

TO THE COMMISSIONER
RESPONSIBLE FOR
ENLARGEMENT AND
NEIGHBOURHOOD POLICY

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* Preparations for accession in the formal and potential EU candidates have slowed down as a consequence of slow progress in institutional and economic reform, unresolved regional conflicts and limited appetite for further enlargement among EU member states. Meanwhile, in the last five years, the security situation in the EU's immediate neighbourhood has deteriorated markedly.

In terms of enlargement, you should maintain potential EU accession as a credible and attractive option for candidates and potential candidates, while finding models of cooperation with adjoining countries that do not include the prospect of membership.

European Neighbourhood Policy needs a profound revamp to enable institutionalised cooperation in mutually beneficial areas, which will be open to each country that fulfils the specific criteria and whose strategic interests do not undermine the EU.

- * ENLARGEMENT READINESS
- * NEIGHBOURHOOD POLICY
- * STRUCTURED COOPERATION

1 STATE OF AFFAIRS

In the last five years (2014-19), the European Union's enlargement and neighbourhood policies have recorded modest results.

1.1 Enlargement

Since Croatia became a member state in July 2013, the preparations for accession in the formal and potential EU candidates in the Western Balkans have slowed down. This is a result of slow progress in institutional and economic reform, unresolved regional conflicts (Dabrowski and Myachenkova, 2018) and limited appetite for further enlargement among EU member states. The latter has been caused by, among other factors, the legacies of the European financial crisis of 2010-2015, the refugee crisis of 2015-2016, external migration pressures and deterioration in the area of rule of law, civil and political freedoms in some of the member states that joined the EU in 2004 and 2007.

It was only in September 2017 that European Commission President Juncker publicly suggested that Montenegro and Serbia might join the EU in 2025¹. The subsequent European Commission (2018) communication put forward concrete measures to accelerate EU accession negotiations with both candidates. Political changes in North Macedonia in 2017-18 and compromise reached with Greece in June 2018 over the country's name have removed obstacles to starting EU accession negotiations.

Turkey's EU accession process was practically frozen in 2017-18 as result of the deterioration in the rule of law, human rights and authoritarian changes in its political system. However, in March 2016 the EU was able to conclude with Turkey a deal on controlling migration from the Middle East.

1.2 Neighbourhood

In the last five years, the security situation in the EU's immediate neighbourhood has deteriorated markedly. The Russian annexation of Crimea in March 2014 and Russia's support for separatists in Donbas violated Ukraine's territorial integrity and represent a severe challenge to Europe's security architecture. The US and EU, supported by several partners (including Norway, Canada, Japan

* APPETITE FOR
ENLARGEMENT

* RUSSIA

and most of the EU candidates), have responded with political, economic and personal sanctions against Russia and have frozen the political dialogue. Russia has introduced counter-sanctions on food imports. Meanwhile, other countries in the east – including Moldova, Ukraine, Georgia, Kazakhstan, Uzbekistan and even Belarus – have sought closer relations with the EU.

* MEDITERRANEAN
REGION

The wars in Syria, Iraq, Libya and Yemen, the rise and then fall of the Islamic State of Iraq and Syria (ISIS), and the unresolved Israeli-Palestinian conflict have led to a series of humanitarian crises in the southern and eastern Mediterranean region. This fuelled massive refugee flows to Europe, underpinned a wave of terrorism and negatively affected EU economic cooperation with the crisis-affected countries. These crises remain unresolved, and other countries in the region – such as Algeria and Lebanon – might also become unstable.

* ASSOCIATION
AGREEMENTS

Against this background, the record of the European Neighbourhood Policy (ENP)² is mixed. Association agreements with Georgia, Moldova and Ukraine were implemented, increasing the economic integration of these countries with the EU. Their citizens gained the right to visit the EU without visas. The EU also provided financial and technical aid to support economic and institutional reforms in these three countries, and in Tunisia and Morocco³. Less progress was made in deepening the free trade agreements with southern Mediterranean partners. The EU has shown limited or no ability to prevent negative political developments in its neighbourhood and to resolve ongoing conflicts.

2 CHALLENGES

* EU ACCESSION

Historically, the promise of EU accession has been the most powerful instrument to promote and incentivise positive developments in the neighbourhood. The two preconditions for this to be effective were the EU's readiness to accept new members and the desire of potential candidates to join the EU and accept the *acquis communautaire*.

However, the role of enlargement has shrunk over time. Because of deepening European integration and an ever-expanding *acquis*, EU accession became a more complex and lengthy

process than it was 20 or 30 years ago. From the candidates' perspective the potential benefits became weaker while the risk the accession process will fail has increased.

Some EU neighbours are not eligible to become EU members because they are located outside Europe (southern and eastern Mediterranean, Central Asia). They therefore cannot benefit from enlargement-related incentives such as eventual EU membership, full access to the Single European Market and large-scale financial transfers. Other countries are for the foreseeable future not interested in membership. Others still, which are potentially eligible and interested (Georgia, Moldova, Ukraine), are not being offered the promise of membership by EU members. There is even a reluctance to continue enlargement in the case of the Western Balkan countries.

Against this background, the EU faces three major challenges:

- Maintaining potential EU accession as a credible and attractive option for candidates and potential candidates (to encourage their further reforms), while not compromising on accession conditionality;
- Conducting an intra-EU institutional reform that would prepare the EU to absorb more member states. This is particularly important for the European Commission, in which every member state currently has one commissioner;
- Finding models of cooperation with neighbouring countries that do not include the prospect of membership. These models should fulfil a dual function: they should be mutually beneficial in the concrete areas of cooperation, and they should establish the EU as an anchor for universal values, economic stability and security in the region.

The third challenge has been an issue for neighbourhood policy from its very beginning (in 2004). For countries with high trade exposure to the EU, instruments such as free-trade agreements or sectoral cooperation may be attractive. The same is true for visa-free travel, but this is limited to countries that meet criteria for a visa-free regime. Development aid and technical assistance are less powerful tools, unless a given partner is strongly interested in

* INSTITUTIONAL
REFORM

* COOPERATION
MODELS



Some countries cannot or will not fulfil EU membership criteria; the EU should devise a neighbourhood policy that enables various models of institutionalised cooperation

a certain kind of assistance or investment project.

Also, from the very beginning there has been a dilemma over what extent neighbourhood policy should be organised on a country-by-country basis, recognising individual country interests and policies (compared to building common rules and policy frameworks for the entire neighbourhood region). The uneven progress of reform, differing geopolitical priorities of EU members and serious regional conflicts in the eastern and southern neighbourhoods suggest an individualised approach. Such an approach would create scope for quick responses to new reform and cooperation opportunities when they arise – such as political changes in Armenia in 2018 or Algeria in 2019.

3 POLICY RECOMMENDATIONS

The EU should strive to cooperate with all its neighbours to its maximum benefit. This implies that European countries should have the right to become EU members if they fulfil a set of criteria that ensure that their EU-membership is beneficial for EU citizens. Policies directed towards EU candidates should aim for full harmonisation of their political, institutional and socio-economic systems with the *acquis communautaire* to ensure that their future EU membership is beneficial for them and for incumbent members (see section 3.1).

But as some countries cannot or will not fulfil these criteria, the EU should also devise a neighbourhood policy that enables various models of mutually beneficial institutionalised cooperation.

* ACQUIS
COMMUNAUTAIRE

This should explicitly not exclude the partial harmonisation of neighbours' economic systems with the *acquis* (see section 3.2).

3.1 Enlargement policy

On several occasions, the EU has promised that European countries that fulfil the Copenhagen criteria can become EU members of the EU (Article 49 of the Treaty on European Union).

Withdrawing this promise would raise severe doubts about the credibility of existing and future EU long-term political commitments, and would also leave neighbouring countries that engaged in the accession process in a dangerous vacuum. The EU should not push its natural partners into other powers' zones of influence. Furthermore, even countries that are currently not interested in joining the EU or that do not meet the membership criteria might at some point need a new vision to anchor a domestic transformation process towards a European model. Consequently, the EU should uphold its membership offer to all European countries.

But the offer of enlargement is not a 'gift' to the EU's partners. Each enlargement needs to be beneficial both to the acceding country and current members of the EU. Consequently, the criteria need to be firmly interpreted in a way that protects the interest of EU citizens of the EU and cannot be compromised. Based on the experience of recent enlargements, the European Commission and Council of the EU should review the accession criteria to ensure that they safeguard the interests of the EU and candidate countries. Such a process can help to manage expectations in candidate and potential candidate countries, and can lead to a more fact-based debate on further enlargement in the EU.

The strategy, priorities and sequence of accession negotiations should be individually tailored to each candidate country, putting upfront the most difficult and complex issues (such as governance, rule of law, judicial reforms and anti-corruption).

The accession process has been the anchor for very successful transformations in most of the most recent EU member countries and in candidate countries. The European Commission and Council should strive to ensure that this process is more than ever based on measurable progress on equivalent and transparent

* COPENHAGEN
CRITERIA

* MUTUAL
BENEFITS

* FUNDING

criteria for all candidates and potential candidates. Progress in meeting accession criteria should be rewarded by acceleration of accession negotiations and increased flows of financial aid and technical assistance. The advanced candidates should be able to participate in EU structural and cohesion funds and EU investment programmes. However, advantages should be withdrawn if progress is rolled back in accession countries.

To be credible in its enlargement policy, the EU needs to adapt its own institutions and decision-making processes to a larger number of member states in future. In first instance, this concerns the right of each member state to nominate a commissioner. Voting rules in the Council, especially in policy areas in which unanimity applies, should also be reviewed to make decision-making easier and more effective.

To avoid cases of reform reversal or breaches of the *acquis* after accession, the EU must strengthen its internal rule-enforcement mechanisms. The key roles should be played here by the Commission as the guardian of the Treaties, and by the Court of Justice of the European Union, which should have greater power to invalidate national legislation that contradicts the Treaties and EU secondary law.

3.2 Neighbourhood policy

European Neighbourhood Policy (ENP), which is based on Article 8 of the Treaty on European Union, should not be limited to the current list of countries participating or potentially participating in the ENP. The geographic coverage of the ENP, which was determined in 2004, is arbitrary. It covers direct neighbours (that is, countries with a direct land or sea border with the EU) and some countries that are not direct neighbours (Armenia, Azerbaijan, Jordan), but excludes others (in post-Soviet Central Asia, the broader Middle East or Saharan Africa) that might be equally important for the EU political and economic interests in its neighbourhood. We suggest that the external borders of the ENP should be treated more flexibly, depending on the political and economic circumstances and EU interests.

ENP potentially offers partners far-reaching access to the EU

* BROADER
NEIGHBOURHOOD

* INSTITUTIONALISED
COOPERATION

internal market in exchange for adopting a respective part of the *acquis*; visa facilitation or liberalisation in exchange for adopting certain legal, regulatory and administrative standards, offer development aid and technical assistance as well as cooperation in several policy areas, for example, research, education, culture, transportation, energy, environment, climate policies, security, counterterrorism and many others.

Such close cooperation with neighbouring countries in specific areas can be hugely beneficial for both sides. We therefore suggest a profound revamp of the ENP to enable institutionalised cooperation in mutually beneficial areas (we call them Circles), that will be open to each country that fulfils the specific criteria and whose strategic interests do not undermine the EU. The idea is that the EU institutions will not have to find a common position on the relationship with each neighbouring country in each area of cooperation, but that neighbours can only choose from a limited number of cooperation frameworks that have some fixed institutional setting.

For each Circle, the EU would define the rights and obligations of all the members. Those will typically be borrowed from the corresponding part of the *acquis*. Each Circle would have a secretariat that monitors the implementation of the rules – and that is able to sanction individual members for non-compliance. If countries fall behind on the membership requirements in any Circle, they can be excluded. Each Circle also needs a governance structure so that rules can be adjusted to changing circumstances, and a juridical structure, for example an arbitration mechanism with the option to move disputes up to the level of the Court of Justice of the EU. With the Energy Community, one such Circle exists already. It has allowed very structured collaboration in the energy field with 11 EU neighbours in the Balkans and in eastern Europe.

An important principle underpinning such structured cooperation would be that only EU members can vote on how the *acquis* develops, and those outside the EU might only vote on whether they are willing to adopt it in their Circle – or whether they prefer to diverge from EU rules.

The Circles would cover areas of Community competence, for example visa facilitation, environment, transport, research, education and trade. Within a given area of cooperation there can be various institutional forms of cooperation (of different depth), for example, a free trade agreement or a customs union. The creation of the proposed Circles would allow the EU to offer different cooperation templates between the prospect of full membership perspective and standard external relations.

Collaboration in Circles can be linked to directly visible benefits for the populations of partner countries, such as economic development, travel facilitation and financial instruments. EU financial instruments should become more targeted to helping countries that want to cooperate with the EU in specific Circles to meet necessary preconditions.

The development of the institutional and thematic setting of the proposed Circles would be a complex task for the Commission. It would require more horizontal collaboration of the neighbourhood policy directorate-general with the respective sectoral directorates-general and with EU member states. The main challenge would be to determine the rights and obligations so that the package is as beneficial as possible for the EU while being attractive to its partners.

EU financial instruments should be used more strategically – also in cooperation with corresponding member-state instruments. Stronger conditionality can ensure that financial assistance serves as an anchor for reform – with a positive multiplier effect in the recipient countries. If, for example, EU financial support is conditioned on improvement in the business climate in partner countries, investors would find such reforms more credible as the partner countries would stand to lose money if they renege on reforms. This will enable the bringing in of more foreign direct investment from the EU.

NOTES

- 1 See http://europa.eu/rapid/press-release_SPEECH-17-3165_en.pdf.
- 2 Although European Economic Area members (Norway, Iceland and Liechtenstein) and Switzerland are geographical neighbours of the EU they are not formally part of the ENP. Their economic and institutional ties with the EU are much stronger than in those of the EU candidates and neighbours.
- 3 However, by its design EU financial aid (the Macro-Financial Assistance, MFA) has a supplementary character to IMF programmes, which offer larger amounts of money to countries in trouble. Disbursement of MFA depends on meeting IMF/ World Bank conditions. Sometimes, the European Commission adds something to the IMF conditions, for example, in the governance sphere.

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