

reluctance both within the European Commission and among the member states, the EU achieved two rounds of eastern enlargement in 2004 and 2007; extended the membership perspective to the countries of south-eastern Europe; opened accession negotiations with Turkey and Croatia; and created an 'Eastern Partnership' for six successor states of the Soviet Union. The Commission maintained the momentum of the policy, and European Council meetings during the presidencies of pro-enlargement member states served as key focal points for policy development. In the process, the EU incrementally developed a framework for its enlargement policy that includes three partly overlapping stages: association agreements; pre-accession alignment based on accession partnerships; and finally accession negotiations. The EU has made each step—and increasingly intermediate steps within these frameworks—conditional on compliance with certain political and economic criteria. In the context of eastern enlargement, this conditionality has given the EU unprecedented influence on domestic politics in its neighbourhood, even if this influence varied considerably over time, and across issues and countries.

Introduction

Few of the policies covered in this volume have seen their importance increase as spectacularly over the past two decades as enlargement. Enlargement has always been an important event for the European Union (EU), but for much of its history, enlargement was restricted to intermittent episodes. During the cold war, membership doubled from the original six founding members, but since the 1990s, the pace of enlargement has accelerated dramatically, with EU membership more than doubling again by 2007, and the queue of would-be members remains long (see Table 17.1). In 1999, the Commission created a separate Directorate-General for Enlargement (DG ELARG), while for most of the Commission's history, enlargement had been one of many tasks of the Directorate-General for External Relations (DG RELEX) and ad hoc task forces. Since the end of the cold war, enlargement has thus become a constant item on the EU's agenda.

According to Lowi's (1972) typology (see Chapter 3), enlargement can be viewed as a major 'constituent policy'. Enlargement affects the EU's institutional structure, and often triggers changes in the rules governing politics and policy-making. Such changes have attempted to compensate for the impact of larger numbers and increased diversity on the effectiveness of collective decision-making, the fairness of representation, and the scope for further integration. Enlargement also has elements of a redistributive policy, especially in policy areas that receive most funding from the EU budget (see Chapters 8, 9, 10). These constitutive and redistributive characteristics have made each enlargement controversial. Such controversies were expressed in the French

vetoes of the UK's first two applications; the Commission's negative assessment of Greece's application in 1979; the length of accession negotiations with Spain and Portugal; the Commission's attempts to create an alternative framework to deflect the pursuit of accession by Austria, Finland, Norway, and Sweden; the long reluctance to acknowledge formally the possibility of an eastern enlargement; not to mention the ongoing controversies about Turkish membership. Yet demands for accession also present an opportunity for the EU. New members enlarge the single European market (see Chapter 5) and can increase the effectiveness of common policies. More recently, practitioners and commentators alike have praised enlargement as the EU's most powerful foreign-policy tool (see also Chapter 18).

A distinctive analytical feature of enlargement policy is that although the rules for enlargement identify the member states as central actors, the Commission has played a very significant role. In particular for the eastern enlargement, the Commission has set the agenda by forging incremental agreements on the path to enlargement, managing pre-accession relations with candidates, and monitoring their adjustment efforts. It has shaped the outcome of accession negotiations by brokering compromises. Moreover, through its role in the application of accession conditionality, the Commission has enhanced its role in EU foreign policy. At the same time, enlargement policy also provides evidence that the Commission is not a unitary actor. Debates over enlargement policy often reveal transgovernmental cleavages that cut across member states and the Commission.

This chapter first clarifies what the enlargement policy involves, and how it has broadened significantly since the end of the cold war. It then reviews the main phases of the enlargement policy process—association, pre-accession, and accession—and clarifies for each of these stages the key decisions involved, how they are made, and how policy practice has evolved over time. The chapter then focuses on the use of enlargement as a foreign-policy tool and the development of the EU's accession conditionality. It concludes with a consideration of an 'enlargement fatigue' after the 2007 enlargement and policy towards the other European successor states of the Soviet Union that might lay claim to EU membership.

Rules, procedures, and policy

From its inception, the EU had rules for the accession of new members, but these procedures did not amount to an enlargement policy. The procedures for accession are set out in the treaty (Art. 49 TEU, see Box 17.1). They have remained largely unchanged since the 1957 Treaty of Rome (Art. 237 EEC), although the 1987 Single European Act (SEA) added the requirement that the European Parliament (EP) give its assent, and the 1997 Treaty of Amsterdam (ToA) made the political conditions explicit by inserting the reference to Article 6(1) TEU. In the context of its first

TABLE 17.1 History of EU enlargement: overview

	Association agreement (signed)	Membership application	Commission opinion	Accession negotiations (start/ end)	Accession
United Kingdom		Aug. 1961	(unpublished)	French veto Jan. 1963	
		May 1967	Sept. 1967	de facto French veto Nov. 1967	
			Oct. 1969	June 1970–Jan. 1972	Jan. 1973
Ireland		July 1961	Suspended after French veto of UK Jan. 1963		
		May 1967	Sept. 1967	June 1970–Jan. 1972	Jan. 1973
Denmark		Aug. 1961	Suspended after French veto of UK Jan. 1963		
		May 1967	Sept. 1967	June 1970–Jan. 1972	Jan. 1973
Greece	July 1961	June 1975	Jan. 1976	July 1967–May 1979	Jan. 1981
Portugal		Mar. 1977	May 1978	Oct. 1978–June 1985	Jan. 1986
Spain		July 1977	Nov. 1978	Feb. 1979–June 1985	Jan. 1986
Austria	[EEA 1992]	July 1989	July 1991	Feb. 1993–Mar. 1994	Jan. 1995
Sweden	[EEA 1992]	July 1991	July 1992	Feb. 1993–Mar. 1994	Jan. 1995
Finland	[EEA 1992]	Mar. 1992	Nov. 1992	Feb. 1993–Mar. 1994	Jan. 1995
Cyprus	Dec. 1972	July 1990	June 1993	Mar. 1998–Dec. 2002	May 2004
Hungary	Dec. 1991	April 1994	July 1997	Mar. 1998–Dec. 2002	May 2004
Poland	Dec. 1991	April 1994	July 1997	Mar. 1998–Dec. 2002	May 2004
Czech Republic	Oct. 1993 ^a	Jan. 1996	July 1997	Mar. 1998–Dec. 2002	May 2004
Estonia	June 1995	Nov. 1995	July 1997	Mar. 1998–Dec. 2002	May 2004
Slovenia	June 1996	June 1996	July 1997	Mar. 1998–Dec. 2002	May 2004
Malta	Dec. 1970	July 1990 ^b	June 1993; updated Feb. 1999	Feb. 2000–Dec. 2002	May 2004
Slovakia	Oct. 1993 ^a	June 1995	July 1997	Feb. 2000–Dec. 2002	May 2004
Latvia	June 1995	Oct. 1995	July 1997	Feb. 2000–Dec. 2002	May 2004
Lithuania	June 1995	Dec. 1995	July 1997	Feb. 2000–Dec. 2002	May 2004
Romania	Feb. 1993	June 1995	July 1997	Feb. 2000–Dec. 2004	Jan. 2007
Bulgaria	March 1993	Dec. 1995	July 1997	Feb. 2000–Dec. 2004	Jan. 2007

Croatia	Oct. 2001	Feb. 2003	Apr. 2004	Oct. 2005–	
Turkey	Sept. 1963	Apr. 1987	Dec. 1989	Oct. 2005–	
Norway	[EEA 1992]	Apr. 1962	Suspended after French veto of UK Jan. 1963		
		July 1967	Sept. 1967	June 1970–Jan. 1972	Negative referendum Sept. 1972
		Nov. 1992	April 1993	Apr. 1993–June 1994	Negative referendum Nov. 1994
Switzerland	[EEA 1992]	May 1992	Application suspended after negative referendum on EEA, Dec. 1992		
FYROM	Apr. 2001	Mar. 2004	Nov. 2005		
Montenegro	Oct. 2007	Dec. 2008			
Albania	June 2006	Apr. 2009			
Iceland	[EEA 1992]	July 2009			
Serbia	May 2008 ^c				
Bosnia-Herzegovina	June 2008				
Morocco	Feb. 1996	July 1987	no Commission opinion, application rejected by Council (Oct. 1987) since not a European state		

^a Agreement with Czechoslovakia: Dec. 1991.

^b Temporary suspension in Oct. 1996.

^c Not ratified; interim agreement blocked.

enlargement in the early 1970s, the EU established a more specific practice for the accession process and the conduct of accession negotiations (Preston 1997; Nugent 2004b). These procedures are essentially still in place and will be elaborated on in the remainder of the chapter. Of course procedures are no substitute for policy, yet it might require clarification what such an 'enlargement policy' entails.

At a general level, enlargement policy consists of decisions about the conditions under which new members can join the EU. The decisions relate to two distinctive sets of conditions: first, the more general conditions that a country has to meet in order to be considered a candidate for membership; and, second, decisions about the concrete terms of accession. Article 49 TEU covers both decisions. It specifies the

BOX 17.1 Treaty basis for EU enlargement*Article 49 (TEU)*

Any European State which respects the principles set out in Article 6(1) may apply to become a member of the Union. It shall address its application to the Council, which shall act unanimously after consulting the Commission and after receiving the assent of the European Parliament, which shall act by an absolute majority of its component members.

The conditions of admission and the adjustments to the Treaties on which the Union is founded, which such admission entails, shall be the subject of an agreement between the Member States and the applicant State. This agreement shall be submitted for ratification by all the contracting States in accordance with their respective constitutional requirements.

Article 6(1) (TEU)

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.

general conditions, and leaves the accession terms to negotiations. Until the 1990s there appeared no need for an enlargement policy beyond the rules of Article 49 and case-by-case bargaining among the member states and between existing members and candidate countries. Although the preamble of the Treaty of Rome expressed the founders' desire to create 'an ever closer union among the peoples of Europe' and called 'upon the other peoples of Europe who share their ideal to join in their efforts', demand for accession was limited. The Iron Curtain precluded one half of Europe from contemplating EU membership. The remainder of western Europe was either sceptical about deeper integration (and instead created the European Free Trade Association, EFTA) or under authoritarian regimes. Enlargement was therefore restricted to fairly discrete episodes, and ad hoc bargaining.

However, the end of the cold war confronted the EU with the challenge of formulating an enlargement policy that went beyond the procedures for accepting new members to managing relations with those that wanted to join. In the immediate wake of the end of the cold war, apart from the EFTA members already engaged in membership bids, the great majority of potential applicants were post-communist countries at various stages of a transition towards market economies and liberal democracies. A key challenge for the EU was therefore how to manage relations with countries that desired to join, but were not yet ready to enforce the body of EU legislation—the *acquis communautaire*. Enlargement policy became part of a broader challenge to devise a general policy towards the rest of Europe for the first time in the EU's history (Smith and Wallace 1994).

One key element of a policy towards post-cold-war Europe was a decision on how to provide support for the transitions to market economies and democracy,

and specifically whether to use the prospect of eventual EU membership to support such reforms. Another question was to what extent and how to help the would-be members' efforts to adjust to the more specific membership conditions. Moreover, EU policy-makers did not only consider successful reforms in the countries of central and eastern Europe (CEECs) as intrinsically desirable. They also recognized the broader value to them of having as neighbours prosperous and democratic states that respected minority rights, which would be less likely to engage in interstate conflicts or to generate refugees and economic migrants. Thus a successful transition provided the EU with an opportunity to further a broader foreign-policy objective of fostering stability in its European neighbourhood. This prospect raised the question of how the EU could use enlargement to shape domestic changes actively in the direction most suitable for creating stability. The challenges that the EU's post-cold-war enlargement policy thus has had to confront go much beyond reaching ad hoc agreements between the member states about whether a specific candidate country can join and on what terms.

Since 1989, the EU has incrementally developed a policy framework for enlargement. It goes far beyond the procedures specified in Article 49 TEU, as the enlargement policy comes into play long before a country officially applies for membership and accession negotiations are only the final stage of a much longer process. In broad terms, we can distinguish three phases in the enlargement process (see Table 17.2). The first phase is an associate status. Association agreements provide the legal framework for pre-accession relations with potential candidate countries until accession. The second phase starts with a country being recognized as a (potential) candidate for accession; it consists of a policy framework for accession preparations. The final phase is accession negotiations. After an accession treaty is signed, a candidate has the status of an acceding country. Each phase includes separate decisions by EU actors (see Table 17.3) and specific policy instruments. Conditionality permeates all of these phases: the EU links progress from one phase to the next, and to intermediate steps within each phase, to the fulfilment of certain conditions (see the bottom row of Table 17.2). Rather than following a single policy mode, enlargement policy follows different modes at each of the three stages.

Association agreements

A country's application for membership is no longer the first stage of the accession process. During the cold war, it usually marked the start of the process, just as Article 49 TEU seems to suggest. The reason is that the candidates up to the EFTA enlargement of 1995 were mostly judged to be already in a position to apply and to enforce the *acquis* if they chose to (although doubts were expressed about this in the cases of Greece and Portugal). However, latterly (with the exception of the application in July 2009 from Iceland, a long-standing

TABLE 17.2 Key stages of the accession process

Key stages in the accession process in sequence	Country expresses desire to join the EU	Association agreement	Pre-accession alignment	Official application	Commission opinion	Accession negotiations	Ratification of accession treaty	Accession
Legal framework of relations	association agreements (Europe agreements, stabilization and association agreements)							
Policy framework	European partnership							
Aid	Phare, CARDS	IPA (ISPA, SAPARD)						
Conditional EU decisions	- granting/suspending aid	- opening negotiations - initialing agreement - signing agreement - implementation of Interim Agreement	granting potential candidate status		granting candidate status	- opening negotiations - closing negotiations on specific chapters - suspending/closing negotiations	confirmation/postponement of accession date	cooperation and verification mechanism: - suspension of aid - non-recognition of judicial decisions

TABLE 17.3 Formal decision rules for EU enlargement policy

Issue	Legal basis	Commission	Council	European Parliament	Other actors?
Association agreements	Art. 310 TEU	proposal	QMV	assent	national ratification by EU member states for 'mixed competence' agreements (non-trade-related aspects)
EU objectives for accession partnerships (European partnerships)	Council Reg. 622/98 (Council Reg. 533/04)	proposal	QMV	assent	
Opening accession negotiations	Art. 49 TEU	opinion (non-binding)	unanimity		
Conduct of accession negotiations	None. Precedent established in first accession negotiations	proposal for common position	unanimity (common position, opening/closing negotiation chapters); conduct of negotiations: Council presidency		
Agreement on accession treaty	Art. 49 TEU	recommendation	unanimity	assent	national ratification by accession country and member states (parliament + referendum)

member of EFTA) formal membership applications have been submitted at a much later stage of the actual process, given that the post-communist countries decided to pursue the goal of membership after the regime changes of 1989/90, when they were not yet in a position to apply the *acquis*. Although most declared their foreign-policy goal of joining the EU very early in their transition processes, even the front-runners waited at least some five years until they formally applied. This time lag resulted from the Commission dissuading applications for which it was unlikely to recommend opening accession negotiations in the medium term.

As a consequence, the first step in the accession process is now usually the declaration of a country's desire to join, not the formal membership application. Such dissuasion does not always work. Montenegro applied on 15 December 2008 and Albania on 28 April 2009, despite being told that 'the time was not yet ripe' and that political circumstances in the EU made a favourable response and the opening of accession negotiations unlikely (*Agence Europe*, 30 October 2008). In an unprecedented move, several member states, led by Germany and The Netherlands, subsequently blocked the Council's request for the Commission's opinions on these applications (which had hitherto been considered an automatic, technical act) for several months (*Agence Europe*, 18 February 2009).

In the EU's emerging enlargement practice, the first stage in establishing closer relations is an association agreement (see Table 17.2). Association agreements are a long-standing instrument for the EU's external relations (based on Art. 310 TEU; see also Chapter 16), and are not limited to countries aspiring to membership. In Europe, the EU concluded association agreements with Greece and with Turkey in the early 1960s. Although the 1961 Athens Agreement with Greece and the 1963 Ankara Agreement with Turkey contained references to eventual membership, the original six member states had not appreciated the implications of their rash commitment that has since caused them much embarrassment in relations with Turkey. In the light of this the EU signed a more limited 'trade and cooperation' agreement with Franco's Spain in 1970, indicating that by then the EU saw association as an expression of close relations (see also Thomas 2006). The association agreements with Cyprus and Malta foreshadowed customs unions but not membership. On a separate track in 1972 the EU signed free trade area agreements with the EFTA states (see Table 17.1).

Over recent years, the EU has explicitly made association agreements—and a good record of implementing them—a necessary step on the path to membership. For example, in the above-mentioned negative reaction to Montenegro's plans to apply for membership, the Commission commented that the very recent signing of the association agreement made it premature to assess its correct implementation. Likewise, in 2008 the Commission stressed that Serbia could expect a positive evaluation of a future membership application only after it had demonstrated the correct application of its interim association agreement (*Agence Europe*, 6 November 2008).

European Economic Area Agreement

The European Economic Area (EEA) Agreement is an example of an agreement that EU policy-makers specifically intended as an alternative to accession. It became for some EFTA countries a stepping stone to membership (Phinnemore 1999), while for some it remained a more persistent framework. The EEA, floated by Commission President Jacques Delors in 1989, was negotiated with all the then EFTA countries. The agreement was signed in 1992 and entered into force in 1994. It is to date the closest form of economic relationship between the EU and non-member states and enables the EFTA states to participate (with some voice but no votes) in the EU's internal market—with the exception of agriculture—through their unilateral legal alignment with EU policies, and includes payments from EFTA countries into EU funding programmes. The Commission had intended the EEA as a long term framework for relations with all the EFTA countries, because it was concerned that the membership applications by Austria, Finland, Norway, Sweden, and Switzerland were motivated by the economic benefits of membership, and that the neutrality of most of them and their scepticism about political integration might present obstacles to further integration, especially in foreign and security policy. By offering them what the Commission had assumed they were primarily interested in—participation in the internal market—Delors hoped that the EEA would ease the pressure for enlargement.

However, most of the EFTA countries considered the EEA from the start only as a transitional regime on the way to full membership (E. Smith 1999). The notion of the EEA as a stable long-term framework for relations between equals was further undermined through the European Court of Justice's (ECJ) Opinion 1/1991. Initially, the EEA had envisaged an EEA Court, consisting of ECJ judges and EFTA judges, but the ECJ held that such a participation of EFTA judges was incompatible with EC law. This opinion prevented a more symmetrical relationship between the EU and EFTA in the EEA. Instead, the EEA's two-pillar structure requires EFTA and the EFTA Surveillance Authority to handle the EFTA countries' side of the relationship, including decisions on competition policy and associated litigation. The lack of symmetry reduces the EEA's appeal as an alternative to membership.

With the accessions of Austria, Finland, and Sweden in 1995 the EEA became a residual arrangement for Iceland, Liechtenstein, and Norway, in the last case because of the negative referendum on accession. Switzerland did not ratify the EEA following a negative referendum and negotiated instead a number of 'thick' bilateral agreements, and its membership application is dormant. The Commission has also mentioned the EEA as a possibility for closer relations with some countries included in the European neighbourhood policy (ENP) (discussed below). However, since participation in the EEA presumes sophisticated regulatory and administrative capacities to apply and enforce the *acquis*, it is unlikely that it will become a practicable framework for relations with further would-be members that are not advanced

industrialized countries. Instead, the main template for association agreements with countries desiring membership became the 'Europe agreements' that the EU first devised for the CEECs in the early 1990s.

Europe agreements

After the fall of the communist regimes in eastern Europe in 1989, the EU moved quickly under the leadership of the Commission to conclude bilateral trade and cooperation agreements (TCAs) and to support economic reform through the Phare (*Pologne, Hongrie: aide à la restructuration des économies*) programme (Pelkmans and Murphy 1991; Sedelmeier and Wallace 1996: 357–62; Mayhew 1998: 138–50). As the TCA merely provided for a normalization of relations, a consensus emerged around association agreements as the appropriate framework for relations with the CEECs (Kramer 1993). In December 1989 the European Council in Strasbourg agreed to devise 'an appropriate form of association' and the Commission's Directorate-General for External Relations quickly sketched a broad framework. The European Council in Dublin in April 1990 agreed to create 'Europe agreements' (EAs), a 'new type of association agreement as a part of the new pattern of relationships in Europe', to be offered to the leading reformers, Hungary, Poland, and Czechoslovakia.

The EAs consisted mainly of the gradual establishment of a free trade area for industrial products, in which the EU liberalized faster than the CEECs, supplemented by a 'political dialogue' on foreign policy, and backed by technical and financial assistance (through Phare) and economic and cultural cooperation. The Commission conducted the negotiations with the CEECs, based on negotiation directives that it proposed and the Council adopted by unanimity. The Council working group on eastern Europe (rather than the Art. 133 Committee of national trade officials that usually oversees trade negotiations, see Chapter 16) monitored the negotiations. The Council had to approve the final agreement unanimously and the EP had to give its assent (see Table 17.3). The inclusion of provisions for political dialogue made the EAs 'mixed agreements' involving both Community and member states' competence and required ratification by all members. The trade component, subject to only Community competence, could enter into force earlier through interim agreements.

The main controversies in the EA negotiations concerned, first, the link between the agreements and eventual EU membership, and second, the extent of the EU's trade liberalization. Given that association agreements are now considered the first step towards membership, it is maybe surprising that the CEECs' key criticism was that the EAs did not establish a clear link to future membership of the EU. Although the label 'Europe' Agreements played to the symbolism of a 'return to Europe' through closer relations with the EU, most member states and most Commissioners opposed raising the question of membership at this early stage. The Commission (1990) had attempted to pre-empt argument by stating that there was 'no link either explicit or implicit' between association and accession, and while 'membership is not excluded when the time comes', it was 'a totally separate question'. The Council's decision

on the negotiation directives specified that if the CEECs raised the issue during the negotiations, the Commission should simply refer to their right under the treaty to apply for membership.

The other key area of contestation concerned trade liberalization. While the EU offered to open its market to industrial products over a period of five years, special protocols and annexes covering 'sensitive' sectors—notably agriculture, textiles, coal, and steel—offered slower and more limited liberalization. These sectors accounted for the bulk of CEEC exports and reflected their medium-term comparative advantages. Furthermore, provisions for contingent protection (anti-dumping, safeguards, and anti-subsidy measures—see Chapter 16) provided EU producers with instruments to limit competition.

The dissatisfaction of the CEECs led to two periods of deadlock in the negotiations. On each occasion, the Commission successfully persuaded the Council to amend the negotiation directives in order to take better account of CEEC demands (Sedelmeier and Wallace 1996: 370–2). As a consequence, the EU accepted greater market access than it had initially proposed, and the preamble of the EAs noted that 'this association, in the view of the parties, will help to achieve [the CEECs'] objective [of eventual membership]'. This latter concession in particular fell short of the firm commitment that the CEECs had hoped for, and they were far from enthusiastic about the final outcome of the negotiations.

Stabilization and association agreements

The EU drew on a very similar template for relations with the countries of the 'Western Balkans', namely Albania and most of the successor states of Yugoslavia (Slovenia concluded an EA, see Table 17.1). Following the violent break-up of Yugoslavia and the US-brokered Dayton agreement that stopped the fighting in Bosnia (see Chapter 18), the EU agreed a 'regional approach' towards the countries of south-eastern Europe in February 1996. In the aftermath of Nato's military intervention in Kosovo, the European Council in Cologne in June 1999 endorsed an initiative by the German Presidency for a stability pact for south-eastern Europe (Friis and Murphy 2000). The Commission elaborated proposals for a 'Stabilization and Association Process' (SAP) that included not only the aim of supporting economic and democratic transition but also regional cooperation, as well as explicit preparation for eventual accession.

The key element of the SAP was a specific type of association agreement—'stabilization and association agreements' (SAAs)—as well as financial assistance through CARDS (Community Assistance for Reconstruction, Development, and Stabilization). The SAAs were largely modelled on the EAs as regards substance, but included much more detailed political conditionality (Phinnemore 2003; Pippin 2004; Gordon 2008). In contrast to the EU's reluctance to establish a link between the EAs and eventual membership, the European Council in Feira in June 2000

affirmed the status of the south-east European countries as 'potential candidates' even before the first SAAs were signed.

Association agreements with European successor states of the Soviet Union

The EU initially offered less preferential partnership and cooperation agreements (PCAs) to the European successor states of the Soviet Union (apart from the Baltics). Latterly policy has shifted a bit with the decision to negotiate an association agreement with Ukraine and subsequently to make them the core of the Eastern Partnership (EaP) (see below). This decision emerged from a tricky discussion among EU member states in the wake of the Russia–Georgia conflict in 2008 and raised the same debate about the link between association and membership as previously in the EA negotiations. Ukraine—with support from the Czech Republic, Poland, Sweden, and the United Kingdom—pressed for confirmation of the country's membership prospects in the agreement's preamble. Other member states, particularly Belgium and The Netherlands, as well as Austria, Luxembourg, Portugal, and Spain, argued that it would go too far even to acknowledge that Ukraine was a 'European' country with the right under the treaty to apply for membership. Instead, the agreement should clearly stipulate that it did not in any way 'prejudge the future of EU/Ukrainian relations' (*Agence Europe*, 5 September 2008). The joint declaration of the EU–Ukraine summit in September 2008, reflecting a French presidency proposal, 'recognized that Ukraine as a European country shares a common history and common values with the countries of the European Union', and that the future association agreement 'leaves open the way for further progressive developments in EU–Ukraine relations'. Although the EU did not offer the prospect of membership, it 'acknowledge[d] the European aspirations of Ukraine and welcome[d] its European choice' (*Agence Europe*, 10 September 2008).

Pre-accession alignment and (potential) candidate status

Association agreements provide the legal framework for relations with would-be members until accession, even after they achieve the next step towards accession: potential candidate status and pre-accession alignment. The pre-accession policy runs in parallel to association, rather than replacing it. The point at which a would-be member enters the second main stage of the accession process is not clear-cut. Generally, it starts once a country has been recognized by the EU as a potential candidate country. EU practice about such an acknowledgement has also changed. For the ten CEECs concerned in the 1990s, this acknowledgement

happened only at the European Council in Copenhagen in 1993, after sustained lobbying from the candidates and from within the EU (Sedelmeier 2005b). By contrast, the European Council in Feira in 2000 acknowledged that the south-eastern European countries were 'potential candidates' at a rather early stage in the process. Pre-accession policies thus now sometimes start even before the conclusion of association agreements, in line with the more extensive and detailed conditionality.

Origins of the EU's pre-accession policy

The need for a pre-accession policy as an element of enlargement policy reflects the specific characteristics of most membership candidates since the end of the cold war, namely that they are not ready to apply the EU's single-market legislation at the time of application. The EU faced the challenge of whether and how to support candidates' efforts to meet the conditions of membership through regulatory alignment. The EU's response was a pre-accession strategy. The first time the Commission had suggested such a strategy was the accession of Greece, which it did not consider ready for full membership, and proposed a pre-membership programme of structural adjustment and economic convergence (Preston 1997: 51–2). However, the Council rejected the Commission's suggestion, deciding unanimously to open accession negotiations, despite Belgian, British, and Danish reservations.

In the context of eastern enlargement, the pre-accession strategy resulted from an initiative of the Commission's Directorate-General for External Relations and the *cabinet* of Sir Leon Brittan, the Commissioner for External Economic Relations. Following the general endorsement of the possibility of enlargement at the European Council in Copenhagen in June 1993, these policy advocates in the DG and the Brittan *cabinet* were keen to use the momentum for a follow-up initiative that placed accession preparations on a concrete working footing that would keep enlargement firmly on the EU's agenda. The cornerstone of their strategy to prepare the relevant CEECs for accession was a regulatory alignment with the *acquis communautaire*. Progress with alignment would dispel fears that the CEECs were insufficiently prepared for membership and make it difficult for the EU to justify dragging its feet. Moreover, as long as the CEECs remained sufficiently flexible to set their own priorities, alignment could also be beneficial to them within the broader process of economic restructuring and in reducing the scope for the EU to use trade defence measures.

Despite initial reluctance both inside the Commission and among the member states, this particular strategy also appealed to those reluctant about enlargement; an explicit programme of legislative alignment could provide a checklist of necessary preparations that would make it easier to argue against premature accession until all the measures were in place. The double-edged nature of the pre-accession strategy—that it could be interpreted as a means both to accelerate and to postpone

enlargement—as well as the support from the German presidency for the policy advocates in the Commission led to the announcement of the EU's pre-accession strategy at the European Council in Essen in December 1994.

The core element of the pre-accession strategy was a White Paper (Commission 1995) that set out key elements of the internal-market *acquis* that the CEECs had to adopt as a preparation for membership, and the necessary legal and institutional framework for transposing them into national legislation and applying them. It suggested a logical sequencing of measures in each issue area (but not priorities across areas). In addition, the Commission would set up an office—the Technical Assistance Information Exchange Office (TAIEX)—to provide assistance for regulatory alignment. One of its main tasks became to organize a 'twinning' of seconded experts from the member states with their counterparts in CEEC national administrations to assist with the implementation of specific measures of the *acquis*. The pre-accession strategy would involve the CEECs establishing national programmes for the adoption of the *acquis* (NPAAAs), which would set out priorities and specific timetables for adopting EU legislation.

The Commission White Paper's presentation of the key parts of the *acquis* might appear a merely technical exercise—and was deliberately presented by the Commission as such—but in fact it was profoundly political (see also A. R. Young and Wallace 2000: 118–19; Sedelmeier 2005b: 141–7). Given the massive amount of EU legislation, the policy advocates in the Commission argued for a selective approach that would accord the CEECs maximum flexibility in their alignment. The basis for selection would be a distinction between legislation that is 'essential' for the functioning of the single market (by eliminating trade barriers) and measures aimed at achieving other EU objectives (e.g. environmental and social-policy standards for production processes). Such a distinction raised extremely sensitive questions about the status of those measures left out. In the Commission, especially DG EMPL (employment, social affairs, and equal opportunities) was concerned that the choices of the White Paper would imply a ranking of EU policy areas. The Commission still largely managed to avoid controversy with, and among, the member states, by presenting the White Paper as a technical exercise, which avoided alerting interest groups that could otherwise have lobbied for the inclusion of specific measures. As a result, the White Paper largely excluded process regulations, which do not impede trade, notably in environmental policy (Commission 1995). The European Council in Cannes in June 1995 agreed it without much discussion.

Accession partnerships and European partnerships

The Commission's approach to regulatory alignment as a pre-accession strategy backfired with the member states when it advanced a 'reinforced pre-accession strategy' in July 1997. As the main instrument for the management of legislative

alignment, the Commission proposed bilateral 'accession partnerships' (APs). In the APs, the candidate countries would commit themselves to clear programmes for alignment by setting 'short term' and 'medium term' priorities for measures to be adopted. The CEECs would then set out clearly the timetables in NPAAAs. Pre-accession aid would be targeted more directly at investment necessary to adopt the *acquis* through a revamping of Phare into two new financial support instruments: ISPA (Instrument for Structural Policies for Pre-accession, along the lines of the cohesion fund) and SAPARD (Special Accession Programme for Agriculture and Rural Development). Although the speed of alignment was in principle left to the candidates, the EU tied progress both to financial assistance and the speed of accession negotiations, which created pressures for rapid and far-reaching adjustments.

The Council re-asserted control over the process. The Council decides by QMV the priorities and objectives contained in individual APs submitted to candidate countries, as well as subsequent adjustments (upon a Commission proposal and with EP assent) (Council Regulation 622/98 of 16 March 1998; see Table 17.3). The more rigid approach of the APs compared to the original pre-accession strategy resulted from the member states' concern that if the Commission negotiated the APs with the candidates, it could prejudge eventual accession negotiations. This approach left little scope for the candidates themselves to shape the pace and content of the APs, causing considerable criticism that the language of partnership disguises rather thinly the imposition of EU priorities (see also Grabbe 2006: 14–18).

Still, the Commission maintained a considerable influence on the pace of the accession process and the selection of candidates through its role in the evaluation of the candidates' progress on alignment. It monitored progress through annual Regular Reports, which involved it in the domestic politics of applicant countries far more than in previous enlargement rounds (and in monitoring existing member-state compliance with the *acquis*).

The EU essentially maintained this framework for pre-accession alignment in the context of south-eastern Europe. The European Council in Thessaloniki in June 2003 agreed to a Commission proposal that introduced new instruments within the broader framework of the SAP. It adjusted financial support by replacing the CARDS programme with the Instrument for Pre-accession Assistance (IPA). The main instrument for accession preparations was new 'European partnerships', which essentially copy the APs. They identify each country's priorities in their preparations for further integration, and progress is monitored through the Commission's Regular Reports. Once a country moves from the status of 'potential' candidate country to 'candidate country', its European partnership is replaced by an AP.

The EU's procedures for granting 'candidate' status are not very explicit. The first time that the EU formally acknowledged a country as a 'candidate state' was when the European Council in Helsinki in 1999 designated Turkey as such in order to reward progress made, although it did not yet envisage opening accession negotiations. In the case of the former Yugoslav Republic of Macedonia (FYROM), the

Commission proposed granting candidate status in its opinion on the country's formal membership application, despite otherwise recommending that accession negotiations should not be opened yet.

Accession

Commission opinions

The Commission's opinion remains a key element in proceeding to the accession stage, although it has lost some of its distinctive character as the main document containing the Commission's assessment and recommendation through the practice of regular monitoring reports both before and after the official opinion. The college of commissioners adopts the Opinion with a majority vote, which was necessary in the case of Greece (Preston 1997: 50). Voting aside, another indicator of controversy is the time the Commission takes to prepare its opinion, as in the cases of Turkey, Cyprus, and Malta, and the first CEEC applicants (see Table 17.1). The Commission's opinion is not binding on the Council, which decides unanimously on whether to open accession negotiations with an applicant. Yet so far only in the case of Greece did the Council not follow the Commission's recommendation.

A key novelty in the opinions on the CEECs was that the Commission did not assess their preparedness at the time (except for the political conditions), but explicitly their *prospective* readiness, since none of the candidates met all the conditions when the opinions were published. In this case, there was genuine uncertainty about which countries the Commission would recommend for accession negotiations and which the European Council would endorse. There was considerable debate within both institutions. One side argued for a strict application of a merit-based approach to starting negotiations. The other suggested a more inclusive approach in which all candidates started negotiations (but might conclude them at different times) to avoid hampering reform efforts in the countries left out. The European Council in Luxembourg in December 1997 endorsed the Commission's recommendation of starting accession negotiations initially with only Cyprus, the Czech Republic, Estonia, Hungary, Poland, and Slovenia, which has been interpreted as evidence for the Commission's agenda-setting powers (Friis 1998).

The desire in parts of the Commission and the Council to maintain incentives for domestic reforms in the other applicant countries led to agreement that the Commission should regularly assess their progress and possibly recommend opening accession negotiations. The Commission's Regular Reports, usually published in October/November each year, are similarly structured to the Opinions. They assess in a fairly standardized manner the progress made with regard to political and economic conditions, and with legislative alignment in the various policy areas. So far, the European Council has always followed the Commission's recommendations:

the 1999 Regular Reports proposed starting accession negotiations with Bulgaria, Latvia, Lithuania, Malta, Romania, and Slovakia, and the 2004 Regular Report with Turkey. In recent policy practice *vis-à-vis* south-eastern Europe, Regular Reports no longer only follow the Commission's opinion, but already assess potential candidate countries even prior to their official application.

Accession negotiations

The procedures for accession negotiations were essentially set in the first enlargement negotiations with Denmark, Ireland, Norway, and the UK. In contrast to external trade negotiations (see Chapter 16), they are not conducted by the Commission, but by the Council presidency on behalf of the member states (see Table 17.3). Although the Commission does not have a formal role in the negotiations, it has often been able to broker compromises and identify solutions (Avery 2004). Negotiations occur through bilateral 'accession conferences' that can run in parallel with more than one candidate. Prior to opening official negotiations, the Commission conducts a 'screening process' with the applicant countries. In multilateral and bilateral sessions, the Commission assesses whether an applicant is able to apply the *acquis*, and identifies possible challenges for the negotiations. After the screening, the candidates submit their negotiation positions. The Commission drafts a common EU position that requires unanimous agreement by the Council.

The Council then decides unanimously to open, and subsequently to close provisionally, negotiations on specific 'chapters' of the *acquis* (relating to specific policy areas, plus budgetary provisions, and institutions: thirty-one in the case of the CEECs and thirty-five in the case of Turkey, where additional chapters include 'judiciary and fundamental rights', and 'food safety'). In the 2004 enlargement round, the procedure led to a 'chapterology' among commentators, especially in the candidate countries: a tendency to assess relative progress towards membership in terms of chapters opened and closed.

The guiding principle of accession negotiations—that the *acquis* is not negotiable—was established in the first enlargement round. Many aspects of the *acquis*, such as the financing of the CAP, created problems for the UK. Although Article 49 TEU does not preclude a renegotiation of the founding treaties, this was precisely what the incumbents wanted to avoid. The Commission's (unpublished) Opinion on the UK's first application stated the key guiding principle for accession negotiation that has been repeatedly reaffirmed since then (Preston 1997: 28): the EU expects candidates to adjust unilaterally to existing EU law, even if established policies and practices do not fit their specific situation. What is negotiable is rather limited: a timetable for adopting the *acquis*, rather than permanent derogations. The best that candidates can hope for are transition periods after accession during which they do not have to apply specific elements of the *acquis*. Conversely, the member states might seek to reduce their own adjustment costs through transition periods during which new members will not enjoy the full benefits of membership. New members'

rights to market access and involvement in the CAP and structural funds can increase economic competition for the incumbents, or reduce their budgetary receipts. If interest groups in threatened sectors cannot prevent enlargement, they may seek to delay granting these rights after accession.

In the history of enlargement, EU concessions have been rather limited. Such exceptional cases include the EFTA enlargement in 1995, when the EU allowed the new members to maintain certain higher standards of environmental protection, even though they could constitute trade barriers (A. R. Young and Wallace 2000), and the long transition periods of ten years or more that the CEECs obtained for certain investment-intensive environmental regulations that did not affect product standards. The preservation of existing rules imposed notoriously harsh accession terms on the UK, particularly with regard to budget contributions. These remained contested until Prime Minister Margaret Thatcher negotiated the UK rebate in 1984 to 'get her money back' (see Chapter 9). Spain and Portugal had to wait ten years after accession before certain Mediterranean agricultural products enjoyed full market access in other members, as well as to accept restrictions on free labour movement for their citizens.

The accession agreements with the CEECs are also striking examples of discrimination against new members in key areas of membership. The incumbents could decide to restrict the movement of workers from the new members for up to seven years after accession. Direct payments from the CAP are to increase only gradually from a quarter of the level paid to farmers in the old member states, to equality only after ten years. In addition, receipts from structural funds were capped at 4 per cent of the recipient's GDP (see also Avery 2004). Nonetheless, the candidates all still found membership, even under such disadvantageous conditions, preferable to remaining outside. It was the strength of their preference for membership that enabled the incumbents to shift adjustment costs so heavily to new members (see also Moravcsik and Vachudova 2003). Yet the cases of the UK and Spain show that adverse terms of accession can create disgruntled new members that attempt to redress these bargains once on the inside.

Once the member states and the candidate have reached an agreement, and the EP has given its assent, the accession treaty is signed by all governments and the candidate becomes an 'accession country'. The accession country and all the member states have to ratify the treaty. Ratification referendums have failed twice in Norway in 1972 and 1994. France is the only incumbent so far to hold a referendum to ratify an accession treaty, which succeeded in the case of the UK. Following constitutional amendments in 2005 and 2008 the French president can choose between a referendum and parliamentary ratification, if it is approved by three-fifths of the two houses of parliament convened in Congress (*Agence Europe*, 25 July 2008). In addition to national ratification, a further hurdle before full membership was introduced in the accessions of Bulgaria and Romania. A novel provision allowed the Commission to assess the accession countries' progress even after the signing of the accession treaties, and to recommend a postponement of accession by one year.

Conditionality and enlargement as a foreign policy tool

Since the final stages of the EU's 2004 enlargement, it has become increasingly common for academic commentators and EU officials alike to refer to enlargement as the EU's 'most powerful foreign policy tool' (see Commission 2003e: 5; K. Smith 2003: 66). There are two distinct ways in which enlargement can be understood as a foreign-policy tool. The first relates to anchoring fragile democracies that have emerged from authoritarian rule within a prosperous and democratic international community. This notion did not only emerge in the context of post-communist transition, but was already highly salient in the Mediterranean enlargements of the 1980s after Greece, Portugal, and Spain emerged from dictatorships.

The second way in which enlargement is a foreign-policy tool is the EU's strategic use of the incentive of membership in order to induce or preserve specific policy changes in non-member states. Accession conditionality—tying the ultimate reward of membership to certain conditions—can change the incentive structure for candidate countries in such a way as to trigger domestic changes that the existing member states desire (K. Smith 1998; Jacoby 2004; Kelley 2004; Pridham 2005; Schimmelfennig and Sedelmeier 2005a, 2005b; Vachudova 2005; Grabbe 2006; Schimmelfennig et al. 2006). Accession conditionality has developed dramatically in the context of its eastern enlargement and goes far beyond the conditions of 'Europeanness' specified in Article 49 TEU and even the more recently included principles of Article 6(1). It now underpins every step of pre-accession relations virtually up to the day of accession and even beyond in the cases of Bulgaria and Romania (see also last row in Table 17.2).

Evolution of accession conditionality

The EU made the first reference to political membership conditions beyond what is now Article 49 TEU in the context of the Mediterranean enlargements. The 'Declaration on Democracy' at the European Council in Copenhagen in April 1978 stated that 'respect for and maintenance of representative democracy and human rights in each Member State are essential elements of membership'. Although the declaration related formally to the first direct elections to the EP, it was also 'intended to strengthen the Community's leverage against any future member which might slip towards authoritarian rule' (W. Wallace 1996: 16)—which was not inconceivable in view of the attempted putsch in Spain in 1981.

The EU's use of conditionality with regard to human rights and democracy increased significantly in the context of eastern enlargement. Phare aid was provided only once countries had achieved progress in democratic transition. The EU suspended aid to Romania (along with trade negotiations) in 1990 after the government

organized the violent repression of post-election demonstrations; to Yugoslavia in 1991 after the breakout of war following the secession of Slovenia and Croatia; and to Croatia in 1995 after the military offensive to establish government control over the Serb-held Krajina region. The start of EA negotiations also reflected differences in democratization. In the context of negotiations with Romania, EU concerns about democratic developments led the Council to agree in May 1992 that *all* cooperation and association agreements with members of the Conference on Security and Cooperation in Europe (CSCE) should include a clause that would allow the suspension of agreements in the event of violations of democracy and human rights. In May 1995, the Council extended the suspension clause to agreements with any non-member state. While these measures generally expanded the use of conditionality in the EU's external relations, the first direct statement of accession conditions stems from the European Council in Copenhagen in June 1993.

At this meeting, the European Council declared for the first time that the CEECs that so desired might eventually become members. Many member states had been reluctant about this step, and a key debate in the run-up to the declaration concerned the criteria that potential members had to fulfil. Some opponents as well as proponents of early enlargement argued for quantitative criteria, such as a specific level of GDP per capita, in order to reduce the scope for politically motivated decisions for or against enlargement. However, the Council accepted the Commission's proposal for qualitative conditions that included not only the ability to apply the *acquis* after accession, but also political and economic criteria (see Box 17.2). A further condition related to the EU's ability to absorb new members, which the CEECs feared would allow the incumbents to stop enlargement even if the candidates fulfilled all the conditions. Concern about the EU's absorption capacity resurfaced after the 2007 enlargement (see below).

The subsequent application of political conditionality by the Commission and the European Council was considerably broader than that set out at Copenhagen (see Box 17.2). The vague reference of the European Council in Madrid in 1995 to the CEECs' administrative structures has since been widely interpreted as the basis of assessing administrative and judicial capacities, and the fight against corruption. The EU's emphasis on such issues that affect a country's ability to apply the *acquis* became particularly pronounced in the accessions of Romania and Bulgaria. In the EU's relations with the Western Balkans, the political conditions expanded further to include issues related to the ethnic conflict and the violent break-up of Yugoslavia, such as cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY), the return of refugees, and setting a threshold of 55 per cent for approval of the independence referendum in Montenegro.

By setting political conditions that are not covered by the *acquis* (despite the inclusion of Art. 6 TEU), the EU has entered new territory. Accusations of double standards in the treatment of candidate and full members strengthened calls for EU competences in these areas. It also provides scope for actors other than member-state

BOX 17.2

Accession conditionality

'Copenhagen criteria' (European Council, Copenhagen, 1993):

- stable institutions guaranteeing democracy, the rule of law, human rights, and respect for and protection of minorities;
- a functioning market economy, as well as the capacity to cope with competitive pressure and the market forces within the Union;
- ability to take on the obligations of membership, including adherence to the aims of political, economic, and monetary union;
- the EU's capacity to absorb new members, while maintaining the momentum of European integration.

European Council in Madrid, 1995 (adding administrative capacity)

'... create the conditions for the gradual, harmonious integration of those States, particularly through the development of the market economy, the *adjustment of their administrative structures* and the creation of a stable economic and monetary environment' [emphasis added].

Example of expanding political criteria: Commission 'benchmarks' for opening accession negotiations with FYROM (March/June 2008):

- implementation of the SAA;
- improved dialogue with political parties;
- police reform;
- reform of legal sector;
- reform of public administration;
- fight against corruption;
- employment policy and improving investment environment;
- electoral law reform.

governments to exert influence. The Commission plays a key role by setting conditions and assessing compliance, even if the ultimate decision on whether a country has met the conditions is the Council's. The conditions also reflect lobbying by actors such as the EP. For example, following the persistent advocacy by Emma Nicholson, the EP's *rapporteur* on Romania, the EU insisted on improvements of the standards of state-run orphanages and changes to practices for international adoptions. More recently, the High Representative for the common foreign and security policy (CFSP) has also attempted to influence the EU's application of conditionality, for example by pressing for the implementation of the interim SAA with Serbia, which The Netherlands blocked due to Serbia's failure to cooperate fully with the ICTY.

Other international organizations also acquire a role in the EU policy process. Since the EU lacks rules in most areas of political conditionality, it demanded compliance

with the rules of organizations such as the Council of Europe, the Organization for Security and Cooperation in Europe (OSCE), or the ICTY. The above example of Serbia and the ICTY underlines the tensions that can arise from an international organization's strict assessment of compliance in cases in which the majority of member states prefer a more flexible approach that would allow the EU to proceed with the accession process.

Conditionality and foreign policy

Most studies agree that conditionality has provided the EU with a highly effective means to influence policy change in applicant countries. It was particularly powerful in bringing about adjustment to the *acquis*. Nonetheless, such adjustment was not uniform across issues and countries; it depended for example on the nature of the *acquis* in an issue area and the constellation of domestic actors (Jacoby 2004). Compliance with the EU's political conditions, such as democracy and human rights, particularly depended on favourable domestic conditions. In countries with strongly nationalist and/or undemocratic governments—such as Belarus, Slovakia under Vladimir Mečiar, and Croatia under Franjo Tuđman—political conditionality was ineffective. However, it had a certain lock-in effect in the latter two cases, once nationalist and authoritarian parties lost elections to a coalition of liberal democratic parties (Vachudova 2005; Schimmelfennig et al. 2006). The EU did not cause their electoral victories, but once the new governments carried out political reforms that brought the country closer to accession, even an eventual return of the previous governing parties did not lead to a reversal of the reforms.

If governments did not perceive adjustment costs as prohibitively high, as was generally the case with regard to the *acquis*, then the EU's influence depended on the credibility of conditionality. Such credibility was undermined if EU actors sent out contradictory signals about the requirements for accession (Hughes et al. 2004a, 2004b; Sissenich 2005), or if a candidate country had reasons to doubt that the member states would agree to accession, even if it met all the conditions. In the context of its eastern enlargement, the EU's main instrument for making the prospect of membership credible was the opening of accession negotiations (Schimmelfennig and Sedelmeier 2005b).

In the case of Turkey, however, the opening of negotiations has lost much of this significance. The argument by some member states and some in the Commission that negotiations might not necessarily lead to accession—a clear break with previous policy—and the possibility of a French referendum to ratify its accession have made it less credible that the EU would grant accession even if Turkey meets the conditions. The EU's application of conditionality faces similar circumstances with regard to Ukraine or other successor states of the Soviet Union. Given the high domestic adjustment costs of its political conditions, the EU either has to make

an unambiguous commitment to the possibility of membership, or abandon any ambitious attempts to influence domestic politics in would-be member states.

Other changes in the EU's application of conditionality include the specification of additional intermediate steps on the path to accession as rewards for compliance (see bottom row of Table 17.2). The EU also identified additional incentives, such as lifting visa requirements, which, however, presumed that additional criteria would be met, such as the signing of a Readmission Agreement for asylum seekers. Moreover, the EU has extended conditionality both beyond the signing of accession treaties, and even after accession itself. First, after the signing of accession treaties with Bulgaria and Romania, the Council asked the Commission to continue its monitoring and to recommend a postponement of the accession date if necessary. In the 2004 enlargement, Article 38 of the accession treaties allows the Commission to take 'appropriate measures' even after accession, if a new member caused within the first three years of membership 'a serious breach of the functioning of the internal market' or if there is an 'imminent risk of such breach'. The accession treaties with Bulgaria and Romania went a step further: a 'cooperation and verification mechanism' without a fixed expiry date authorizes the Commission to monitor reforms of their judicial systems and measures against corruption and organized crime, and to recommend the suspension of the obligation for other member states to recognize and implement judicial decisions. An example of post-accession sanctions was the Commission's decisions in July and November 2008 to freeze a total of €520 million in aid for Bulgaria for suspected fraud.

The Commission has also initiated a shift in the strategy of demanding strict compliance with conditions prior to awarding the promised benefits, towards making these benefits more tangible before full compliance is achieved. For example, the EU suspended negotiations of an SAA with Serbia over the government's failure to cooperate fully with the ICTY on the arrest of the Bosnian Serbs Ratko Mladić and Radovan Karadžić. Although no progress occurred, the EU signed the agreement just prior to the parliamentary elections in 2008 to bolster support for the pro-EU party of President Boris Tadić, but made the ratification of the agreement (and implementation of the interim agreement) still conditional on further cooperation with the ICTY. Likewise, the EU initialled the SAA with Bosnia in December 2007 in return for the mere promise of constitutional and police reform in the hope that making the benefits of the SAA more tangible would reduce domestic opposition to reforms. This strategy may have had some success in the case of Serbia: Tadić's party won the elections and Karadžić was arrested and extradited, although the interim SAA remained blocked by The Netherlands over the failure to arrest Mladić. There has been much less to show for the EU's inducements in Bosnia: a police reform bill was passed in April 2008 prior to the signing of the SAA in June, but did not envisage the unification of police forces demanded by the EU, and constitutional reform had not yet begun.

The 'Eastern Partnership' and enlargement fatigue

The perceived success of accession conditionality has led the EU to extend this practice to relations with neighbours that it does not currently consider potential candidates (see also Kelley 2006). In March 2003, the Commission (2003e) proposed a European neighbourhood policy (ENP) as a new framework for relations with the EU's eastern and southern neighbours. In this framework, the Commission strategically adapted the key tenets of its conditionality policy to expand its role in EU foreign policy. Bilateral relations were then organized around 'action plans' that are very similar to APs, and regular reports that assess a country's alignment. One obvious flaw in this mechanical policy transfer from enlargement is that the EU does not offer its greatest reward—membership—but only the rather vague incentive of 'closer relations'. Thus the ENP appears better equipped to achieving issue-specific objectives—such as the fight against illegal immigration, organized crime, human trafficking, or money laundering—through issue-specific rewards like abolishing visa requirements, than to broader objectives such as democratic reforms.

The EU developed relations with the eastern European countries of the ENP in the framework of the 'Eastern Partnership'. The initiative by French President Sarkozy that led in July 2008 to the launch of the 'Union for the Mediterranean' with the southern neighbours of the ENP (and the remaining Mediterranean non-members) prompted a Polish-Swedish initiative to strengthen relations with Armenia, Azerbaijan, Belarus, Georgia, Moldova, and Ukraine. The European Council in June 2008 asked the Commission to prepare a proposal and in September 2008 urged it to accelerate its work after the fighting between Russia and Georgia in August 2008 prompted new attention to the region, amidst a broader debate about what kind of relationship to develop with Russia (see Chapter 18). The cornerstones of the Commission's proposal are: association agreements to replace the existing PCAs (a move already under way with Ukraine); the creation of a free trade zone (possibly leading to a 'Neighbourhood Economic Community', inspired by the EEA, which ignores the high demands that the EEA makes on the regulatory capacity of participating states); and gradual visa liberalization. Since the initiative excludes what most eastern neighbours value most—military security and eventual membership—it remains unclear whether the EaP will allow the EU to promote its broader foreign-policy objectives any more effectively than the ENP. The European Council in December 2008 referred the proposal to the Council for examination with the aim of endorsing it in March 2009. The EaP was formally launched on 7 May 2009.

The EU's ability to use accession conditionality for foreign-policy objectives is further undermined by evidence of 'enlargement fatigue' after the 2007 enlargement and the emphasis that opponents of further enlargement put on the EU's 'absorption capacity'. The Commission's 2006 Enlargement Strategy Paper (Commission 2006f) suggested that absorption capacity concerned the impact of enlargement

on the EU's budget and its ability to implement common policies, and on effective and accountable decision-making. So far, however, there is no evidence that the EU sets tougher thresholds for current candidates than in earlier enlargements (Schimmelfennig 2008). The belief in some member states that the Bulgarian and Romanian accessions were premature, coupled with the Commission's freezing of funds for corruption and maladministration, nonetheless, fed the reluctance to envisage additional candidates in the medium term.

Moreover, the uncertainty surrounding ratification of the Treaty of Lisbon (ToL), combined with the economic and financial crisis of 2008, made the member states and the Commission more reluctant to accelerate the ongoing enlargement processes. After the Commission's report in November 2008 suggested that Croatia should be able to conclude accession negotiations by the end of 2009, France, Germany, and Luxembourg sought to link its accession to the prior entry into force of the ToL. The Commission referred to the economic crisis when cautioning Albania and Montenegro against early formal membership applications. On the other hand, however, the Commission indicated that the application submitted in July 2009 by Iceland—where the new government viewed accession, as a means to EMU membership, as more attractive in the wake of its deep financial crisis—could be processed rather quickly, possibly leading to an accession at the same time as Croatia.

In sum, after the 2004 and 2007 enlargements the conditions for the EU's use of enlargement as a foreign-policy tool have become less favourable. The member states are less able to agree on using membership as an incentive and the domestic adjustment costs of the EU's political conditions for governments in the target countries are generally higher than in the previous accession rounds.

Conclusions

The EU's enlargement policy has developed considerably since the end of the cold war. It is no longer synonymous with accession negotiations, but sets the longer-term framework for relations with countries desiring membership and specifies how they can proceed towards accession. This framework includes three overlapping stages—association agreements, pre-accession preparations, and accession negotiations—each underpinned by more extensive and demanding conditionality. EU enlargement policy illustrates several policy modes (Chapter 4), in that policy within each of these three stages follows diverse procedures and dynamics.

The association framework exhibits many elements of the 'Community method', albeit with a strong oversight by foreign ministers that has on occasion constrained the influence of defensive economic interests. The framework follows largely a template forged in the early 1990s in the negotiations of the first generation of 'Europe agreements' with the CEECs. These negotiations were characterized both by an

intergovernmental disagreement about the link between association and potential membership, and by bargaining along transgovernmental lines about the trade component between sectoral policy-makers across the member states and the Commission on the one hand, and foreign policy-makers on the other.

The pre-accession alignment phase also displays characteristics of the 'Community method'. The Commission plays a key role in formulating conditions, monitoring and assessing compliance, and making recommendations for further steps towards accession on the basis of its assessment. The European Council still has the final say, and political considerations about the desirability of closer relations and enlargement play a prominent role, but so far the Commission has largely been able to set the agenda through its role in applying conditionality.

Accession negotiations, however, are mainly the domain of 'intensive transgovernmentalism'. The member states play a key role in determining the EU's negotiation position and the shape of accession treaties, often mindful of national economic or regional interests. The Commission's informal role in identifying compromises can carry the negotiations forward and make unfavourable deals more acceptable to new members. On the other hand, the EU's use of enlargement as a foreign-policy tool has allowed the Commission to play a more important role in EU foreign policy, the traditional realm of 'intensive transgovernmentalism' (Chapter 18).



FURTHER READING

For overviews of the EU's enlargement rounds, see Preston (1997) and Nugent (2004b). For accounts of the evolution of eastern enlargement, see Baun (2000), Mayhew (1998), and Sedelmeier (2005b). For theoretical approaches to enlargement, see the contributions in Schimmelfennig and Sedelmeier (2005a). For the EU's impact on candidate countries and the effectiveness of conditionality in the context of eastern enlargement, see Grabbe (2006), Hughes et al. (2004b), Jacoby (2004), Kelley (2004), Kubicek (2003), Pridham (2005), Schimmelfennig and Sedelmeier (2005b), Schimmelfennig et al. (2006), and Vachudova (2005).

Baun, M. (2000), *A Wider Europe: The Process and Politics of EU Enlargement* (Lanham, MD: Rowman & Littlefield).

Grabbe, H. (2006), *The EU's Transformative Power: Europeanization through Conditionality in Central and Eastern Europe* (Basingstoke: Palgrave Macmillan).

Hughes, J., Sasse, G., and Gordon, C. (2004b), *Europeanization and Regionalization in the EU's Enlargement to Central and Eastern Europe: The Myth of Conditionality* (Basingstoke: Palgrave Macmillan).

Jacoby, W. (2004), *The Enlargement of the European Union and NATO: Ordering from the Menu in Central Europe* (Cambridge: Cambridge University Press).

Kelley, J. G. (2004), *Ethnic Politics in Europe: The Power of Norms and Incentives* (Princeton, NJ: Princeton University Press).

Kubicek, P. (2003) (ed.), *The European Union and Democratization* (London: Routledge).

Mayhew, A. (1998), *Recreating Europe: The European Union's Policy Towards Central and Eastern Europe* (Cambridge: Cambridge University Press).

Nugent, N. (2004b) (ed.), *European Union Enlargement* (Basingstoke: Palgrave Macmillan).

Preston, C. (1997), *Enlargement and Integration in the European Union* (London: Routledge).

Pridham, G. (2005), *Designing Democracy: EU Enlargement and Regime Change in Post-Communist Europe* (Basingstoke: Palgrave Macmillan).

Schimmelfennig, F., and Sedelmeier, U. (2005a) (eds.), *The Europeanization of Central and Eastern Europe* (Ithaca, NY: Cornell University Press).

Schimmelfennig, F., and Sedelmeier, U. (2005b) (eds.), *The Politics of EU Enlargement: Theoretical Approaches* (London: Routledge).

Schimmelfennig, F., Engert, S., and Knobel, H. (2006), *International Socialization in Europe: European Organizations, Political Conditionality and Democratic Change* (Basingstoke: Palgrave Macmillan).

Sedelmeier, U. (2005b), *Constructing the Path to Eastern Enlargement: The Uneven Policy Impact of EU Identity* (Manchester: Manchester University Press).

Vachudova, M. A. (2005), *Europe Undivided: Democracy, Leverage and Integration after Communism* (Oxford: Oxford University Press).