

BALANCE OF COMPETENCES REVIEW SCOTTISH GOVERNMENT RESPONSE

EU ENLARGEMENT

HISTORICAL DEVELOPMENT OF POLICY AREA

1. Enlargement has been a continuous, and enormously successful, feature of the European Union (EU) throughout its history. The original Community of six countries was joined by the UK, Ireland and Denmark in 1973 and the subsequent six rounds of enlargement have resulted in the situation today in which Scotland is an integral part of a Union of twenty-eight Member States with a combined population in excess of five hundred million inhabitants.

2. Enlargement has not only delivered significant economic and social benefits across the EU as a whole, including the acceding countries, it has also served an important stabilising and democratising function across the continent of Europe. Its historical role in having *“contributed to the advancement of peace and reconciliation, democracy and human rights in Europe”* was cited by the committee recommending the award of the 2012 Nobel Peace Prize to the EU¹. In particular, the 2004 and 2007 rounds of enlargement saw the peaceful re-unification between Western and Central and Eastern Europe after decades of division following the end of the Second World War. The prospective EU enlargement to include the countries of the Western Balkans – of which Serbia and Montenegro are leading candidates – has a similar purpose as Štefan Füle, European Commissioner for Enlargement and European Neighbourhood Policy, told the recent EU-Western Balkan Ministerial Conference:

“Enlargement to the Western Balkans is about bringing peace, stability and prosperity.”²

3. An exemplar in this regard was the ‘Brussels Agreement’, signed by Kosovo and Serbia in April 2013 to normalise their relations and allow both to pursue closer ties with the EU. Serbia has since opened accession negotiations, and Kosovo has concluded talks with the EU on signing a Stability and Association Agreement. But recent events in candidate and pre-candidate countries, including corruption investigations, non-compliance with rulings of the European Court of Human Rights, scuffles in domestic parliaments and riots, have in some cases stalled or damaged countries’ paths to the EU – or reduced the allocation of pre-accession funding.

4. At the same time membership negotiations are continuing with Turkey, although these negotiations are not expected to come to a conclusion in the near future.

5. The European Commission is clear on the benefits that the process of EU integration presents in and of itself for candidate and potential candidate countries, who must demonstrate their ability to strengthen the practical realisation of the values on which the Union is based, before being considered for accession or accession negotiations.

¹ Accessible at: http://www.nobelprize.org/nobel_prizes/peace/laureates/2012/press.html.

² Štefan Füle; ‘Future of the Western Balkans is inside the EU’, Thessaloniki 8 May 2014. Accessible at http://europa.eu/rapid/press-release_SPEECH-14-353_en.htm?locale=en.

THE PROCESS OF ENLARGEMENT

6. Since their entry into force of the Treaty of the European Union (TEU) in 1993, the so-called 'Copenhagen Criteria' have framed the conventional enlargement policy of the EU. The Copenhagen Criteria stipulate that candidate countries must satisfy a range of political, economic and legal criteria before accession negotiations can begin; negotiations that determine the specific terms of EU membership as reflected in the subsequent Accession Treaty.

7. The requirements of the Copenhagen Criteria are:

- i. political: stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;*
- ii. economic: existence of a functioning market economy and the capacity to cope with competitive pressure and market forces within the Union;*
- iii. acceptance of the Community 'acquis': ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union.*³

8. For the purposes of membership negotiations the *acquis* is divided into thirty-five policy areas or 'chapters'⁴. Their satisfactory transposition into national law by the applicant country is overseen by the European Commission. Each chapter can only be closed, and therefore considered complete, with the agreement of the European Council. Once each chapter has been closed successfully the Treaty of Accession will be signed by the European Council, European Commission and the European Parliament. Individual Member States must ratify the Treaty of Accession according to their own particular constitutional requirements. The applicant country must also give its agreement.

9. Throughout the accession process the Commission reports regularly on Candidate and Potential Candidate countries to the Member States through the Council working groups. The Commission also publishes annual progress reports on each of these countries.

10. The considerable challenges posed by the prospective expansion of the EU to the countries of Central and Eastern Europe in the 1990s, culminating in the enlargements of 2004 and 2007, saw the EU collectively adopt a considerably more pro-active role in promoting a range of economic, legal and governance reforms in the candidate countries in order that they could meet the Copenhagen Criteria and progress to membership. Such measures included direct financial assistance, asymmetric trading (Europe) agreements, technical and legal support and access to pre-accession financial instruments aimed at promoting economic convergence.

11. This approach continues to inform EU policy towards specific candidate countries. For example, the Stabilisation and Association Process (SAP) is the latest iteration of the Europe Agreements used during previous rounds of enlargement and is tailored specifically to the conditions of the candidate and potential candidate countries of the

³ *Call for Evidence on the Government's Review of the Balance of Competences between the United Kingdom and the European Union: EU Enlargement*, March 2014, pg. 8.

⁴ Summaries of the thirty-five chapters of the *acquis* are viewable here: <http://ec.europa.eu/enlargement/policy/conditions-membership/chapters-of-the-acquis/>.

Western Balkans. Similarly, the 2003 Thessaloniki Council Summit produced an agreement which further elucidated a path to EU Membership for the Western Balkan countries within the frameworks of the Copenhagen Criteria and the SAP.

12. Expertise gained during previous rounds of enlargement has informed the process outlined above. In particular experience has shown the importance of ensuring that specific commitments entered into by acceding countries as part of the accession negotiations are fully complied with within the agreed transitional period. This has resulted, for example, in the EU implementing a “New Approach” to enlargement negotiations informed by the principle of tackling the fundamentals first – specifically frontloading in accession negotiations the conditionality set out in Chapter 23 on judiciary and fundamental rights and Chapter 24 on justice, freedom and security. This approach requires candidate countries to tackle these issues early in accession negotiations thus maximising the time countries have to develop a track record of reform implementation, and thereby ensuring that reforms are deeply rooted and irreversible.

13. As noted, the EU and individual Member States have made available financial and technical assistance to candidate countries to help reforms and assist preparations for EU membership. The Instrument for Pre-Accession (IPA) was worth nearly €16 billion between 2000-2006, and €11.5 billion between 2007-2013. IPA II, for the period 2014-2020, is expected to provide an additional €11 billion of support to the current application countries. The European Commission reports regularly on the evolution and evaluation of the IPA to the European Parliament and European Council through its Annual Reports on Financial Assistance for Enlargement .

14. While the economic and social benefits of EU enlargement have – over many years and in existing and acceding countries alike – been considerable, it is also clear from the divergent experiences of the EU10⁵ plus Romania and Bulgaria since accession that national conditions can play a decisive role in determining the pace at which these gains accrue. Whilst responsibility for implementing the domestic reforms needed to improve economic performance ultimately lies with national governments, the inclusion and subsequent reinforcing of economic governance conditions through the Copenhagen Criteria and other pre-accession supportive measures is of importance. Should it be determined that revisions to the pre-conditions for, or preparatory policies ahead of, EU membership be required on the basis of experiences of enlargement, it is the view of the Scottish Government that these should be pursued.

15. Revisions to policy may not only impose more rigorous pre-requisites on application countries, but may instead involve enhanced, or better targeted, support through the IPA II programme and its eventual successors.

16. Therefore, while the Scottish Government remains supportive of EU enlargement, we recognise the importance of adequate steps being taken in candidate countries to ensure these countries are prepared to assume the obligations of the agreed terms of EU membership upon accession. If necessary this should involve enhanced pre-accession support from the EU Institutions and Member States. The emphasis placed upon performance management in the IPA II programme is welcomed by the Scottish

⁵ The countries which acceded to the EU in 2004: Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia.

Government. The EU Institutions should not hesitate to make use of the evidence provided by the programme if it becomes clear that further changes to policy are required.

17. Scottish organisations have successfully participated in a number of transnational EU projects with the EU10, for example:

- The INTERREG IVC Programme PERIURBAN Project, which focusses on management of natural suburban areas, sees Aberdeen City Council cooperate with numerous partners including in Poland, the Czech Republic, Slovakia and Cyprus⁶.
- The INTERREG IVC Programme 'Young SME's' Project, which looks to provide support to small and medium sized enterprises of between three and five years existence, has brought Falkirk Council into cooperation with numerous partners include in Slovenia, Malta, Poland, Lithuania and Hungary⁷.
- The ADMIRE FP7 project in which the University of Edinburgh coordinates a 4.25 million euro data mining project alongside partners from Slovenia and Poland amongst others⁸.
- The FUTURESME FP7 project in which the University of Strathclyde coordinates an 8 million euro future of manufacturing project alongside multiple partners from Poland, the Czech Republic and Slovakia⁹.

18. The Scottish Government welcomes the increased opportunities for engagement created by enlargement policy. Given the mutual gains possible by engaging with recent enlargement countries, the Scottish Government believes it to be important that, as much as possible, steps are taken at national and European level to facilitate cooperation and joint projects involving recent accession countries.

THE IMPACT OF EU ENLARGEMENT UPON SCOTLAND

The Single Market

19. The principal economic achievement of the EU has been the creation of a Single Market between the 28 Member States within which goods, services, capital and persons can move free from any restriction based on nationality – the so-called Four Freedoms. The significant economic and social benefits that the Scottish economy derives from membership of the Single Market to Scotland is outlined in the Scottish Government paper *Scotland in the European Union*¹⁰. The EU Single Market was the destination for around 44.9% of Scotland's international exports in 2012, worth a total of £11.7 billion¹¹. Scotland also consistently runs a balance of trade surplus with the EU.

⁶ Further details are available here: <http://www.interreg4c.eu/projects/project-details/?project=60-periurban-parks-improving-environmental-conditions-in-suburban-areas&>.

⁷ Further details are available here: <http://www.interreg4c.eu/projects/project-details/?project=204-sharing-interregional-knowledge-to-define-supporting-programmes-for-young-smes&>.

⁸ Further details are available here: http://cordis.europa.eu/projects/rcn/85286_en.html.

⁹ Further details are available here: http://cordis.europa.eu/projects/rcn/89922_en.html.

¹⁰ *Scotland in the European Union*; pp. 5-11

¹¹ Scottish Government; *Scotland's Global Connections Survey 2012*, 29 January 2014, pg. 6. Accessible at: <http://www.scotland.gov.uk/Topics/Statistics/Browse/Economy/Exports/GCSIntroduction>.

20. Growth in exports to accession countries has proven economically beneficial to Scotland. Between 2004 and 2013, growth in exports of goods to the EU10 has increased by 124.8%¹². In 2013 those exports were worth £737 million to the Scottish economy. Annual growth in trade in goods with the EU10 has, with the exception of 2009, outstripped growth with the remaining EU Member States each year since 2006. Exports to the 10 accession countries increased by 84% between 2009 and 2013, this contrasts with an increase of only 19% for all EU exports and 34% for all exports in Scotland. Therefore growth in exports to the 10 accession countries has been positive for Scotland in the years following the recession¹³. And although exports to accession countries account for a relatively small amount of all exports from Scotland, by 2013 these exports represented 8% of Scotland's exports in goods to the EU as a whole, up from 5% in 2009.

21. The acceleration of the growth in exports of goods is likely to be attributable to the low starting point and economic gains made by the EU10 since their accession. However, it is also indicative of the potential economic benefits of enlarging the Single Market. The growth in Scottish exports of goods to the EU10 has not been uniform since 2004 period and country-to-country variations indicate the importance of national conditions. National efforts to increase trade flows would be bolstered by action taken at EU level, for example by the completion of the Single Market, particularly in relation to services¹⁴.

Free Movement of Persons

22. The benefits of enlargement to Scotland's economy extend beyond providing new markets for our export sector. The Scottish Government's response to the Balance of Competences Review in the area of Free Movement of Persons¹⁵ provides full analysis of the benefits of net migration to Scotland from the post-2004 accession countries. Inward migration will be a significant factor in achieving the Scottish Government's target of matching average European population growth over the period 2007 to 2017. The Scottish Government will continue to welcome EU migrants who move to Scotland to exercise their right to free movement within the terms of European law by coming to Scotland to live, work and study here – not only for their economic contribution, but also the vibrancy and diversity that they bring to our nation.

23. In its response to the Balance of Competences Review in the area of Free Movement of Persons, the Scottish Government set out the economic advantages of increased migration from recent accession countries to Scotland:

"In particular, a study on the fiscal effects of A8¹⁶ migration found that in each fiscal year from enlargement in 2004 to 2009, A8 immigrants made a positive contribution to the UK public finance. During the year 2008-2009, A8 immigrants paid 37% more in direct or indirect taxes than they received in public goods and

¹² HMRC Trade Statistics 2013.

¹³ HMRC Trade Statistics 2013.

¹⁴ Full Scottish Government proposals on EU Reform, including completion of the Single Market, can be viewed in *Scotland's Priorities for EU Reform*, February 2014, 4.1.14.

¹⁵ *Scottish Government Response: Free Movement Persons*, 14 February 2014; available here: <http://www.scotland.gov.uk/Topics/International/Europe/Our-Focus/BOCR-Movement-of-Persons>

¹⁶ The EU10 minus Malta and Cyprus.

*services. In contrast, during 2008-2009, UK-born individuals contributed 20% less to the Exchequer than they received in terms of public goods and services.*¹⁷”

24. The 2011 Census showed that 158,000 persons born in another EU Member State¹⁸ have chosen to exercise their right to free movement to move to Scotland¹⁹. The Census indicates that of the seven per cent (369,000) of people in Scotland who were not born in the UK²⁰, 15 per cent (55,000) were born in Poland, the largest proportion of any country outside the UK and more than double the next source of inward migration (23,000 from India; 23,000 from the Republic of Ireland)²¹. As no other post-2003 enlargement country features in the fifteen most common source countries for inward migrants (the 15th most common is Spain with 5,000) it is clear that inward migration from the post-2004 Member States cannot be attributed solely, or even principally, to the provision of the right to free movement to those newer EU citizens that accompanies Membership.

25. This is borne out by the UK wide figures published on 14 May 2014²². The data reveals that for the first quarter of 2014 there was a decrease of 4,000 Romanian and Bulgarian workers in the UK (now 140,000) from the previous quarter. Scotland-specific figures published on 22 May 2014, measured by National Insurance Number allocations to Bulgarian and Romanian nationals, show that in the first quarter of 2014 there were only small increases in the number of Bulgarian (increase of 361) and Romanian (increase of 793) nationals²³ working in Scotland.

26. The Scottish Government considers this analysis to demonstrate that enlargement, especially in the post-2004 period, has not triggered an unmanageable wave of inward migration to Scotland. Indeed, Scotland’s economy and society has benefitted from such movement of persons as has occurred.

27. The most recent available figures (for the period 2012/2013) for inward participation in the Scottish Higher Education Institutes show that four of the EU12²⁴ countries to accede to the EU in 2004 or 2007 are already amongst the top-10 senders of students to Scotland in the EU²⁵.

¹⁷ VOX, *The Fiscal Effects of A8 Migration to the UK*, Christian Dustmann, Tommaso Frattini, Caroline Halls, 8 August 2009. Available at: www.voxeu.org/article/fiscal-effects-a8-migration-uk. Referenced in *Scottish Government Response: Free Movement Persons*; para. 6.

¹⁸ Note that this figure is concerned with country of birth and does not equate directly to citizenship and may, for instance, include UK citizens born abroad whilst not taking account of EU citizens born in third countries. Note also that the persons in question may have arrived in the UK prior to their country of origin’s membership of the EU.

¹⁹ National Records of Scotland, *Scotland’s Census 2011*, Table KS204SC. Note that this total includes immigration from Ireland.

²⁰ This represents total inward migration, not solely inward migration from EU countries.

²¹ National Records of Scotland, *Scotland’s 2011 Census: Release 2A*, 26 September 2013; Table 3.

²² The Office for National Statistics; *Labour Market Statistics, May 2014 Release*, 14 May 2014. Accessible at: <http://www.ons.gov.uk/ons/rel/lms/labour-market-statistics/may-2014/statistical-bulletin.html>.

²³ It should be noted that those included in the National Insurance Number allocation statistics may have been in Scotland for a while before registering, or may have left soon after registering.

²⁴ The EU10 plus Romania and Bulgaria.

²⁵ Higher Education Statistics Agency, *Non-domicile UK Students*, 16 January 2014; accessible at: <https://www.hesa.ac.uk/free-statistics#non-uk>.

28. In light of the recorded numbers of inward migrants to Scotland outlined above, and the positive impact they have upon Scotland's economy and culture, Scottish Government Ministers do not consider any generalised, negative rhetoric around the issue of migration to be beneficial to the people and economy of Scotland. Rather, Scottish Ministers are concerned that such rhetoric may isolate current migrants and dissuade potential migrants in the future. In the light of the demographic challenges facing Scotland's economy, and our need to retain a qualified and dynamic working population, the Scottish Government has chosen to adopt a measured, and evidence-based, approach to the debate around the intra-EU free movement of persons which results in the positive outlook outlined in this paper and in the Scottish Government's previous response to the Balance of Competences Review in the area of Free Movement of Persons.

External Relations of the EU

29. By progressively extending and consolidating the EU single market, enlargement has also played an important role in strengthening the bargaining position of the EU collectively in global economic negotiations. The Scottish economy has benefitted from the extensive array of bilateral and multilateral trade agreements negotiated by the European Commission on behalf of the Member States. Scotland has also benefitted from the strong collective voice with which the EU engages within the institutions of global economic diplomacy, especially the World Trade Organisation (WTO) – in particular in addressing trade disputes and a range of “market opening measures” with third countries – and the International Monetary Fund (IMF).

30. Examples include the successful conclusion of negotiations of a Free Trade Agreement (FTA) with South Korea which entered into force in July 2011, and the political agreement recently concluded between the EU and Canada to establish a Canada-Europe FTA (CETA). Looking to the future the EU is engaged in bilateral negotiations with the USA (Transatlantic Trade and Investment Partnership); with Japan; and with the countries of the ASEAN and Mercosur international trade groupings. In each case the potential economic benefits are considerable, both in terms of reducing tariff and (more significantly) non-tariff barriers to trade.

31. Any assessment of the economic costs and benefits of EU enlargement from the perspective of Scotland requires that these indirect gains from EU enlargement – and indeed EU membership – are fully taken into account and reflected in the conclusions.

SCOTTISH AND UK POSITIONING

32. The Scottish Government recently reiterated its “*steadfast support for the enlargement of the EU*”²⁶ and has consistently supported the UK Government's historically strong support of EU enlargement policy and objectives. UK Minister for Europe David Lidington laid out the UK's “*strong commitment to an ambitious agenda for enlargement*” and, in reference to the Western Balkans, said:

“We are unequivocal in our support for all the countries of the region achieving future membership of the European Union. This is the vital strategic goal: shared security and prosperity built on a firm foundation of democracy and the rule of law.”

²⁶ Scotland in the European Union, 7.1.

*We want to see the Western Balkans back in Europe, extending stability and success to a part of the world where conflict is still an all too recent memory.*²⁷

FUTURE OPPORTUNITIES AND CHALLENGES

33. Enlargement of the EU provides a number of potential benefits to Scotland:

- Strengthening the EU's global position through enlargement enables further gains to be made through advantageously concluding international treaties and Free Trade Agreements;
- Increasing the pool of potential immigrants to Scotland is to be welcomed as the Scottish Government pursues its policies of economic and population growth;
- An expansion of the already invaluable Single Market offers enhanced opportunities to the people and businesses of Scotland.

34. Future enlargement of the EU is therefore desirable. The enlargement process has been fruitfully modified in the past, and if required, Member States and the EU Institutions should not be hesitant to work towards such in the future.

35. Given the mutual gains possible, the Scottish Government believes that it is important that, as much as possible, steps are taken at national and European level to facilitate cooperation and joint projects involving recent accession countries.

²⁷ David Lidington speaking in Vienna in February 2011. Accessed 3 June 2014 at: <https://www.gov.uk/government/speeches/eu-enlargement-a-uk-perspective>