-operation, because of its highly personal nature. EU-wide regulations and standards are essential to ensure that consumers are protected.

6.6. The impact of Enlargement on Economic and Monetary Union (EMU)

The Maastricht Treaty introduced some stringent conditions which Member States had to fulfill before they could enter into EMU. The conditions were:

- A budget deficit of less than 3 percent of GDP
- Public debt to be under 60 percent of GDP
- The inflation rate to be within 1.5 percent of the three EU countries with the lowest rate

-Long-term interest rates to be within 2 percent of the three lowest interest rates in the EU

-The exchange rate to be within “normal” fluctuations margins of the ERM.

The main fear was that inflation would be introduced into the EMU system by Member States with higher inflation rates. The Maastricht criteria were designed to ensure exchange-rate stability and the convergence of inflation rates, interest rates, debt and deficit levels.

Since the introduction of the Euro, a number of issues emerged. Foremost of these issues was the “growth versus stability” debate. European monetary integration was originally envisaged as an opportunity for participating states to create a stable monetary environment in which trade and investment would flourish. Later, it was seen to be the key to stable, long-term growth. Of the EU-15, 11 states joined the EMU in 1999. Greece joined in 2001. However, the UK opted out of EMU. It had set five economic tests which the British economy had to fulfill in order to become a member. As of 2003, two of the tests (sustainable convergence and flexibility) had not been met. Denmark in its 2000 referendum voted against joining as did Sweden in 2003. Disagreements concerning “growth versus stability” amongst the Member States of the EMU began to appear a few years after its introduction.

During the accession negotiations leading up to the 2004 enlargement, the candidate countries had accepted that eventually they would join the EMU. Most of the states were in favour as entering EMU could provide a number of significant benefits: reduced exchange rate risk, lower transactions costs and lower interest rates. The economies would be less vulnerable to shocks, trade and investment would boost growth, and they would be able to participate in setting European monetary policy by taking part in EMU bodies. Some concern has been expressed that once the new members are voting members, they would opt for growth rather than stability and this could lead to the destabilization of monetary union.

Another important issue is that of “nominal” versus “real” convergence. “Nominal” convergence refers to the formal fulfillment of the convergence criteria whereas “real” convergence refers to the institutional and legal restructuring of the economy. On the part of Euro-12 and organizations such as the European Banking Federation, caution has been expressed that even though a Member State shows that it has fulfilled the convergence criteria, its membership of EMU should not be rushed. The reasoning behind this is that too rapid integration of the accession countries into the EMU would create a number of serious problems. The accession countries’ economies are still in a transitional phase and relinquishing the exchange rate could have a very negative impact. The fulfillment of the convergence criteria could even damage the economies of the acceding states. In order to keep their deficits under control (one of the convergence criteria), the states may be tempted to cut their expenditures on needed structural reforms in sectors such as health care, education and the environment as well as infrastructure projects. This could create social unrest and erode support for further European integration.

According to Dabrowski (2006:7) this cautious attitude may have some very negative consequences for the New Member States and for the EU. It could discourage the new Member States from continuing reforms in politically sensitive areas such as social welfare and also from carrying out fiscal adjustment policies. Also, if the potential benefits of membership to the EMU outweigh the costs of delaying membership, the new Member States will lose these economic benefits. The financial markets were geared towards quick EMU membership, and as this is not occurring, risk premiums will increase, leading to slower growth and fiscal problems. This may trigger a financial crisis in the periphery of the EU. Finally, the EU’s ability to meet key economic and political challenges may be influenced negatively.

Estonia, Lithuania and Slovenia joined the European exchange-rate mechanism ERM-II on 28 June 2004 with the view of joining the Euro in 2007. Cyprus Latvia and Malta joined the ERM-II on 2 May 2005.

EMU enlargement may potentially be affected negatively by the global economic crisis. It was hoped that increasing price transparency and cross-border trade would lead EMU members to undergo structural reforms. This has not occurred. Instead fiscal deficits in the Euro area have deteriorated and since the advent of the global financial crisis, the financial situation of most EMU-Member States has worsened. Governments have spent billions of euros in an attempt to buffer themselves against financial melt-down (Fahrholz, Borner, Wojcik, 2009).

EMU-Member States have also provided financial rescue to some EMU-applicant states either directly, or through the International Monetary Fund (IMF). Although these measures may provide some short-term relief, in the long run they could contribute to “negative economic spillovers” (Fahrholz, Borner, Wojcik, 2009).

Enlargement of the EMU will increase diversity. Coalitions may form between Member States depending on the size and the magnitude of the economic challenges faced by the countries. Through these coalitions, political pressure may be exerted on other Member States to provide additional bail-outs, thus threatening the financial sustainability of monetary union. The EMU states would be additionally fiscally burdened and the risk of inflationary debt would have a negative impact on the euro area. The increased fiscal burden and resultant high inflation may reduce the advantages of being an EMU-member with the result of members opting to exit.

The increased structural deficits of EMU-member and applicant states has resulted in increased pressure on the Growth and Stability Pact. There is some danger that the global economic crisis could destroy the sustainability of the euro area and slow down (or stop entirely) the goal of an economically unified Central and Eastern Europe (Fahrholz, Borner, Wojcik, 2009).

It may be thus concluded that although the economic benefits of enlargement are not insignificant, the main motivation for enlargement would be political.

6.7. The economic crisis and the EU

The European economy is currently undergoing a very severe economic crisis. The expected shrinkage of real GDP would reach 4% in 2009. By 2010, the percentage of unemployment is expected to exceed 10% across the EU (European Commission, 2009: 67).

The Commission speeded up the delivery of structural funds to new Member States in Central and Eastern Europe and made rules more flexible, but many new Member States resent the fact that they would also have to turn to the IMF for additional funds. Within the EU, the need for deeper co-ordination on the economic level has been identified, but national governments have had to spend significant amounts on rescue and stimulus packages which make them more accountable to their domestic populations (Youngs, 2009:2).

In response to the crisis, the European Economic Recovery Plan (EERP) was launched in 2008. The aims of the EERP are: to restore confidence, bolster demand through the injection of purchasing power, strategic investments and measures to support business and labour markets (European Commission, 2009:iv). The EERP will cost 2% of the GDP for the period of 2009-2010 and will be supplemented by loans from the European Investment Bank (which will account for 0.3% of the GDP). The stimulus package is expected to contribute $\frac{3}{4}$ of a percentage point to GDP in 2009 and $\frac{1}{3}$ of a percentage point of GDP for 2010 (European Commission, 2009:67).

Some Member States such as Spain have declared that more economic sectors are “strategic” and thus exempt from free market principles. Many Member States have requested that EU competition rules be suspended. State aid rules and plans to expand the liberalization of the financial sector have also been suspended. Financial bailouts have been given mostly to national markets at governments’ requests. At the April summit, Economic and Monetary Affairs Commissioner, Joaquin Almunia, commented that Member States held “an inward perspective” rather than a global vision. As the emphasis

has been placed on domestic markets, the crisis may have a detrimental effect on the economies of Africa, Asia and the Middle East, with effects that may rebound on Europe (Youngs, 2009:3-4).

In terms of enlargement, the debate over the borders of Europe has intensified. EU neighbour states such as the Balkans and the Ukraine have been very severely hit by the crisis. Under the Pre-Accession Instrument a Crisis Response Package was formulated (Youngs, 2009:2). The Crisis Response Package comprises of 150 million Euros from the European Commission and 600 million Euros in loans from the European Investment Bank and the European Bank for Reconstruction and Development. The financial aid packages have been provided to Serbia, the Western Balkans and Turkey under the twin conditions of full compliance with the IMF programme and the Commission's conditions of short-term reform in public finance management and integration with the EU (Yan: 2009).

Conclusion

The Commission's Enlargement Strategy Paper (Commission of the European Commission, 2009:4) stated that economic activity in the Western Balkans and Turkey contracted sharply in the second half of 2008. Unemployment (which was already very high) continued to rise. Less foreign direct investment took place and less cross-border lending was identified. However, the perspective of EU accession bolstered investor confidence in the Western Balkans and structural reforms helped buffer the Western Balkans and Turkey from the worst effects of the crisis. Nonetheless, the economic crisis is likely to have a negative effect on future enlargements. Germany announced that after Croatia's possible accession, further enlargement would be frozen for the time being due to the financial crisis (Youngs, 2009:2).

Enlargement and Justice and Home Affairs (JHA)

Introduction

One of the objectives of the EC was to create a Europe without borders. It was believed that by removing the physical checks at international boundaries, trade would be facilitated as border crossings were hindering commercial trade. However, this could also facilitate transnational crime. Therefore, while steps were being taken to create a free-trade area, at the same time efforts were made to strengthen the fight against transnational crime. A third pillar for the European Union was created by the Maastricht Treaty to deal with crime. This was called Justice and Home Affairs (JHA) (Occhipinti, 2004:200). Justice and Home Affairs is a term used to cover a number of internal security issues such as crime, terrorism and illegal immigration. Most citizens accept that these problems can only be addressed effectively on EU level (Poole, 2003: 161).

7.1. The Schengen *Acquis*

Since the 1980s, a debate concerning the meaning of the phrase the “free movement of persons” occurred. Some Member States believed that this should only apply only to EU citizens and internal checks would take place to distinguish between EU members and non-EU members. Other states believed that free movement would apply to everyone, and as a result, internal border checks would be abolished. No agreement on this issue was facilitated, and as a result, France, Germany, Belgium, Luxembourg and the Netherlands decided in 1985 to go ahead and create a territory without internal borders. The first agreement between the five original group members was signed on 14 June 1985 in Schengen, Luxembourg. This agreement was followed by an Implementation Convention in 1990 which was adopted by all the EU Member States except for Ireland and the UK and two non-Member States, Iceland and Norway.

Initially the JHA pillar limited the role of the Commission and individual Member States could veto decisions. Therefore, progress in this area was quite slow. The provisions of Single European Market facilitated the transfer and laundering of “dirty” money and the implementation and expansion of the Schengen free trade area allowed the free movement of persons through borders thus aiding transnational crime organizations in their criminal activities. Although the Schengen agreement allowed for law enforcement agencies to take part in surveillance activities or pursue criminals, they could only do so over land, not sea, rail or air. Police operating on foreign soil could only detain, not arrest criminal suspects and assistance from local authorities had to be sought. Some of the new candidate countries were sources of transnational criminal organizations or important transit points for these organizations. Concerns were raised about the potential effect on the whole EU if these organizations were allowed access. Furthermore, many of the candidate countries had weak criminal justice institutions and would also be unable to fulfill their tasks as guardians of the eastern border. Added to this was the problem of differing policing styles which would add to the already diverse situation of the EU-15.

Nonetheless, the JHA domain of the EU *acquis* has been one characterized by rapid development. Substantial new measures have been implemented, or are high on the EU’s decision-making agenda, despite the fact that some legislative proposals have been delayed because of disagreements in the Council, where decisions have to be adopted by unanimity.

In the mid-90s Western Europe was dealing with rising crime and a refugee crisis stemming from the conflict in the Western Balkans. The CEEC’s were on the path to accession, but their criminal justice institutions could not deal with the challenges of rising criminal activity, which began to impact on Western Europe. Electorates within Western Europe began to apply pressure on their national governments to deal with the situation and in response European leaders sought a collective solution to tackle these problems. It was necessary to strengthen the EU’s internal security mechanisms before the accession took place. Discussions as how to modify JHA took place at the 1996-1997 IGC. The Amsterdam Treaty established a goal of creating an “Area of Freedom, Security and Justice”. A number of amendments were made to bring this about

(Occhipinti, 2004:202). A Protocol attached to the Treaty of Amsterdam incorporated the developments brought about by the Schengen Agreement into the European Union framework. The Schengen area was now within the legal and institutional framework of the EU and thus came under parliamentary and judicial scrutiny. This was the first concrete example of enhanced cooperation between thirteen Member States. The EC embraced the objective of free movement of persons embodied in the Single European Act of 1986 while ensuring democratic parliamentary control and giving citizens accessible legal remedies when their rights are challenged either by recourse to the Court of Justice and/or national courts depending on the competency of the area of law. The UK and Ireland opted out of this but they could opt-in at a later stage. Special provisions were made to include Iceland and Norway. Another goal was to transfer the Schengen *acquis*, visa, immigration and asylum policy from the third pillar to the first pillar. This “communitarization” of policy-making on these matters would entail the power of co-decision for the EP, qualified majority voting in the Council of Ministers and the exclusive right of initiative for legislative proposals for the Commission. The stripped JHA pillar was renamed “Provisions on Police and Judicial Co-operation in Criminal Matters”. Here the Commission had the right of initiative, but it shared it with Member States, The Council continued to vote by unanimity but for implementation measures QMV could be used. The European Parliament was allowed the right to consultation, thus the Council had to wait for the Parliament’s opinion before making a final decision. The use of framework decisions was introduced whereby national authorities are left to decide the best course of action to achieve the intended results. The framework decisions are binding. The framework decisions were intended to assist in the approximation of criminal laws in the Member States regarding the definition of crimes and the length of sentencing.

The European Council held a special meeting in October 1999 in Tampere. The Tampere Council laid down 10 general milestones for progress in the AFSJ. The Tampere Council endorsed the creation of a “scoreboard” which included the milestones. The Commission would create the scoreboard and twice a year they would update it. The Scoreboard was a grid with 50 objectives, the specific actions needed to gain the objectives, the actors

charged with carrying out the actions, a timetable, and a progress report (“state of play”). As enlargement approached, it was hoped that the Scoreboard would keep progress towards AFSJ on track. This did not however mean that there was not significant disagreement among Member States and slow progress in areas such as immigration and asylum policy. Generally, a new legal and institutional framework was being slowly established.

The Nice European Council consolidated the likelihood of enlargement in the near term, adding to the pressure for progress on JHA. As the JHA *acquis* was evolving, the applicant countries had to meet a moving target. The accession partnerships of the candidate countries with the EU provided a guide in this respect. The candidate countries had to reinforce external border facilities, proceed with institution-building, strengthen their administrative capacity, reform their asylum procedures, fight organized crime and corruption and adapt the Schengen *acquis*. In 1998 the PHARE programme was re-oriented to encompass JHA and began to fund horizontal programmes and twinning projects involving personnel exchanges. These efforts helped the applicant countries to improve the performance of their criminal justice institutions. They also provided a point of contact between the EU-15 and the applicant countries and facilitated in the transfer of administrative and technical know-how. The applicant states also participated in a number of structured dialogue sessions with Member States. One result of these dialogues was the 1998 pre-accession pact on organized crime. The attack on the US on September 11th, 2001 provided an impetus for closer co-operation. Rather than developing new policies, the emphasis was on accelerating policy-making. The need for the candidate countries to be able to control their external borders, monitor the travel of third-country nationals through their territory and co-operate with the national police authorities in the EU-15 as well as Europol and Eurojust was identified. The preoccupation with fighting terrorism topped the JHA agenda, but gradually this was replaced with concerns about illegal immigration, which had been the major focus before September 11. The Seville European Council in 2002 reflected this fact. Anti-immigration sentiment was rising in the EU and a number of immigration crises contributed to the

outcome of the Seville summit. This provided the basis for increased co-operation throughout 2002-2003 on issues such as asylum, human trafficking and border control.

Following the 2004 enlargement, the EU faced the challenge of not only maintaining the status quo of the *acquis*, but also to ensure its effective implementation by the new Member States as well as developing it further (Monar, 2003:2).

The CEEC's had Communist-era police and justice systems, based on the Stalinist model. Moulding their systems to be compatible with the EU's was a particular challenge. Meeting EU standards in JHA was one of the important tests facing the CEEC's and the Commission monitored their progress in this sector very carefully as the CEEC's would be responsible for the eastern border of the EU. At the same time, acceding countries wished to maintain their cultural and economic ties with states "on the other side of the border" (Poole, 2003:161).

The 2004 enlargement brought in some particular challenges to the domain of JHA. Especially concerning the increased diversity introduced into the Union. Diversity is not always negative, as different experiences, priorities and know-how can inject new variety and effectiveness in the Union. However, in the area of freedom, security and justice (AFSJ) it posed a particular challenge as this is such a sensitive area for Member States. The AFSJ sought to develop a common zone of internal security. This area is of particular importance to the citizens of the EU. Potentially, a weak link in the system of AFSJ could undermine the *entire* system. If the enlargement introduced a weakness into the system, it would not simply be a matter adjusting the economic and administrative functioning of the single market in order to correct temporary economic distortions. Instead, the ability to deliver internal security to EU citizens would be called into question, thus undermining the entire systems efficiency and credibility (Monar, 2003:2).

Although great progress was made by the candidate countries in adopting the legal *acquis* (including in the JHA area), fundamental differences still existed between the approaches adopted nationally by Member States regarding certain JHA issues. This continued to hamper progress towards common policies being developed by the 15 Member States.

The 2004 enlargement countries would add their own specific interests to this, thus complicating the matter further. Two examples can be used to illustrate this point. The first example is that of external border management. During the 1990s the EU moved towards tightening external border controls (see section above concerning the Schengen area). Some Schengen states such as Austria, Germany and Italy implemented sophisticated and extensive checks to ensure a high degree of border security. By contrast those countries “guarding” the new eastern border did not share the same views concerning the implementation of EU/Schengen external border regime. Doing so could potentially disrupt their relations with ethnic minorities on the other side of the border, relations with neighbouring countries, and could dampen cross-border trade. However, the candidate countries had to implement the regime as this was a pre-condition for accession. The obvious danger was that after enlargement, the new Member States would make this less of a priority, or that they would even seek to revise the *acquis* in this regard (Monar, 2003:3).

Schengen creates new barriers between the CEEC’s and neighbouring countries at traditional border crossings. The CEEC’s are forced to distance themselves from people with whom they share historical and linguistic ties. Disruptions to trade and employment have occurred especially among smaller businesses and traders. In response, the CEEC’s have tried various means to circumvent Schengen and maintain ties to ethnic minorities living in non-EU countries, thus creating a number of problems with the EU. The EU offers permanent derogations to Schengen to EU members Ireland and the UK, but the new Member States had to adopt the Schengen *acquis* as a precondition for accession. This has led to some commentators calling Schengen a symbol of “inequality, division and exclusion”. Schengen also exposes the eastern border states to their neighbours in the south and the east. The responsibility and costs of policing their less prosperous neighbours falls squarely on their shoulders. For the countries outside of Schengen this may be a source of estrangement which could lead to security concerns for the countries along the border (Buananno and Deakin, 2004:99-100).

Another area of concern was that of money laundering. The fight against money laundering is an area of high priority for the EU, especially after September 11th. However, for the new Member States the strict application of money laundering rules could be perceived as threatening capital inflow. This is of particular concern to them as they are less able to afford this effect. Furthermore, the full implementation of the EU *acquis* and objectives requires considerable financial and administrative capacity which the new Member States would wish to divert to other vital areas. A reflection of this was the Commission's 2002 report on Poland where it was noted that this country had achieved very little progress in implementing the *acquis* on money laundering (Monar, 2003:4).

Another area of concern is the diversity of law enforcement and administrative structures. Even within the EU-15, there is considerable divergence in police and court structures. For JHA to function effectively, there has to be a certain amount of compatibility within law enforcement and administrative structures. This would be further complicated by addition of the new Member States (Monar, 2003:4).

Another aspect of concern is implementation capability. Before the 2004 enlargement, there were serious concerns regarding substantial staff, training and equipment deficits in the candidate countries. For example, the Schengen Action Plan foresaw the appointment of 540 border police staff by 2003 for Slovenia. However, the Slovenian government had only appointed 200. The new Member States also had the tendency of implementing the necessary changes to their legislation at the very last moment. This could lead to considerable variance in implementation capability. An example is the last-minute alignment to EU visa requirements by Poland, which led to the slow progress of organizing data-protection authorities, which is essential for participation in Europol. Concerns were also expressed about corruption. The older Member States may be reluctant to share sensitive information amidst concerns that their counterparts in the new Member States may be corrupt. This is an area of particular concern for countries such as Bulgaria. However, it must be noted that this does not only pertain to the new Member States, as older Member States such as Greece also have documented problems in this

regard. The lack of mutual confidence in differing standards and procedures and the general reluctance to change national legislation also hinders progress. A possible solution to counter-act these challenges was to strengthen the EU's decision-making capacity. Under the current treaty and institutional arrangements, this is not possible. One of the major obstacles is the "unanimity" rule which makes mutual agreements in areas such as asylum and immigration very difficult. The particular challenges of the JHA domain also complicates matters as there is a scarcity of resources and time in order to "catch-up" with the EU *acquis* which is constantly evolving. On the other hand, enlargement increased the borders and the enlarged internal market could make organized crime, trafficking and illegal immigration easier for criminals. Thus, maintaining the *acquis* may not be enough to tackle these serious problems. Better instruments and procedures for implementing JHA measures will have to be developed (Monar, 2003:6).

7.2. Instruments for managing diversity

(a) The Community Method

The "Community Method" is a term used for the institutional operating mode for the first pillar of the European Union. Under the "Community Method" the Commission has the exclusive the right of initiative in Community matters as the Council only makes decisions after this has been proposed by the Commission. (The Council and the European Parliament may also ask the Commission to put forward an initiative if they consider it necessary). Under the Community Method the Council makes general use of qualified majority voting, uniformity in the interpretation of Community law is ensured by the Court of Justice and the European Parliament has an active role in co-legislating frequently with the Council. In the second and third pillars, it is similar to the so-called "intergovernmental method", with the difference that the Council may adopt binding acts, the Commission shares its right of initiative with the Member States with regard to the areas covered by the common foreign and security policy and certain matters relating to justice and home affairs and the European Parliament is informed and consulted. Generally, the Council acts unanimously.

The main advantage of this method is that it produces common approaches which are codified in Community law on the basis of a well-defined decision-making process within a single legal and institutional framework. The main disadvantage of this method is that in certain areas such as legal immigration, Member States may be very reluctant to adopt common actions, thus ceding national authority to the Community. It is also a very cumbersome decision-making procedure, and if combined with unanimity it can take a long time to reach a decision and the decisions reached may be those of the “lowest common denominator”. In the enlarged EU, the Community Method should be maintained and extended but it may not be used in all JHA areas. In certain cases, it has proven much more effective when Member States share the right of initiative with the Commission. On certain issues, Member States may have more experience and expertise and, especially if they bring in joint initiatives, this may facilitate decision-making in the Council. Thus, a flexible approach is desirable and the method used should reflect the best solution for the issue at hand (Monar, 2003:7).

(b) Enhanced co-operation

Enhanced co-operation may provide a solution to the deadlock caused by unanimity. Under this method, Member States who wish to work more closely on a particular issue may do so. Thus, the states can move forward at differing speeds and towards differing goals. Enhanced co-operation may only be used to further the Treaty objectives and must respect the *acquis*. It may not be applied to an area that falls within the exclusive competence of the Community. At least eight states must be involved and it remains open to any other Member State who may wish to participate. The Treaty of Amsterdam incorporated the "enhanced cooperation" concept into the Treaty on European Union as regards judicial cooperation on criminal matters and into the Treaty establishing the European Community. The Treaty of Nice introduced major changes aimed at simplifying the mechanism and abolished the ability of Member States to oppose the establishment of enhanced co-operation (as had been allowed under the Treaty of Amsterdam). Under the Draft European Constitution an easier recourse to this

mechanism was provided for. In particular, the initial authorisation procedures and those concerning participation by other Member States at a later stage were simplified with the minimum participation threshold being set at one third of Member States. The Lisbon Treaty saw no changes in this regard. One of the dangers in using enhanced co-operation is the possibility that political and legal fragmentation could occur in the area of FSJ, making common policy-making more complex and difficult and reducing transparency. Therefore, it should only be used as a method of last resort (Monar, 2003:8-9).

(c) The “Open Method of Co-ordination”

The Open Method of Co-ordination has been used in JHA. The Commission had suggested its use following the slow progress made in implementing the Tampere agenda through common legislative measures. It suggested that the open method of co-ordination be used for asylum and immigration policy. Annual guidelines would be implemented through national action plans which would be monitored by the Commission. The Commission would also make legislative proposals if needed. The open method of co-ordination would however be used in conjunction with common legislation, not as an alternative to it. This method could well be used when either the Community Method could create deadlocks, or enhanced co-operation a fragmentation of a common approach. This method could make it easier for new Member States to accept certain common targets and guidelines because of the longer time-frame and more flexible approach. However, due to its very flexibility, deadlines may be missed because there are no legal sanctions attached to their non-fulfilment. Also guidelines may be open to different interpretations. Thus, the open method of co-ordination is not suitable for cases where the harmonization of laws within a very short period of time are required (Monar, 2003:9-10).

(c) EU Aid Programmes

Under the PHARE programme from 1997 until 2001, 541 million Euro were allocated to various JHA programmes. This financial aid was intended to assist the weaker partners in bringing their implementation capabilities to the required standards. At the Copenhagen European Council of 2002 a facility of 286 million Euros annually for 2004 until 2006 was provided for transitional Schengen measures. Additional facilities may be required to assist in certain weak areas.

(d) Improvements in Decision-Making Capacity

Other than extending the majority voting as mentioned in the section above, the need for streamlining the decision-making procedures is necessary. The Council currently works according to the “box approach” whereby a committee or working party is established to deal with a particular issue. These working parties should be incorporated under a broader group thus improving co-ordination and speeding certain procedures up. The newer Member States would also be facilitated to participate in this way. The use of binding deadlines has been proven to be an effective implementation tool where it has been used. The introduction of deadlines increases the sense of urgency of the decision-making process. Another source of problems in the JHA domain has been the introduction of national legislation which diverges from the suggested JHA provisions. This makes it very difficult to adopt common measures. A possible solution would be to introduce “stand-still” clauses whereby Member States may not adopt new legislation contrary to that formally proposed to the Council. “Sunset clauses” may be introduced whereby existing bilateral or multilateral arrangements become invalid after a certain deadline if they have not been replaced or amended by another legal instrument or legislation (Monar, 2003:13).

(f) Maintaining and Improving Implementation Capacity

One of the key aspects in maintaining the momentum of reforms is the establishment of monitoring mechanisms. A good example of such a mechanism was the “Standing Committee on the Evaluation of the Implementation of Schengen”. These monitoring mechanisms can be combined with benchmarking or the provision of incentives. In case a Member State fails to meet certain requirements, some form of penalisation could occur, such as the suspension of the offending Member State from certain programmes. The method of benchmarking has been implemented in both Bulgaria and Romania’s cases amidst concerns over organized crime and corruption. A measure which has had considerable success in the work of some JHA special agencies such as the European Monitoring Centre for Racism and Xenophobia is the identification and transfer of “best practices”. In the enlarged Union, there is a wealth of different experiences and practices which can be utilized at little cost and with no formal sanctions. The establishment of common institutions or instruments can increase trust and improve co-ordination in the area of JHA. Through the establishment of common institutional structures such as Eurojust and Europol, expertise and experience can be shared (Monar, 2003:14).

Despite the fact that the importance of maintaining security is recognized, a number of civil liberties groups have expressed concern over the direction that many EU policies have taken. Chief amongst the concerns is that European societies are being closely monitored and data-bases with personal information are being established. Decisions on security issues are formulated behind closed doors without parliamentary control. In the new Member States, memories of their own former repressive regimes may give rise to new concerns. The Schengen *acquis* has already had a negative impact on the eastern border areas which were traditionally open. In order to answer these very valid criticisms, it is essential that the transparency of the AFSJ is increased through better information provision. However, it should be noted that the very nature of JHA makes this difficult. Much of the information concerning criminal activity and terrorism is highly sensitive. There should also be more parliamentary control over JHA institutions. The Charter of Fundamental Rights should become a legally binding part of AFSJ thus guaranteeing the rights of EU citizens (Monar, 2003:18).

7.3. JHA and the Reform Treaty

At the behest of the UK the Charter of Fundamental Rights was not retained in the Reform Treaty although the Charter has the same legal value as the Treaties and applies to all areas embraced by the EU and where Member States apply EU law. A protocol on the Charter was inserted concerning UK law. In the area of JHA, the UK was not automatically bound by police and criminal co-operation proposals, but it has the option of opt-in should it wish to do so. Under the Reform Treaty, the third pillar was subject to first pillar instruments. Therefore, instead of Framework Decisions, Decisions and Conventions, Directives and Regulations would be used. The procedure of the EU to accede to the European Convention of Human Rights was with QMV in the Council. This was now replaced by unanimity and national ratification. The “emergency-brake” provision was strengthened whereby a Member State could block certain criminal law measures by referring it to the European Council if it feared that this proposed legislation would affect its legal system (where QMV took place). Another provision was that although consensus should be reached, if no agreement was reached then one third of the Member States could go ahead without the others. Another provision made it possible for the assets of domestic terrorists to be frozen and this was being transferred to JHA. It is not clear how this will be handled by the Member States who have opted out.

7.4. JHA and the Lisbon Treaty

Under current circumstances, JHA matters are divided between the Community (asylum, immigration, visas and judicial co-operation in civil matters) and the Third Pillar (Police and Judicial Co-operation in Criminal Matters). In the Third Pillar the decisions are made on a more intergovernmental basis. If the Lisbon Treaty is ratified, all JHA matters will fall under the “Community Method”. Only a limited number of JHA policy areas will be decided through QMV in the Council. The European Parliament will play an active parallel legislative role through the co-decision procedure. The European Court of Justice’s (ECJ) jurisdiction will be extended to cover all prior legislation in policing and

criminal matters following a transitional period of five years in which it will have limited jurisdiction. The Commission will enjoy the exclusive right of legislative initiative except in the areas of police and judicial co-operation in criminal matters and administrative co-operation in JHA. In these areas it will share the right of initiative with one-quarter of the Member States (Donnelly, 2008:19).

Conclusion

Although the JHA domain of the EU *acquis* has been characterized by rapid development, it has been hampered by the adoption of unanimity as the decision-making procedure. As the provisions of the Lisbon Treaty have shown, national governments have slowly come to the conclusion that their interests would be best served through the adoption of the use of the “Community Method” in the sphere of JHA. Since the Amsterdam Treaty of 1997, a complicated set of instruments and decision-making systems had evolved which made decision-making in the sphere of JHA cumbersome and inflexible and often restrained by national vetoes.

European integration is based on the adherence of principles such as the respecting of human rights, democratic institutions and the rule of law. These principles also guide the enlargement procedure. The existence and benefits of the single market, monetary union and the freedom of movement could be enjoyed by EU citizens (and non-EU citizens), but increasingly the EU needed to develop common policies on asylum, immigration, the control of external borders and the fight against serious crime.

The deepening of the Internal Market pressed EU governments to work together to protect civil liberties and physical security. The national legal systems could not work individually to solve the increased challenges brought about by the disappearance of borders. As the Internal Market is borne of the Community Method, it makes sense that JHA should also fall under the ambit of the Community Method.

The enlargement of the EU (especially of new Member States which may face especial challenges in terms of crime and corruption) introduced a new set of variables in the

workings of the EU. The need for greater co-operation and better decision-making mechanisms has become imperative.

One Step Beyond: European Neighbourhood Policy (ENP)

8.1. What is the European Neighbourhood Policy (ENP)?

In December 2003 the *European Security Strategy*, which was drafted by the EU High Representative Javier Solana, was approved by the European Council. This document laid out the EU's commitment to multi-lateral action in order to address the threats to its security. It expressed the EU's commitment to sharing responsibility for global security and "building a better world". The key global threats which were identified were: terrorism, the proliferation of Weapons of Mass Destruction (WMD), regional conflicts, state failure and organized crime. These threats could only be addressed through an effective multi-lateral system. This would entail developing a stronger international society, efficient international institutions and a rule-based international order.

A number of strategic objectives were identified in order to achieve these goals. Briefly these are:

- *Strengthening international and regional institutions:* The importance of upholding the Charter of Fundamental Rights was emphasized as well as the role of the Security Council in helping maintain peace. In order to support the UN, the EU made a commitment to provide assistance to countries emerging from conflict and enhancing its short-term crisis management capabilities. Also, it wishes to broaden the membership of international institutions such as the World Trade Organization and the International Financial Institutions. In this respect, the EU supported both China and Russia's bid for membership. As for regional

institutions, the role of Mercosur, ASEAN and the African Union needed to be strengthened as these organizations act as a stabilizing factor in the global arena. The same applies for organizations within Europe such as the OSCE and the Council of Europe.

- *Enhancing co-ordination with NATO.* The US was identified as an essential partner in maintaining peace and stability. Within the context of these relations, the role of NATO is an important one. Programmes such as the Berlin Plus enhance the operational capabilities of the EU and lead to an important strategic partnership between these two organizations.
- *Improving and enhancing EU institutions:* The need for better co-ordination for institutions such as CFSP, ESDP and Home Affairs was identified. Also the establishment of a defense agency to improve European capabilities was identified as a positive step forward. Within this context the need for more resources and more efficient uses of resources, the pooling and sharing of resources, as well as the need for common threat assessment and intelligence sharing was identified.
- Also, the need for “*preventative engagement*” was identified. What this entails is not clear as there is only mention of “avoiding problems in the future”. Whether the use of military action, diplomatic efforts or incentive packages is implied remains unclear. Mention is made of developing instruments for crisis management and conflict prevention. These instruments may be of a political, diplomatic or military nature. They also include trade and development activities.
- A commitment is made to *supporting and developing close relations with its neighbours* in the Middle East, Africa and Asia. In particular, developing strategic partnerships with Japan, China, Canada, India or any other country that shares the same objectives and values of the EU is important. Closer ties with Russia must be encouraged.

The European Neighbourhood Policy (ENP) is an important tool in achieving these goals. The main objectives of the ENP can be summarized as follows: to reinforce any existing forms of regional and sub-regional co-operation; provide a framework for further development; contribute to conflict resolution; develop cross-border co-operation involving local and regional actors as well as NGO's; to strengthen the Euro-Mediterranean Partnership (Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco, Syria, Tunisia and the Palestinian Authority); and contribute to the European security strategy in the Mediterranean and Middle East.

Global developments have made the need for strengthening the ENP an absolute necessity. The global geo-political situation has influenced the dynamics of relations between the EU's neighbours, which naturally influences the dynamics of the ENP. Some of the most important threats and challenges of the region are:

- (a) The situation in the Middle East: The attacks of 9/11, the rise of Islamic terrorism, the instability caused by the war in Iraq, NATO's engagement in Afghanistan and Iran's nuclear programme and growing regional influence all pose serious challenges.
- (b) Russia's emergence as an economic and political player. Because of the disruptions in oil production and fluctuating prices caused by the problems in the Middle East, it has emerged as a major oil and gas provider, often using these commodities in coercive ways to influence its near neighbours- who are also the EU's neighbours.
- (c) China's emergence as a world power. Its influence is being extended throughout Africa and Central Asia. It is also a model of rapid economic growth under an authoritarian state which challenges the western ideal of "economic and political liberalization".
- (d) The image problem of the United States. US policies and actions have alienated many parts of the Muslim world. However, the US still has strong support from many Central and Eastern European countries.

- (e) The failure of the ratification and adoption of European Constitution (at that time) had cast doubt on “Project Europe”, strengthened the arguments of those opposing further enlargement and in turn, discouraged the aspiration of membership for many of its Eastern neighbours.

The ENP was first outlined in a Commission Communication on Wider Europe in 2003 and was followed by a more developed Strategy Paper on the European Neighbourhood Policy in 2004. The first years of the enlargement process focused on the accession countries, the establishment of the Copenhagen Criteria, and the setting of an accession negotiation timetable. However, by 1997, as reflected in the *Agenda 2000* paper, the Commission shifted its focus to the *impact* of enlargement on the EU’s policies (Cremona, 2004: 2). In particular, the eastern enlargement created a new external border in the eastern part of the continent. This new border cuts through areas whose inhabitants have similar historical and cultural backgrounds. In some areas on either side of the border, inhabitants under the Soviet regime used to live together under one country. The stability of these Eastern and South-East European countries which are currently outside the EU is one of the primary challenges of the enlarged EU. One of the priorities of the EU was to ensure that new Member States would be in position to implement the Schengen rules. Despite of the tightening of the border controls and regulations, serious problems arose with illegal trade and the movement of illegal workers over the border areas. In order to tackle these serious problems, the European Neighbourhood Policy (ENP) was created (Toth, 2004:17-18).

Through the ENP, the EU offered its neighbours a privileged relationship, building upon a mutual commitment to common values. The ENP allows for the cultivation of a deeper political relationship and economic integration. The extent of the relationship depends on the degree of the values effectively shared. Its objective is to create a ring of countries or “ring of friends” sharing the fundamental values and objectives going beyond co-operation in order to promote “significant” economic and political integration and to “share the benefits of the EU’s 2004 enlargement with neighbouring countries in strengthening stability, security and well-being for all concerned”. It is designed to

prevent the emergence of new dividing lines between an enlarged EU and its neighbours. As the ENP states: “*A relationship will be built on the commitment to common values in the field of good governance, rule of law, respect for minority and human rights, promotion of good relations with neighbours, sustainable development and the principles of the market economy*”. In the external field, commitments will be sought on issues such as the fight against terrorism, proliferation of WMD’s, conflict resolution and adherence to International Law (Commission of the European Communities, 2003b:3), thus strengthening prosperity, stability and security in the region and reflecting the European Security Strategy.

The ENP builds upon existing agreements between the EU and the partner in question. (Partnership and Cooperation Agreements, or Association Agreements in the framework of the Euro-Mediterranean Partnership). The central element of the European Neighbourhood Policy is that the ENP Action Plans are agreed between the EU and each partner. The priorities set are defined *in conjunction* with the partner countries (bilaterally). An agenda of political and economic reforms with short and medium-term priorities are set out. The priorities are to a certain extent “tailor-made” for each case. The areas covered are comprehensive: political dialogue and reform; trade and access to the Internal Market; Justice and Home Affairs (JHA) and other issues such as energy, transport and environment. The progress of these goals are monitored by bodies established by the Agreements and will be periodically evaluated by the Commission. On the basis of these evaluations, the EU jointly with partner countries will adapt and renew the Action Plans. Under the principle of “joint ownership” the EU will “not impose its priorities or conditions on its partners” (Commission of the European Communities, 2004a:12). However, the enhanced conditionality of the ENP does lend itself to the question as to how autonomous policy development can actually be (Cremona, 2004:7). The issue of conditionality was reiterated by O. Rehn in his address at the Plenary Session of the European Parliament in Strasbourg on the of 15th of March 2006 on the “Commissions Enlargement Strategy”: “we apply rigorous conditionality. Combined with a credible accession perspective, conditionality works”.

Additionally, as there different starting points with a “differentiated framework which responds to progress made by the partner countries in defined areas”, there is a danger that existing differences between neighbours with reference to their relations with the EU will grow wider. This also runs counter to the aim of “joint ownership” in the sense that the actions of each partner country will be evaluated by the EU. In this way the agenda is set by the Union, thus enforcing its aims. The perceived benefit of access to the single market is *conditional* on the fulfillment of the legal and economic requirements (Cremona, 2004:8).

Enlargement, or the *promise* of membership, has been called the Union’s most successful foreign policy instrument. The EU sought to repeat the success of the 2004 enlargement (economic development and political stability in the Member States of Central and Eastern Europe) and uses many of the same methods and instruments. However, the ENP does not include accession, hoping instead that a high degree of political and economic integration will prove a powerful incentive (Cremona, 2004:5). In fact, the ENP does not recognize the fact some of its neighbours are eligible for membership under Article 49 of the Treaty for European Union. It refers explicitly that it “should be seen as separate from questions of possible EU accession”. This aspect could have political impact on countries who may feel excluded from possible accession –with possible negative consequences (Cremona, 2004:8). In fact, the ENP is meant as an *alternative* to accession. In his address at the Plenary Session of the European Parliament in Strasbourg on the of 15th of March 2006 on the “Commissions Enlargement Strategy”, O. Rehn did not *exclude* accession (see quotation above), but makes it clear that the EU’s strategy for the time being is to “consolidate[] our enlargement agenda.... The pace of enlargement must take into account the EU’s absorption capacity...” Although he makes clear that, at this stage, efforts at “deepening” are essential, so is the continuation of the EU’s commitments vis-à-vis the ENP countries.

The ENP applies to the EU's immediate neighbours, linked either by land or sea. These states are: Algeria, Armenia, Azerbaijan, Belarus, Egypt, Georgia, Israel, Jordan, Lebanon, Libya, Moldova, Morocco, the Palestinian Authority, Russia, Syria, Tunisia

and Ukraine. By March 2007, 12 Action Plans have been approved and published with Moldova, Georgia, Ukraine, Armenia, Morocco, Tunisia, Palestine, Israel, Jordan, Azerbaijan, Lebanon and Egypt. As for Russia, at the 2003 St. Petersburg summit, a Strategic Partnership was developed through the creation of 4 common spaces and this was expanded to the Southern Caucasus (Armenia, Azerbaijan and Georgia). Additional means of assistance is provided. For the EU, this is a strategic area for both the production and transport of energy. After the lifting of UN sanctions against Libya, progress has been made for its inclusion in the Barcelona Process (Commission of the European Communities, 2003b:5). The Barcelona Process is also known as the Euro-Mediterranean Partnership. It was launched in 1995 following the Barcelona Declaration and attempts to promote peace and stability in the region by promoting the resolution of conflict through an open dialogue and prosperity through the creation of a free-trade area.

In December 2006, European Commission published its “Communication on Strengthening the European Neighbourhood Policy”. The German Presidency had used the term “ENP Plus”. This Communication provided an assessment of the first 18 months of implementation. It stressed the continued importance of the ENP in addressing many of the problems facing these states. Threats to the EU include the influx of illegal immigrants, unreliable supply of energy, environmental pollution, terrorism and crime. Although the importance of providing incentives for reform is stressed, it is also explicitly stated that the ENP “remains distinct from the process of EU enlargement [E]nhanced co-operation is possible without a specific prospect of accession”. Thus the ENP does not have the impetus of enlargement driving it. Most of the neighbourhood countries are poorer and less homogeneous than the Central European countries and the ENP is unlikely to satisfy reformist governments who may wish for accession. In particular, the Ukraine, Georgia, Moldova and Armenia aspire to full membership. Especially in the case of the Ukraine, both Sweden and Poland support its bid to membership. In the Ukraine’s case, in March 2007 negotiations were launched for formulating a new “Enhanced Agreement”. The ENP in its initial formulation provided for the negotiation of “European Neighbourhood Agreements” to follow the Action Plans. This “Enhanced Agreement” will replace the Partnership and Co-operation

Agreement which will soon expire. The “Enhanced Agreement” will be a comprehensive, multi-pillar agreement which covers a wide of issues (economic issues, foreign and security policy, justice and home affairs and political dialogue). This may provide a model for future agreements with ENP partners. The name “Enhanced Agreement” was a compromise as the Ukraine objected to the term “Neighbourhood Agreement” precisely because it implies a permanent exclusion from the EU. Although the Communication acknowledges that some progress has been made, the economic benefits of the ENP must be positive and significant in order to have the required impact. As these countries have poorer infrastructure and lower per-capita GDPs, the political risk is much greater for domestic elites. A first assessment of the ENP is that it may simply be a modest mechanism for lessening the unfavourable effects of enlargement on the border regions. However, if implemented more effectively it may promote a political, economic and societal transformation (Milcher and Slay, 2005:6) which will in the long run make these states eligible for accession (Cremona, 2004:8).

The Communication makes some proposals in strengthening the incentives and improving the impact of the ENP. These proposals include:

- (i) *Enhancing trade and economic integration* through the use of Free Trade Agreements (FTA's). These FTAs would cover all trade in goods and services between the ENP partners and the EU. Existing FTA's would be expanded. Strong legally binding provisions on trade and regulatory issues as well as impact assessments would be included. The FTAs will be tailored to the capacities of each partner. The EU would first have take into consideration the partner's ability to implement these agreements. Although each partner is likely to move at his own speed, the objective would be the same for all: access to the market and a common regulatory basis.
- (ii) *Improving mobility*. The existing visa policies implemented by the EU often impose difficulties for short term travelers from the ENP countries. The need for improving visa procedures has to be weighed against security concerns.

Thus co-operation in areas of border control such as human trafficking, smuggling, illegal immigration, repatriation of illegal immigrants and asylum is essential. This goes hand-in-hand with wider (and controversial) developments in the EU regarding visa policy such as the introduction of biometrics and the exchange of visa data between Member States. Negotiations in 2006 with the Ukraine led to an agreement regarding visa policy similar to that made previously with Russia. Negotiations are now taking place with Moldova. Certain categories of people (businessmen, journalists, NGO representatives, public servants and researchers) may have easier access to visas. The possible abolition of visas may be held out as an enticement to ENP partner countries. The EU requires that any visa facilitation must be accompanied by readmission agreements. Each partner state is obliged to re-accept any illegal immigrants entering into the EU from that state. The partner countries are often unable to enforce these requirements as they do not have the facilities or the resources to do. Human rights activists have reported that Moroccan authorities have abandoned refugees in the desert or that the Ukraine deported Chechen refugees to Russia. Improvements also need to be made to the consular services of the Member States. Some suggestions have been the use of on-line applications and the expansion of consular facilities.

- (iii) *People-to-people exchanges.* Civil society exchanges are essential to put a “human” face to the ENP and facilitate interaction between ENP partners and the EU citizens. Whether through contacts by NGO’s, trade unions or business exchanges. Educational exchanges have been launched through the Erasmus Mundus, TEMPUS and other programmes. The visibility of these efforts must also be encouraged. The Commission intends to establish a website, in which a full list of these programmes will be made available to the public.
- (iv) *Enhancing multi-lateral agreements.* As previously indicated, most of the agreements have been made bilaterally in order to ensure the “tailor-made”

characteristics of the agreements. However, there are certain policy areas which are common to all partners and which would be further enhanced by multi-lateral co-operation. Such areas could be energy and transport.

- (v) *Participation in EU agencies.* This is an important element, as partner states may be able provide valuable input in EU agencies and programmes. In a Communication published by the European Commission in December 2006, the question of how ENP states may be able to participate or be associated with various agencies and programmes of the EU was analyzed. Of the thirty agencies reviewed, some already exist and others which have been proposed cover a wide spectrum of areas such as police co-operation, food safety or border control. Of these, twenty have provisions regarding third-country participation. Of the thirty-four Community programmes reviewed, seventeen had provisions for third country participation. The European Economic Area also provides for some institutional participation in committees of the Commission and the Council in the policy making process concerning new market regulations.
- (vi) *Resolving regional conflicts.* Although the ENP can never replace regional or multi-lateral efforts at conflict resolution, it can still play a significant role in strengthening dialogue and supporting reform and development. The ENP has not engaged with the secessionist entities of Abkhazia, South Ossetia, Nagorno Karabkh and Transnistria. Some initiatives have been undertaken, notably the Commission's mission to Abkhazia. Some of these entities are pro-business (Transnistria) or moving towards democracy (Abkhazia). Thus, their inclusion in some aspects of the ENP could encourage their movement towards "Europeanisation".
- (vii) *Enhancing regional co-operation.* Three important areas are introduced in this section. First, the "Black Sea Synergy" is mentioned. The Black Sea has become a new border with the inclusion of Bulgaria and Romania in the EU.

Second, the Euro-Mediterranean Partnership (often called the “South” or Barcelona Process). The ENP built on the Five Year Work Programme agreed to in 2005 at the Barcelona Summit. The five Action Plans in force with Israel, Jordan, Morocco, the Palestinian Authority and Tunisia have set clear priorities and considerable progress has been made even on sensitive topics. Third, the ENP may be extended beyond the EU’s immediate neighbours to include “the neighbours of our neighbours” Thus, its influence may extend beyond the Gulf, Central Asia and Africa.

- (viii) *Financial support.* The ENP is funded as of 2007 by the European Neighbourhood and Partnership Instrument (ENPI). The European Investment Bank can now loan money to partner states. The overall amount of funding allocated to the ENP is still relatively low, especially considering its scope and objectives. Two innovative financial mechanisms will be introduced by the Commission in order to maximize the impact and leverage of EU funding: (i) A *Governance Facility* amounting to 300 million € will be provided as an extra incentive to partner countries which have made the most progress in their reform agenda as laid out in their Action Plan; (ii) A *Neighbourhood Investment Fund (NIF)* to which 700 million € will be allocated. This fund will provide grant support for lending by EU financial institutions. Should Member States add grant funding to the Fund, a considerable amount of funding would be made available for investment projects in ENP partner countries. The NIF will provide funding for the “East” and complement the Facility for Euro-Mediterranean Investment and Partnership (FEMIP) which covers the South. The European Investment Bank (EIB) will have access to the Commission’s budgetary resources and has allocated 12.4 billion € for the 2007-13 period. The European Bank for Reconstruction and Development (EBRD) has established itself in Central and Eastern Europe with great success. Private investment linked to project-related policy issues such as corporate governance or energy and transport projects has been encouraged. The EBRD’s activities can now be focused on the South and East as the new

Member States now have lesser needs. The co-ordination of the activities between the Commission and the IFIs is essential. There is a constant dialogue between these institutions and the Commission on how to co-ordinate their policies. As mentioned in the strategic objectives, the Commission also co-ordinates with the World Bank. The Commission has drawn on World Bank policies during the preparation of the Action Plans and the World Bank in turn has referred to the content of the Action Plans in its programming documents. The combination of the financial resources of the IFIs and the Commission could be an extremely effective tool in shaping strong policy and conditionality.

8.2. Future prospects of our “Friends and Neighbours”

What are the prospects of deeper integration of the states which now surround the EU? On a case-by-case basis, the prognosis is not good. Some improvements have taken place, but overall there is much work that needs to be:

1. The South – Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, Palestine, Tunisia

(i) Algeria

Algeria initially was co-operative in the Barcelona Process, but has rejected the ENP. It has not made much progress in addressing the stipulations of the Association Agreement regarding political and socio-economic reforms. Algeria resents outside interference and regards that the ENP is a “dictation” rather than a “partnership”.

(ii) Egypt

Egypt is a significant player in the region. It is however fairly reluctant to implement its Action Plan. Although its good relations with the EU are essential for political and economic reasons, the idea of political conditionality is not appreciated. Therefore, political reforms have been slow although economic liberalization has taken place.

(iii) Israel

Israel has an advanced economy, democratic values and European roots which make it seek closer ties to the EU. In the bilateral negotiations of the Action Plan, it developed its interests to develop operational links through participation in EU agencies, programmes and policies.

(iv) Jordan

Jordan's Action Plan deals more with trade and economic reform rather than political co-operation. It is co-operative with the EU. However, its main partner is the US. Substantial economic reforms have taken place, but its treatment of Islamist opponents and displaced Palestinians have opened it to criticism by human rights groups.

(v) Lebanon

Although Lebanon was a willing and firm supporter of closer ties with the EU, its internal situation has made it impossible to finalize its Action Plan. Internal tensions between the various factions and the conflict with Israel in 2006 meant that its priority was to stabilize the security situation. The current situation casts serious doubt on Lebanon's ability to engage in reforms.

(vi) Morocco

Morocco had applied for membership in 1987, and although this is out of the question for the time being, it has attempted to integrate more comprehensively with the EU. It embraced the ENP and was one of the earliest partners to adopt an Action Plan. Morocco has implemented economic modernization and reform policies but has stopped short at reforming its political structures. There are some concerns regarding human rights abuses and the judiciary. Morocco also seeks to counter Algeria, with which it is having a dispute over the Western Sahara.

(vii) The Palestinian Territories

The EU is the largest Western donor of financial aid to the Palestinian Territories. It has also been engaged in the Oslo peace process and the Road Map. The Palestinian Authority was a willing partner in the drawing up of its Action Plan and many of the reforms had already been laid out in the Road Map. However, despite the EU's attempts to be even-handed in negotiations involving the Quartet, its reputation has been damaged amongst the Palestinians by the US pro-Israeli orientation as has the

EU's refusal to acknowledge Hamas following the 2006 elections. Conflict between Hamas and Fatah created a lack of credibility for the Palestinian Authority. Subsequently, the Action Plan has been frozen and its aid programme interrupted.

(viii) Tunisia

Tunisia has sought ever-close ties with the Europe since the 1960s. Therefore, its participation in the ENP is part of a natural progression. Economic reforms and modernisation efforts have been strong. However, Tunisia still has great social inequalities. Its leadership often behaves undemocratically to opposition parties, especially where Islamic parties are concerned.

2. The Excluded Territories – Libya, Syria and the Western Sahara

(i) Libya

In 2003 UN sanctions were lifted following Libya's co-operation in the Lockerbie case and the resolution of the WMD standoff. The EU began a cautious rapprochement with Libya and Libya expressed its willingness to take part in the ENP. Since then the process has been halted over the Bulgarian nurses sentenced to death and the suspicion that Kadhafi's son will be taking his father's place. The pace of reform in Libya is unknown.

(ii) Syria

Since the conclusion of the negotiations of the Association Agreement with Syria in 2004, there has been no continuation of the process, either by the ratification of the Agreement or its subsequent entry into force. Since Bashar Al-Assad came into power in 2000, no reforms have taken place. Any opposition is suppressed. The assassination of Hariri in 2004 led to Syria's further isolation.

(iii) The Western Sahara

The Western part of the Western Sahara was occupied by Morocco in 1975. The Eastern part is controlled by the Polisario Front. A fortified wall was constructed by Morocco along this border. For this area, Morocco has offered autonomy within the Moroccan state. Both the Sahrawi and the Algerian-based Polisario contest this. The EU has remained completely inactive in this area.

3. The East – Armenia, Azerbaijan, Belarus, Georgia, Moldova, Russia, Ukraine

(i) Armenia

Armenia has expressed its desire for EU membership. However, in practical terms progress has been made only in the economic sector and not in the political social and judicial sectors. Armenia has also continued cultivating very close ties to Russia, who is its main partner. The dispute with Azerbaijan over the Nagorno Karabkh was a motivation in seeking closer co-operation with the EU. The EU, for its part, has not made conflict resolution a major part of the ENP.

(ii) Azerbaijan

Azerbaijan may be one of the most reluctant partners in the ENP. Its energy reserves and strategic location give it some leverage. Azerbaijan has very reluctantly instigated some political, social, judicial and economic reforms. The EU is keen to cultivate relations with this state (because of its energy reserves).

(iii) Belarus

Belarus has been excluded from ENP. The EU has applied sanctions to the leaders of Belarus by instigating a travel ban and freezing their assets. The authoritarian regime has been guilty of human rights abuses. Belarus has been aligned with Russia, but recent tensions with Russia have resulted in Belarusian officials stating that they wish to join the ENP.

(iv) Georgia

Georgia, in its attempt to gain real independence from Russia has embraced full integration into NATO and the EU. Georgia has undertaken significant reforms, although much work needs to be done in sectors such as judiciary, multi-party governance, free media and legislative harmonization.

(v) Moldova

Moldova has expressed its desire for EU membership. It was hoped that an Association Agreement will be in place by 2008. Moldova has implemented many of the economic reforms in its Action Plan, but it has not made much progress in its democratic reforms.

(vi) Russia

Russia has refused to be part of the ENP as it sees itself as a second pole of influence. Thus it wishes to have a relationship with the EU based on equality, partnership and non-interference in its internal affairs. Russia is the EU's most important economic and political partner and the EU-Russian relationship has become more ambiguous, especially considering its increasingly coercive tactics concerning states it believes fall under its influence. Of course, this tactic has encouraged states to turn to the EU in an effort to counter-weigh Russian pressure.

(vii) The Ukraine

The Ukraine has made a strong case for membership in the EU. Much progress has been made in the political and judicial sectors. However, it has not been able to muster domestic support for economic reforms. For this reason, it has not been able to join the WTO and the Ukraine-EU trade relations have not advanced substantially. The Ukraine is one of the most important partners in the East for the EU and an "Enhanced Agreement" has been negotiated. There is some support from Poland and Sweden for Ukraine's possible inclusion in the EU in the near future, although the French have expressed strong opposition to this.

4. *The secessionist entities*

Abkhazia, South Ossetia, Nagorno Karabkh and Transnistria are territories which have seceded from the states Georgia, Azerbaijan and Moldova. The ENP has excluded these areas.

8.3. "The Black Sea Synergy"

After the enlargement of the EU in 2007 (Bulgaria and Romania), its border expanded to the Black Sea region. In April 2007 the Commission published its Communication on the "Black Sea Synergy". The Black Sea area includes Moldova, Ukraine Russia, Georgia and Armenia. The area is rich in natural resources and strategically located in the nexus of Europe, Central Asia and the Middle East. It is also an area riddled with conflict, poverty and environmental problems. The border region is poorly guarded and is a source

of organized crime and illegal migration. The Black Sea Synergy is a tool which complements the pre-accession process with Turkey, the ENP, and the Strategic Partnership with Russia.

It may be seen as an attempt to address some of the weaknesses of the ENP. There are 13 main co-operation areas. These cover a wide spectrum of activities. A commitment is made to following through with the major ideas of the ENP Plus (for example, removal of travel obstacles, new scholarship schemes, and negotiating Free Trade Agreements).

Conclusion

In the formulation of ENP great emphasis has been laid on the fact that participation in it will not lead to accession. Nonetheless, the ENP follows much of the logic of the enlargement process i.e. it provides funds but enforces rigorous conditionality. It is not in EU's interest to ignore its neighbours, especially if the fact that these regions are considerably unstable is taken into account. It is highly unlikely that any of these states will be seriously considered as candidate countries in the near future. However, if the implementation of the Actions Plans is successfully undertaken by a particular country, it is not inconceivable that in the distant future they may fulfill the criteria of a desired candidate.

General Conclusions Concerning the Future of EU Enlargements

(a) Some general remarks concerning the phenomenon of Enlargement

The founding principle of the EEC/EU was to make the possibility of war between Western European states unthinkable. In 1951 the Treaty of Paris was signed and the European Coal and Steel Community was created with six Member States. From these original six Member States, by 2007, the EU had expanded to 27 Member States. States which had been hostile to each other, or even had resorted to armed conflict in the past were closely co-operating with each other and integrating in the political and economic sectors.

The economic success of the EEC was a strong motivating factor for states in their bid for membership. The promotion of trade, investment competitiveness and economies of scale as well as structural reforms resulted in an increase of GDP in EU Member States. However, as the 2004 enlargement indicated, the gains of the acceding states far outweighed those of the EU-15. Why then did the EU-15 support enlargement?

The answer lies in the second motivating factor for enlargement: the promotion of security. Already from the mid-1980s the Mediterranean enlargement (Spain, Portugal and Greece) was an attempt to bolster the newly emerging democracies after years of dictatorship. After the end of the Cold War, an increase in organized crime, illegal drugs and the uncontrolled migration occurred. States generally favoured the membership of their neighbours. It was believed that the problems could only be solved on a transnational level. The emphasis for the 2004 enlargement was on security. Most of the documents published by the EU made references to “peace”, “stability” and “security”. However, the inclusion of the CEEC’s brought forward a series of challenges for the EU.

The provisions of the Treaty of Nice determined the functioning of the EU with 27 members. After the accession of Bulgaria and Romania in 2007, the EU has reached 27 members. The need for future reform became essential. New Member States make quick,

effective decision-making more difficult. In order to avoid decision-making dead-locks, the decision-making procedures would have to be adjusted to accommodate the new members. The negotiations for a new Treaty lasted eight years. In November 2009 all 27 Member States had signed the Lisbon Treaty. Qualified Majority Voting (QMV) was extended to over 40 new cases. The Lisbon Treaty also stream-lined the decision-making procedures of the EU through the use of the double majority procedure (from 2017). Significantly, the election of an EU President will reinforce the EU's cohesion in external affairs. The new "foreign minister" of the EU will be the "go-to" person on behalf of the EU. (S)He will be the "face" of the EU's external policy. The foreign minister will chair monthly meetings, act as vice-president of the European Commission and run the new diplomatic service. The Lisbon Treaty will also transfer first pillar instruments into the third pillar (Justice and Home Affairs).

Justice and Home Affairs is one area greatly affected by enlargement. The 2004 and 2007 enlargements greatly increased the EU's border. Many of the CEEC's were dealing with problems of crime, corruption and illegal immigration. However, the logic of the Internal Market meant that internal checks and border controls would be suspended. The Commission enforced the Schengen *acquis* on the CEEC's as an attempt to counter these problems. The increased diversity in policing and administrative capacity had lead to some problems occurring. The fact that the "Community Method" has been introduced by the Lisbon Treaty into JHA is an indication that a concerted effort is being made to deal with security issues.

Enlargement has certainly increased diversity in the EU. The CEEC's were however within the cultural and geographical boundaries of "Europe". However, the candidate countries and potential candidate countries have sparked off a debate about the definition of "Europe". No collective European identity exists and this poses some problems for the legitimacy of the EU as a political institution. The more Member States there are, the more difficult a common cultural identification becomes. In terms of legitimacy, a degree of homogeneity amongst members and a clearly delineated border is required. It can be argued that Croatia and Iceland are exempt from this debate. Eurobarometer polls (and

the referendum results of France and the Netherlands) have shown the EU citizens have grave reservations about the entry of Turkey in the EU. For many in the EU, Turkey is not part of Europe. Only 4% OF Turkish landmass is part of “Europe”, the rest is in Asia Minor. It has traditionally always been considered “the other”. It is a predominately Muslim country, Europe is largely Christian. It does not share the same “European” heritage. The sheer number of Turkish citizens will automatically make it one of the “heavyweights” of the EU, changing EU policy to suit its national interests. Generally it can be stated that EU citizens do not share the same amount of enthusiasm for enlargement as the EU elites do. The results of the 2009 European Parliament elections, in which far-Right parties were elected in many Member States points to the fact that many EU citizens are concerned about immigration and will not readily support further enlargements.

This fact has been acknowledged by the European Commission. In its Enlargement Strategy of 2005 it laid out the 3 “c’s” which would guide any future enlargements: consolidation, conditionality and communication. Communication was deemed necessary to convince EU citizens about the benefits of enlargement. It also showed very clearly the concerns over the EU’s institutional capacity. For any future enlargements to take place, the correct institutional framework would also have to be in place. In other words, the EU will first have to “deepen” before it can “widen”. Because of the special challenges facing the candidate and potential candidate countries, the Commission will apply a series of monitoring techniques such as the issuance of regular “Reports” and using bench-marks to apply “rigorous conditionality”. In this way states which are problematic are forced to undergo reforms and by monitoring progress closely, the acceding countries will not place the entire EU system in jeopardy.

In the foreseeable future (i.e. within the next few years) Croatia and Iceland are likely to become members of the EU. The economic crisis is likely to delay any further progress on enlargement for the Western Balkans and Turkey as Member States concentrate on solving their internal problems. Although the eventual membership of the Western Balkans is anticipated, it is likely that this will be in the far-off future as these states need

to transform their political and economic institutions. Instability is also rife in this area and it is unlikely that the EU would want to “import” these problems. As for Turkey, public opinion in many EU countries is very strongly against its membership. The EU however may lose credibility if it “back-tracks” on its promises. At this point however, Turkey has not progressed in its reforms and it would be beyond the EU’s institutional and budgetary capacity to consider its membership.

Beyond the Western Balkans and Turkey are the three former Soviet Republics: Belarus, Moldova and the Ukraine. These states have some support from EU member states in their bid for membership. The possibility of membership for these states is distant at best. At the moment, the ENP will have to satisfy them. The ENP is an attempt by the EU to mitigate the worst effects of having poor, unstable states with weak political and administrative structures sharing its borders.

The 2004 enlargement greatly increased the area of contact with Russia with the inclusion of the Baltic states. Poland already talked about an “Eastern Dimension” from 1998. The “Eastern Dimension” was an attempt to prevent new divisions in Europe developing along its Eastern border. Poland particularly has contributed to the ENP pertaining to Belarus, Moldova and Ukraine. Russia considers many of these areas as following under its sphere of influence. In the case of the Ukraine especially Russia protested over its proposed membership of NATO.

Russia and the EU signed a Partnership and Co-operation agreement in 1994. It is the EU’s third largest trade partner and supplies a significant amount of oil and gas to Europe. Disruptions to gas supplies due to bad relations between the Ukraine and Russia highlighted European vulnerability in the field of energy security.

Russia sees its political and economic interests as being very different from those of the EU and has never sought membership. The EU and Russia are likely to continue their “working relationship” because of the strategic importance to both sides.

(b) Arguments for and against Enlargement

(i) Arguments in favour of Enlargement

- Enlargement increases “soft” security. Through the enlargement process (negotiations, Accession Agreements, Commission Report), a framework is created wherein relationships of trust are built.
- The EU Enlargement process, through reforms and technical assistance enables states to build democratic institutions and sound market economies.
- The promise of future membership can act as an effective motivator for change. It can sometimes even make painful reforms “palatable” to citizens of the candidate country.
- Enlargement improves trade and prosperity. The creation of a single regulatory framework promotes confidence, investment, competitiveness and economies of scale.
- Enlargement increases the EU’s role as an important economic and political actor on the world stage.

(ii) Arguments against Enlargement

- Decision-making may become more difficult in areas where unanimity is still required for decisions such as Treaty reforms, accession applications and budgetary allocations.
- Although membership may increase the EU’s size and expand its borders, internal dissension and institutional deadlock may make it a less effective actor on the world stage. Although the EU is a “giant” in economic matters, it is a political “pygmy”. One of the main reasons for this is that a single foreign policy does not exist. Foreign policy-making in the EU is still intergovernmentalist in nature and

determined by national governments' interests. Only if national governments cede national control over foreign policy to the EU will a "single" foreign policy be possible.

- Underdeveloped economies may produce pressures for the EU to apply liberal market principles less stringently to them. This may then lead to increased pressure from new Member States to be given more generous treatment from EU spending policies. The increased spending could derail the Growth and Stability Pact.
- More Member States may increase diversity in EMU. Coalitions between new Member States may develop depending on the magnitude of economic problems and issues at hand. Pressure may then be placed on "old" Member States to provide bail-outs which may threaten the financial sustainability of the EMU.
- Many candidate countries or potential candidate countries are economically and politically underdeveloped. The funding required to assist these countries to reach European standards may overwhelm the budgetary and administrative capacity of the EU.
- Enlargement may lead to an increase of political divergence. The more Member States there are, the greater the divergence of national interests. This may make the possibility of a "common position" on political issues very difficult.
- Many potential candidate countries have serious problems with corruption and crime. The JHA agenda will become even more important to ensure the safety and security of the EU. However, differing administrative, policing and "cultural" differences may create problems.
- Enlargement affects political legitimacy negatively. More Member States of differing historical experiences, languages and religion make common identification for EU citizens very challenging. The cultural convergence of states

such as Turkey is highly unlikely. Political legitimacy requires the support of EU citizens. Public policy however is (at this point) unsupportive of further enlargement for certain candidate countries.

In summary, the main arguments in favour of enlargement are that enlargement promotes security and prosperity. The benefits of enlargement in terms of providing “soft security” are considerable. The economic benefits are not insubstantial for the “old” Member States, but are quite significant for “new” Member States. When the acceding state(s) is well-developed in terms of rule of law, democracy and has a sound free market economy, the benefits are shared out equally between the acceding state and the EU. However, when the acceding state is not as well-developed economically or politically as the EU Member-States, the political and economic cohesion of the EU are threatened. The larger the economic and political differences, the more pronounced the effects on the cohesion of the EU. After the accession of the new Member State(s) a period of consolidation is required to absorb the impact of the new Member State(s). This period of adjustment will be longer in cases where the level of political sophistication and/or economic prosperity between the EU Member States and the acceding state(s) differs greatly.

It seems that the EU is critically aware of the pitfalls of further enlargement. While the EU is unlikely to abandon such a powerful transformative tool, it will proceed with caution. The future candidate countries are likely to be beset by a series of challenges such as political instability, crime, corruption and economic under-development, the EU will consider each state on a case-by-case basis enforcing rigorous conditionality whilst reinforcing and consolidating its institutional capacity. The main arguments against enlargement are that the EU’s institutional, administrative or budgetary capacities can become threatened by the accession of any state or states which are “too poor, too different, too many”.

At the moment, enlargement is seen as an open-ended process and theoretically any (European) state that fulfills the Copenhagen criteria is eligible to join. The following question however arises: Will enlargement be possible if the acceding states do not share

the same core values as “Europe”? What will happen if a state fulfills the economic and political criteria but due to religious or cultural differences does not tolerate religious freedom, different sexual orientations or women’s rights? Will this then be the line drawn for the “finality” of Europe?

The EU seems to prefer to defer these issues, to sit on the fence, but sooner or later it will be confronted with the downside and potential pitfalls of an interminable open-ended enlargement policy. Unquestionably, an unwieldy oversized and overstretched EU will see the increasing dominance of state-centric decision-making and atavism threatening to re-introducing a Europe of national states with irreconcilable national agenda and conflictual policies. So far, the EU has been a success story, particularly insofar as bringing unparalleled peace, welfare and security to 500 million Europeans. Sustainability is the key issue now and how the enlargement policy is executed from here onwards will undoubtedly put a severe test to the type of future one can expect from the EU.

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Annex 1

Abbreviations used in the text

| | |
|----------------|--|
| AFSJ | Area of Freedom, Security and Justice |
| APEC | Asia-Pacific Economic Co-operation |
| BBC | British Broadcasting Corporation |
| CAP | Common Agricultural Policy |
| CARDS | Community Assistance for Reconstruction, Development and Stabilization |
| CEEC's | Central and Eastern European Countries |
| CEFTA | Central European Free Trade Agreement |
| CFP | Common Fisheries Policy |
| CFSP | Common Foreign and Security Policy |
| COREPER | Committee of Permanent Representatives |
| EAFRD | European Agricultural Fund for Rural Development |
| EBRD | European Bank for Reconstruction and Development |
| EC | European Commission |
| ECB | European Central Bank |
| ECSC | European Coal and Steel Community |
| EDC | European Defence Community |
| EEA | European Economic Area |
| EEC | European Economic Community |
| EERP | European Economic Recovery Plan |
| EFTA | West European Free Trade Area |
| EIB | European Investment Bank |
| EMU | European Monetary Union |
| ENP | European Neighbourhood Policy |
| ENPI | European Neighbourhood and Partnership Investment |
| EP | European Parliament |
| EPC | European Political Cooperation |
| ERM | Exchange Rate Mechanism |
| ESDP | European Security and Defence Policy |
| EU | European Union |
| EUMC | European Monitoring Centre on Racism and Xenophobia |
| FEMIP | Euro-Mediterranean Facility for Investment and Partnership |

| | |
|---------------|--|
| fsj | Freedom, Security and Justice |
| FTA | Free Trade Agreement |
| FYROM | Former Yugoslav Republic of Macedonia |
| GDP | Gross Domestic Product |
| ICTY | International Criminal Tribunal for former Yugoslavia |
| IGC | Intergovernmental Conference |
| IMF | International Monetary Fund |
| IPA | Instrument for Pre-Accession Assistance |
| IR | International Relations |
| ISPA | Instrument to Support Transport Infrastructure Investments |
| JHA | Justice and Home Affairs |
| MEP | Member(s) of European Parliament |
| MIFF | Multi-Annual Indicative Financial Framework |
| MLG | Multi-level Governance |
| NAFTA | North America Free Trade Agreement |
| NATO | North Atlantic Treaty Organization |
| NGO | Non-governmental Organization |
| NIF | Neighbourhood Investment Fund |
| PHARE | Community Aid for Central, Eastern European Countries |
| QMV | Qualified Majority Voting |
| SAA | Stabilisation and Association Agreement |
| SAPARD | Standard Accession Programme |
| SEA | Single European Act |
| SEA | Single European Act |
| SFRY | Socialist Federal republic of Yugoslavia |
| TEC | Treaty establishing the European Community |
| TEU | Treaty on European Union |
| UN | United Nations |
| WMD | Weapons of Mass Destruction |
| WTO | World Trade Organization |
| WWII | World War II |