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EU Enlargement: the Western Balkans

In 2003 the EU declared that “the future of the Balkans is within the European Union”. Initially it adopted a generous strategy that linked the timetable for accession to the pace of reform in the Western Balkans. However the results of the French and Dutch referendums on the Constitutional Treaty caused the EU to shift to a more restrictive enlargement strategy. Accession is now explicitly dependent on factors outside the control of potential members.

This research paper outlines the key elements of the EU’s strategy and approach to the Western Balkans between 2003 and 2007; charts the change in attitudes towards the Western Balkans following the referendums on the Constitutional Treaty; considers the criticism of the EU strategy and sketches the current state of play in each of the Western Balkan states. This paper relates to the potential candidate countries of the Western Balkans: Albania, Bosnia-Herzegovina, Montenegro and Serbia (including Kosovo).

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Summary of main points

In 2003 the EU declared that “the future of the Balkans is within the European Union”. The declaration contained a conditional promise. The EU would consider the Western Balkan states for membership, but only if they reached EU standards. The EU was motivated by the usual economic considerations connected to enlargement and also a desire to increase regional stability.

In pursuit of those objectives the EU adopted a strategy based on conditionality, tailored country strategies and regional co-operation. Conditionality is the principle which makes accession dependent on meeting EU standards. This aims to protect the integrity of the internal market and promote reform in potential candidate countries. Tailored country strategies ensure that accession does not move at the pace of the slowest candidate. The promotion of regional co-operation recognises that many of the challenges facing the Western Balkan states have a cross-border dimension. The strategy made stringent demands of potential candidate countries, but put the speed of accession under their control.

In 2005 the negative results of the French and Dutch referendums on the EU Constitution signalled public disapproval of many aspects of EU policy, including enlargement. Consequently, the enlargement strategy published in 2006 contained a subtle, but highly significant, shift in policy. Accession is now linked to ‘consolidation’ and the ‘integration capacity’ of the EU. This does not undermine the EU’s commitment to honour existing obligations. However, candidates are concerned that under the new strategy successful implementation of reforms may not be sufficient to secure membership.

Some have condemned this change in strategy as an overreaction that does not serve the interests of the EU or the Western Balkans. It is argued that the lack of public support for enlargement, which prompted this change in strategy, arises from a failure to appreciate the advantages of enlargement. Furthermore, it has been suggested that by pandering to such concerns, the reform of the Western Balkans and the consequent increase in European prosperity and security could be put at risk. Others argue that the strategy does not go far enough, that the Western Balkans can only become capable of EU membership if conditionality is enforced more rigorously.

The British Government is a strong supporter of enlargement. It has consistently argued that enlargement is in the strategic interests of the UK and the EU. Following the EU’s change in strategy, the UK cautioned against the erection of barriers designed to impede enlargement.

The EU remains publicly committed to offering the Western Balkans EU membership, but the situation is precarious. Any further enlargement is dependent upon institutional reform of the EU, which has become tied to the Constitution. This could cause significant delays because there is still no agreement on how to proceed with the Constitution. In the coming months the final status of Kosovo may be decided and new leaders will take control in France and the UK. Each of these issues could influence the membership prospects of the Western Balkans.

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I Europe's Balkan Dilemma

The queue of countries wishing to join the European Union stretches eastwards to the Caucasus and south to the African continent. In between lie the Western Balkans, resting on the edge of the EU's current borders and consisting of six states which, since 2003, have been slowly nudging their way closer to EU accession.

The process has been far from painless. The need to rise to EU standards in every policy area has imposed great burdens on all the Western Balkan states. Even with considerable EU support, financial and otherwise, progress has been uneven. Yet overall the EU's tried and tested 'carrot and stick approach' has delivered dividends. Relative stability in a region, which only a decade ago was ravaged by brutal, successive conflicts, has brought welcome respite. The prospect of eventual EU membership, first offered in 2003, is not the sole cause of a change in fortunes but it has provided a tangible reason to reform and a focal point for action.

Yet in spite of their efforts, the Western Balkans face a difficult period. Problems stem not just from domestic concerns, complex and challenging though these are, but as a result of confusion over Europe's future within Europe's capitals and corridors of power.

Only four years ago, European leaders, unburdened by 'enlargement fatigue' and constitutional wrangling, used the Thessaloniki Summit to promise membership to the Western Balkans. The promise then was conditional: three states (now four and possibly five if Kosovo becomes independent) - Albania, Bosnia-Herzegovina, Serbia and newly independent Montenegro - have to show that they can adhere to the "Copenhagen Criteria"¹ which set minimum standards in the areas of democracy, human rights and the rule of law. In return the Commission has adopted, and will pursue, a strategy aimed at greater integration with, and of, the Western Balkans.

Although the strategies remain firmly in place and EU technical and financial assistance continues to flow to the Western Balkans, political support for further enlargement now appears to be less forthcoming than it was three years ago. Rather than focusing on outward expansion, the 'No' results in the French and Dutch referendums on the European Constitution in 2005 have prompted introspection and collective navel gazing. Constitutional woes have been compounded by electoral changes in key European countries and it is widely accepted that the process of deciding upon Europe's future direction will not begin until after the French presidential elections in 2007. In the meantime, the extended period of reflection does not bode well for the Western Balkans.

In the past, waves of enlargement arose as a result of a combination of push and pull factors. 'Push' came in the form of a Union keen to extend its borders, trading potential and security. 'Pull' factors derived from the strong wish of non-member countries seeking membership and all the benefits that access to a market place of nearly half a billion people brings. However, in the past year the balance of 'push and pull' has given way to disequilibrium.

¹ For further information on the Copenhagen Criteria see Library Research Paper 98/55, *EU Enlargement*

At an informal summit in March 2006, European leaders were markedly more reticent when it came to supporting full EU membership for the Western Balkans. The European Parliament, too, normally a solid supporter of enlargement and integration with the Western Balkans, adopted a report in February 2006 which was far less enthusiastic in tone than has been the case in the past. For Western Balkan leaders the change in tone was unwelcome but not unexpected. In the immediate days and months after the French and Dutch referendums, Western Balkan leaders urged Europe not to shelve further expansion but to build on progress that had already been made. The Council deliberations in March, the European Parliament's report and a number of un-attributable comments on the part of senior Commission officials' suggest that Western Balkan leaders' fears may be well-founded. Increasing political emphasis on meeting new criteria such as 'enhanced conditionality', and talk of 'absorption' or 'integration capacity'² also indicate that the Balkans' path to the EU will become more complex in the coming years.

This research paper outlines the key elements of the EU's strategy and approach to the Western Balkans between 2003 and 2007; charts the change in attitudes towards the Western Balkans following the referendums on the Constitutional Treaty; considers the criticism of the EU strategy and sketches the current state of play in each of the Western Balkan states. This paper relates to the potential candidate countries of the Western Balkans: Albania, Bosnia-Herzegovina, Montenegro and Serbia (including Kosovo).

II The EU Enlargement Strategy

A. The Original Strategy

EU relations with the Western Balkan states were strengthened at a summit meeting in Zagreb in 2000 but it was not until the 2003 European Council meeting, in Thessaloniki, that the EU made a formal promise to the Western Balkans that future EU membership was a possibility. For the Western Balkans it amounted to a significant breakthrough. By endorsing the so-called 'Thessaloniki Agenda'³, Member States cleared the way for enhanced relations with the Western Balkans. The Council's declaration set out the extent of its commitment to the Western Balkans and what it expected in return for closer integration:

The EU reiterates its unequivocal support to the European perspective of the Western Balkan countries. The future of the Balkans is within the European Union. The ongoing enlargement and the signing of the Treaty of Athens in April 2003 inspire and encourage the countries of the Western Balkans to follow the same successful path. Preparation for integration into European structures and ultimate membership into the European Union, through adoption of European standards, is now the big challenge ahead [...]

² See page 21 for further information on 'integration capacity'

³ 'The Thessaloniki agenda for the Western Balkans: Moving towards European Integration'
http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressdata/en/gena/76201.pdf

The speed of movement ahead lies in the hands of the countries of the region. The countries of the region fully share the objectives of economic and political union and look forward to joining an EU that is stronger in the pursuit of its essential objectives and more present in the world.⁴

The EU's promise was not entirely altruistic. While there was a sense among some politicians that Europe had let down the Balkans in previous decades, offering the prospect of enlargement did not spring wholly from a sense of guilt or regret. As with all previous enlargements self-interest ranked high on the Union's list of reasons for expansion. On one level, the Western Balkans offered enthusiastic and untapped markets. On another, the need to promote regional stability on what would become Europe's south-eastern frontier by 2007 was a geopolitical reason that could not be overlooked.⁵

The EU is also keen to use the prospect of accession as a lever to promote reform on its own doorstep. The Commission points out that the pull of the EU has previously helped to transform Communist regimes into modern, well functioning democracies. In the Western Balkans, where peace stabilisation goes hand in hand with reform, the EU has an obvious interest in replicating the success that emerged in previous enlargements. Lord Ashdown, who served as the High Representative in Bosnia until 2006, is one of many observers who have made the case for closer EU integration with the Western Balkans:

We have an asset in the West Balkans that we do not sufficiently value and that is European Islam. It is not Islam as we see it on the streets of our cities and in Bradford, a generation or two generations old; it is Islam that goes back 400 years, quintessentially European in its nature. Walk down the streets of Farahadia in Sarajevo, go to the sandjack, and you will see Europeans who have been Islamic for 400 years. This is ancient European Islam. In the dialogue of the deaf we have between ancient Christendom and modern Islam, they are a uniquely valuable asset to us, acting as a bridge. What would it be saying in that wider geopolitical dialogue that we need to have if, in the one country in Europe in which Islamic people were the largest proportion, they were rejected and left behind?⁶

In November 2005 the European Commission produced an 'Enlargement Strategy Paper', setting out the extent of its commitment to the Western Balkans which built upon those agreed at Thessaloniki in 2003. It recognised that:

The journey towards membership has value in itself, even in cases where accession is many years away. This journey is often difficult, so it is essential for the EU to stay engaged throughout the process, and committed to the outcome.⁷

⁴ http://ec.europa.eu/enlargement/enlargement_process/accesion_process/how_does_a_country_join_the_eu/sap/thessaloniki_summit_en.htm

⁵ See for example the Commission's comments in 'Regional Cooperation in the Western Balkans: A policy priority for the European Union', *European Commission*, 2006

⁶ 'The Further Enlargement of the EU: threat or opportunity?' (53rd Report, Session 2005-06, HL Paper 273), Evidence from Lord Ashdown of Norton-Sub-Hamdon.

⁷ 2005 Enlargement Strategy Paper, Communication from the Commission, 9 November 2005, COM (2005) 561 final, p3, http://eur-lex.europa.eu/LexUriServ/site/en/com/2005/com2005_0561en01.pdf

The EU's strategy for the Western Balkans contained a number of key elements which flow through and dictate dealings with potential candidate countries. These were as follows:

1. **Regional Co-operation:** Although tailored country strategies are considered important, there is also a strong regional dimension to the EU's strategy which is based on a recognition that the Western Balkans as a whole needs to improve intra-political and economic relations if each individual country is to move forward.
2. **Conditionality:** EU support is conditional upon ongoing, satisfactory and verifiable progress towards meeting EU standards in a broad range of policy areas.
3. **Tailored Country Strategies:** Each country will progress towards the goal of accession based on its own merits, irrespective of how other countries in the region are progressing. Roadmaps for each country, along with priority areas for action are specific to each country and the situation that it is faced with.

1. Regional Co-operation

The Commission believes that regional co-operation is essential to the development of the Western Balkans because many of the problems they face have a cross-border dimension.⁸ In its most recent Enlargement Strategy, the Commission referred to the following positive developments

A Regional Co-operation Council will be established, bringing together representatives of South East Europe with those of the international community. The Commission strongly supports this process. The Commission also welcomes the entry into force in 2006 of the Energy Community Treaty and the Agreement on a European Common Aviation Area.⁹

The EU has encouraged the creation of a free trade area covering the whole South East Europe region, which would "replace the complicated system of 31 bilateral trade agreements in South East Europe with a single pact".¹⁰ Talks to extend the existing Central European Free Trade Agreement (CEFTA) began in April 2005 and concluded successfully in December 2006. Consequently, the existing CEFTA members: Croatia and Macedonia, have been joined by: Albania, Bosnia-Herzegovina, Serbia, Montenegro, Moldova, and Kosovo.¹¹ The EU Trade Commissioner Peter Mandelson has called CEFTA membership "an apprenticeship in the economic cooperation that is an inherent part of Membership of the EU" for candidate countries.¹²

⁸ 'Regional cooperation in the western Balkans - A policy priority for the European Union', page 5
http://ec.europa.eu/enlargement/pdf/nf5703249enc_web_en.pdf

⁹ 'Enlargement Strategy and Main Challenges 2006 – 2007', page 8. Accessible at
http://ec.europa.eu/enlargement/pdf/key_documents/2006/nov/com_649_strategy_paper_en.pdf

¹⁰ http://ec.europa.eu/trade/issues/bilateral/regions/balkans/pr050406_en.htm

¹¹ 'Agreement on Am endment of and Accession to The Central European Free Trade Agreement'
<http://www.stabilitypact.org/trade/CEFTAMAINTEXT2006.pdf>

¹² "Mandelson: CEFTA is "passing the economic baton" to EU candidate countries in Western Balkans", *EC release*, 6 April 2006:
http://ec.europa.eu/trade/issues/bilateral/regions/candidates/pr060406b_en.htm

2. Conditionality

In its 2005 Enlargement Strategy Paper the Commission highlighted the importance of 'conditionality' by stating that

Enlargement policy needs to demonstrate its power of transformation in a region where states are weak and societies divided. A convincing political perspective for eventual integration into the EU is crucial to keep their reforms on track. But it is equally clear that these countries can join only once they have met the criteria in full.¹³

In January 2006 the Commission supplemented the Enlargement Strategy Paper with a Communication that listed a range of practical measures and priorities for the Western Balkans.¹⁴ As well as highlighting areas where progress had been made, it pointed to short term priority areas for action:

As progress is made on stabilisation and status issues are addressed, the Western Balkan countries will increasingly focus on the reforms needed to approach European standards. The economic and social agenda will come to the forefront, as weak economies, high unemployment and inadequate social cohesion are major problems throughout the area. EU policies for the region should focus more on equitable and sustained economic development and on extending the benefits of economic growth to vulnerable groups and communities by combating unemployment, social exclusion and discrimination and by promoting social dialogue.¹⁵

3. Tailored Country Strategies

The EU's main vehicle for delivering on the Thessaloniki agenda, and its subsequent enlargement strategy, is known as the Stabilisation and Association Process (SAP).

Initiated in 1999, it amounts to a long-term framework or 'road-map' for relations with the Western Balkan states and aims to deliver stabilisation and a swift transition to a market economy, the promotion of regional cooperation and the prospect of EU accession. Essentially, it is an updated version of the tried and tested 'carrot and stick' approach that the EU adopted in previous enlargements to encourage reform and ready candidates for membership.

Under the SAP, in addition to the prospect of eventual EU membership, each Western Balkan state is offered preferential trade agreements and assistance, financial and otherwise, in promoting democratisation, institution building and political dialogue. In return, each state is obliged to agree on a package of EU measures designed to induce widespread political, economic and institutional reform.

¹³ 2005 Enlargement Strategy Paper, Communication from the Commission, 9 November 2005, COM (2005) 561 final, http://www.europa.eu.int/comm/enlargement/report_2005/pdf/package_v/com_561_final_en_strategy_paper.pdf

¹⁴ 'The Western Balkans on the road to the EU: consolidating stability and raising prosperity', Communication from the Commission, 27 January 2006, COM(2006) 27 final

¹⁵ Ibid p.3

There are two main stages in the SAP. During the first phase, the EU helps to implement a free trade area and supports individual states in their attempts to build institutions and adopt reforms in line with EU standards. During this time, the Commission issues annual reports assessing what progress has been made. Once the EU is satisfied that each state is sufficiently stable (politically, economically and institutionally), it will recommend that the second stage of the process starts. This second stage involves the creation of a Stabilisation and Association Agreement (SAA) between with the EU and each individual state.

a. *Stabilisation and Association Agreements*

SAAs are at the centre of the Stabilisation and Association Process. They place relations between the EU and the individual country on a formal footing and create a contractual relationship of mutual rights and obligations. They also help to prepare each Western Balkan country for future membership by introducing EU rules across a whole range of policy areas well ahead of accession. This is part of what is known as the 'pre-accession' stage, during which time countries are regarded as 'potential candidate countries'.

The process for negotiating an SAA is largely common to all potential candidate countries but the speed at which each is concluded depends entirely upon the individual country and how quickly it is able to implement reforms demanded by the EU. In practice, the EU tries to conclude negotiations as quickly as possible so as to minimise the state of limbo that can occur during SAA negotiations. The successful negotiation and conclusion of an agreement allows a potential candidate country to show that it is able to sustain more advanced relations with the EU.

b. *European Partnership Agreements*

After the SAA is signed, the reform process continues on the basis of the obligations contained in it and in a more detailed agreement which is agreed between the EU and each state. This is known as a "European Partnership Agreement". A Partnership Agreement, like an SAA, applies to one country only and is tailored to its specific needs. It includes a list of short and medium term priorities for reform and outlines the financial and technical assistance that the EU will provide to the potential candidate country.

c. *Regular Progress Monitoring*

Benchmarks for progress are included in the Partnership Agreements and the EU also produces annual reports that assess the extent to which potential candidate countries fulfil what are known as the 'Copenhagen Criteria'. The Copenhagen Criteria amount to basic political and economic standards that potential candidate countries need to achieve before their membership bid will be considered. Each country has to demonstrate that it has: stable institutions guaranteeing democracy, the rule of law, human rights and respect for protection of minorities; the ability to adopt the EU's rules and standards (the body of law known as the 'acquis communautaire'); a functioning market economy; the capacity to cope with competition and market forces in the EU; and finally, the capacity to take on the obligations of membership, including adherence to the objectives of political, economic and monetary union.

d. From 'Potential Candidate' to Candidate Country

Only once all EU Member States are satisfied that sufficient progress has been made in the areas outlined above will they consider granting the country in question 'candidate status'. It is at this point that the process towards accession can accelerate. If the Council agrees to open membership negotiations at this point, monitoring will continue and a 'negotiating mandate' will be agreed. This document acts as the framework for the accession negotiations and lists some 35 different policy areas ("chapters") where the candidate country must reach EU standards.

Before negotiations can be opened on each different chapter, the Commission conducts a 'screening process'. This is a technical analysis of the candidate country's laws and regulations to help identify areas where there may be problems that need to be addressed. Once the Commission is satisfied that they have sufficient information, a recommendation is made to open negotiations on the relevant chapter. Before a chapter can be closed the Commission must be satisfied that the candidate country has met EU standards. The Council must then unanimously agree to close each chapter. All chapters have to be closed before candidate countries can move to the final stage of the accession process. During the final stage of the accession process, the results of the negotiations are incorporated in a draft Accession Treaty. This is agreed between the Council and the acceding country. This is then sent to the Commission for its opinion and to the European Parliament for its assent. Once it has been signed, the Accession Treaty is submitted to the Member States and to the acceding country to be ratified. When the ratification process is complete and the Treaty takes effect, the acceding country becomes a Member State.

e. Financial Support

The EU enlargement strategy is underpinned by a system of financial assistance for potential candidates and candidate countries. Until 2006 EU funding to the Western Balkans was distributed largely via the CARDS (Community Assistance for Reconstruction, Development and Stabilisation) programme, which aimed to support the participation of the countries of the Western Balkans in the Stabilisation and Association Process. In the period 2000-2006, €4.6 billion was provided to this region for investment, institution-building, and other measures to achieve four main objectives:

1. Reconstruction, democratic stabilisation, reconciliation and the return of refugees
2. Institutional and legislative development, including harmonisation with European Union norms and approaches, to underpin democracy and the rule of law, human rights, civil society and the media, and the operation of a free market economy
3. Sustainable economic and social development, including structural reform
4. Promotion of closer relations and regional cooperation among countries and between them, the EU and the candidate countries of central Europe

However, in 2007 the EU decided to change funding arrangements. From 2007 until 2013, the EU's strategy will be funded by a financial programme known as the 'Instrument for Pre-Accession Assistance' (IPA). The main aim of the IPA is to:

[...] support institution-building and the rule of law, human rights, including the fundamental freedoms, minority rights, gender equality and non-discrimination,

both administrative and economic reforms, economic and social development, reconciliation and reconstruction, and regional and cross-border cooperation.¹⁶

The IPA is based on “strategic multi-annual planning established in accordance with the broad political guidelines set out in the Commission's Enlargement package”. This includes a multi-annual indicative financial framework (MIFF).¹⁷

The MIFF takes the form of a table presenting the Commission's intentions for the allocation of funds for the three forthcoming years, broken down by beneficiary and by IPA component, on the basis of the needs and the administrative and management capacity of the country concerned and compliance with the Copenhagen criteria.¹⁸

The MIFF table for 2008-10 can be found in Appendix 1.

B. The Impetus for Change

In many respects, 2005 started off as a good year for advocates of enlargement. The ‘Big Bang’ admission of ten Central and Eastern European countries in 2004 was broadly regarded as a success story. As far as the Western Balkans were concerned, EU relations appeared to be on a sound footing. Progress was being made on a host of country-specific negotiations and regional economic agreements.

However, the enlargement bonhomie that followed the 2004 enlargement ended abruptly in the summer of 2005. While Romania and Bulgaria waited eagerly in the wings to become EU Members, the ho’ votes in European Constitution referendums in both France and the Netherlands resulted in a political crisis, with observers concluding that ‘enlargement fatigue’ had taken root throughout Europe. Writing in the *Financial Times*, Quentin Peel noted

The backlash against enlargement played a part in last year's No votes against the EU constitution in France and the Netherlands. Worries about unemployment - the most important concern of respondents in all the member states - aggravated the feeling, with mobile workers from new member states seen as a threat to indigenous workers (although statistical evidence does not confirm it).¹⁹

Other reasons cited in the media for the emergence of ‘enlargement fatigue’ included: an impression that trust and solidarity were being weakened by the continued enlargement of the EU; the existence of fears about the immigration of workers; the suspicion that previous enlargements had created unfair competition in the EU single market; concerns among supporters of European integration that the continuous widening of the EU had come at the expense of deepening relations; frustrations over a lack of public consultation on the 2004 wave of enlargement; and perceptions that external borders were less secure.

¹⁶ Summary of the Instrument for Pre-Accession Assistance
<http://europa.eu/scadplus/leg/en/lvb/e50020.htm>

¹⁷ <http://europa.eu/scadplus/leg/en/lvb/e50020.htm>

¹⁸ Ibid

¹⁹ ‘Majority in old union want to pull up the drawbridge as fatigue sets in’, *Financial Times*, 7 July 2006

1. Public Opinion

In July 2006 a *Eurobarometer* poll showed that in Germany no fewer than 66 per cent of the population said they were opposed to further enlargement, against 28 per cent who were in favour. This represented an increase of 7 percentage points in those opposing the process, compared with the 2005 survey.²⁰ According to the survey, there is also majority opposition to further enlargement in France, the Netherlands, Belgium, Luxembourg, Finland and Austria. There was also a drop in support for more EU members in Greece (down from 74 to 56 per cent), Ireland (down 9 points to 45 per cent), and Italy (down from 53 to 48 per cent). In the UK 44 per cent of people supported further enlargement.

The *Eurobarometer* survey noted that a relative majority of the EU25 population (45%) consider the accession of the Western Balkan countries as primarily in the interest of the aspirants themselves. It went on state

Almost one quarter of respondents (23%) however, regard these possible accessions to be of mutual interest to both the EU and these countries.

People from member states where public opinion is rather against enlargement (Finland 68%, Belgium 58%, Germany 57% and Luxembourg 57%) tend to consider that Western Balkan accessions would rather be in the interest of these countries. By contrast, countries that favour enlargement in general (Sweden 38%, Slovenia 37%, Croatia 36% and Denmark 35%) also tend a bit more to see the Western Balkan enlargement as of mutual interest to both parties.

According to the results of the present survey, only Croatia (56%; Standard 51%) would enjoy the support of the majority of the EU25 population accession once the country complies with all the conditions set by the EU. A relative majority of Europeans polled is also in favour of the accession of the Former Yugoslav Republic of Macedonia (49%; Standard 64: 41%), Bosnia Herzegovina (48%; Standard 64: 40%) and Serbia and Montenegro Standard 64: 39%), provided they comply with all conditions set by the EU. However, EU citizens are much more divided about the possible accession of Albania: a relative majority (44%; Standard 64: in favour 33% and against 50%) is opposed accession to the EU even if it complies with all requirements set by the EU.²¹

The sense of fatigue which appeared to have influenced electorates in France and the Netherlands during 2005 appeared to spread quickly to national politics. In the case of France, for instance, the national constitution was amended to ensure that all future accessions (after Croatia) are to be subject to a positive referendum vote.

It is therefore perhaps unsurprising that the publication of the Commission's amended enlargement strategy in November 2006 placed increased emphasis on concepts like

²⁰ 'Majority in old union want to pull up the drawbridge as fatigue sets in', *Financial Times*, 7 July 2006

²¹ Attitudes towards European Union Enlargement Fieldwork March-May 2006, Publication July 2006, Special Eurobarometer 255 / Wave 65.2 – TNS Opinion & Social
http://ec.europa.eu/enlargement/pdf/ReportSP255EnlargementEN20060612_en.pdf

'integration capacity' in an attempt to reflect the concerns voiced in some of Europe's capitals. As *The Economist* noted

The Commission has for several months held back from its customary position of enthusiastically championing enlargement, for fear of alienating member states such as France and Germany that would prefer to slow down enlargement in the wake of the constitution's failure.²²

2. Entanglement with Turkey

Supporters of enlargement have also raised concerns that the membership aspirations of the Western Balkans could at worst be stymied, and at best severely delayed, because they form part of an enlargement strategy which includes the option of Turkish Membership of the EU. Writing for the *Centre for European Reform* Tim Judah noted

[...] not all European politicians have the courage to make this distinction openly. They believe it is politically incorrect to say that they would support Western Balkan accession but not the membership of a large, poor and predominantly Muslim country. Thus the Western Balkans risks becoming collateral damage in the EU's wider debate on whether Turkish membership is a good idea.²³

The decision of the Council in December 2006 to suspend 8 of Turkey's 35 negotiating 'chapters' because of its failure to open its ports and airports to Greek Cypriot vessels and planes has effectively led to a partial suspension of Turkey's membership bid. Although Turkey is keen to see the issue of its membership status resolved without reference to the Cyprus problem, other Member States take entirely the opposite view, arguing that only by addressing Cyprus will it be possible to re-open the suspended chapters. With no immediate EU or UN brokered solution on the horizon, the dispute between Turkey and Cyprus looks set to continue. In the meantime, many observers argue that pre-occupation and concern over Turkey's stance could have a negative effect on support for enlargement more generally, which could set back Balkan EU ambitions by many years.

3. Reaching EU Standards

Enlargement fatigue has also been linked to the question of whether the EU has the capacity to deal with the particular problems facing potential candidate countries in the Western Balkans and enable them to reach EU standards. As the *Financial Times* noted

[...] the unresolved conflicts of the Balkan states - most obviously over whether Kosovo can become independent of Serbia, and whether Bosnia and Herzegovina will be able to survive as a single multi-ethnic and multi-cultural state - remind the old member states of the risk they have taken in allowing Cyprus to join without resolving its division between Greeks and Turks.²⁴

²² 'The last enlargement?', *Economist Intelligence Unit*, 2 October 2006

²³ 'The EU Must Keep its Promise to the Western Balkans', Tim Judah, *Centre for European Reform Essay*, 18 May 2006

http://www.cer.org.uk/pdf/essay_balkans_judah_july06.pdf

²⁴ 'Aspirant nations may suffer as enlargement gets bad name', *Financial Times*, 9 November 2006

The anxiety over the capacity of candidate countries to complete necessary reforms was illustrated by the strict conditions applied to Romania and Bulgaria when they joined the EU in January 2007. As the *EU Observer* reported

Sofia and Bucharest last year got the green light for EU entry only under the condition that they would after accession meet certain "benchmarks" on crime and corruption, facing a regime of continued EU monitoring which no new member state ever faced before.²⁵

The imposition of this monitoring regime could be interpreted as an admission that the accession process has failed to ensure that candidate countries meet EU standards. Such a conclusion would support the case for a slower and more rigorous enlargement strategy, to the detriment of the ambitions of the Western Balkans.

C. The New Strategy

At a European level, enlargement fatigue began to manifest itself in various forms throughout 2006. In March 2006 the Council of Ministers met in Salzburg for an informal summit. On the agenda were discussions on enlargement and the future prospects for the Western Balkans. In its Conclusions, the Council "underlined its determination to fully implement the commitments given in the Thessaloniki agenda in order to master the challenges the region faces in 2006 and beyond." It went on to state, "the EU confirms that the future of the Western Balkans lies in the European Union. The EU recalled that a debate on the enlargement strategy is due in 2006 as set out by the Council conclusions of 12 December 2005. The EU also notes that its absorption capacity has to be taken into account."²⁶

The statement and the discussions which preceded it did little to dispel apprehension amongst supporters of enlargement that the EU was 'going cold' on the Western Balkans, particularly given press reports which suggested that certain Member States had tried (albeit unsuccessfully), through earlier drafts of the summit conclusions, to avoid using the term 'membership'.²⁷ Commenting on the outcome, the *International Commission on the Balkans* stated

At Salzburg, the EU failed to reassure the peoples of the Western Balkans that it is irreversibly committed to integrating them as soon as possible. The Salzburg meeting conveyed the message that the EU is neither ready nor willing to offer credible membership perspectives.

[...] Regrettably, at Salzburg the accession date for those in the Western Balkans aspiring to EU membership drifted into the unforeseeable future. The countries of the Western Balkans were offered never-ending accession talks. What constitutes a breach of promise is that this date will be determined not only by the

²⁵ 'Bulgaria unhappy with 'arbitrary' corruption monitoring', *EU Observer*, 15 February 2007

²⁶ Salzburg EU/Western Balkans Joint Press Statement
http://ue.eu.int/ueDocs/cms_Data/docs/pressdata/en/declarations/88760.pdf

²⁷ 'EU Membership Goal Clarified Under Balkan Pressure', *EU Observer*, 11 March 2006

readiness of the accession countries, but also by the so-called 'absorption capacity' of the EU.²⁸

More specifically, on the issue of visa policies, the Balkans Commission noted

The Salzburg meeting has turned the need for 'smart visa' policies aimed at winning the trust of the public into a vague and unattractive promise of 'visa facilitation'. The result will be further marginalization and isolation of European-minded youth in the Balkans for whom Europe is today blocked by the Schengen wall. As things stand now, the citizens of countries like the Russian Federation and Ukraine will enjoy a more generous visa regime than people from potential EU candidates in the Balkans. This is not what Europe committed itself to in Thessaloniki in 2003.²⁹

The situation does not appear to have improved since the Salzburg summit. This has led many observers to conclude that the public mood has influenced EU governments and thereby diminished the chances of winning unanimous approval for further accession beyond Romania and Bulgaria.³⁰

On 8 November 2006, in response to the cooler political climate on enlargement, the Commission published its new strategy on enlargement for 2006-2007.³¹ At first glance, it simply updates preceding commitments to the Western Balkans, reiterating that each country has the potential to become an EU Member once it fulfils the necessary conditions. The early paragraphs are devoted to explaining how enlargement has been central to the EU's development for several decades. Enlargement, the strategy states, has helped to consolidate democracy, human rights and stability across the continent. Economically, it adds, it has contributed to increased prosperity and competitiveness.

However, behind the expected observations, the strategy that is presented is subtly, but nevertheless significantly, different from earlier documents. Indeed, it is widely believed that the largely innocuous language of the Commission's 2006 strategy and its stated desire to promote 'consolidation, conditionality and communication', at best partially masks some of the more deep rooted political concerns within Europe's capitals about further enlargement to the Western Balkans and, at worst, completely glosses over it.

1. Consolidation

The first change from Thessaloniki is the notion that 'consolidation' has to take place before the EU will consider further enlargement. While the pledges to honour existing commitments are retained in the new strategy, the new emphasis on 'consolidation' is

²⁸ Statement from the International Commission on the Balkans, 9 May 2006
<http://www.balkan-commission.org/>

²⁹ Statement from the International Commission on the Balkans, 9 May 2006
<http://www.balkan-commission.org/>

³⁰ 'Majority in old union want to pull up the drawbridge as fatigue sets in', *Financial Times*, 7 July 2006

³¹ 'Enlargement Strategy and Main Challenges 2006-2007, Including Annexed Special Report on the EU's Capacity to integrate new members'
http://ec.europa.eu/enlargement/pdf/key_documents/2006/nov/com_649_strategy_paper_en.pdf

one of the first indicators of greater hesitancy on the part of the EU to embrace the enlargement agenda with the gusto previously seen in 2003. In the Commission's words:

Consolidation of the EU enlargement agenda means that the Union is cautious about assuming any new commitments, but honours its existing commitments towards countries already in the enlargement process. The EU has started accession negotiations with Turkey and Croatia and offered a European perspective to the other countries of the Western Balkans. This commitment is a strong incentive for the countries to continue their reforms.³²

2. Conditionality

Related to consolidation is the principle of conditionality. This is by no means a new concept, but the Commission's 2006 strategy affords it greater emphasis than has previously been the case. In the future there is to be a closer link between progress in political reforms and the overall pace of the negotiations. In itself, this does not necessarily indicate a more hesitant approach to enlargement. Indeed, the stricter application of the principle of 'conditionality' has long since been advocated by even the most enthusiastic supporters of Western Balkan accession. For instance, Lord Ashdown, giving evidence to the House of Lords EU Committee, noted the benefits of taking a more muscular approach

The American embassy speaks with a single voice; you speak to a single person; they take their decisions in real time and they are muscular about the application of conditionality. We, Europe, put more money into the Western Balkans than the Americans, for instance, by far but we are far less muscular about applying it to conditionality. I can never understand why. If there are things we want to happen, we ought to be saying quite clearly, "Here is the money. We are prepared to give it to you. We are going to assist but you have to reform your customer services. You have to do the justice and home affairs reforms that are necessary in order to make this a lawful space rather than a lawless space".³³

In its strategy, the Commission justifies its greater emphasis on conditionality as well as explaining how this will work in practice, as follows:

Conditionality is one of the pillars of the Commission's enlargement strategy. Good preparation by candidate countries facilitates their smooth integration into the EU. Further improvement in the quality of preparations has become crucial as the scope of EU activities has developed. This warrants the strict application of conditionality during the pre-accession phase, and thorough fulfilment of the requirements at each stage of the accession process.

As part of the pre-accession strategy the Commission will closely monitor the progress made by each enlargement country. This monitoring will be based on the political, economic and *acquis* criteria for membership. The Commission will pay particular attention to the establishment of the structures needed to ensure

³² 'Enlargement Strategy and Main Challenges 2006-2007, Including Annexed Special Report on the EU's Capacity to Integrate New Members', *European Commission*, COM(2006) 649, 8 November 2006, p5

³³ 'The Further Enlargement of the EU: threat or opportunity?' (53rd Report, Session 2005-06, HL Paper 273), Evidence from Lord Ashdown of Norton-Sub-Hamdon.

the rule of law. This includes administrative and judicial capacity and the fight against fraud and corruption. These issues should be tackled at an early stage of the pre-accession process.

Based on its findings, the Commission will propose short and medium term reform priorities for the Accession or European Partnerships covering each country. These policy frameworks have proved to be an effective means for setting priorities during preparation for the fifth enlargement. The Commission will propose updates regularly. Financial assistance to support the enlargement countries will focus on the reforms identified as partnership priorities.

The introduction in 2007 of a single new financial instrument to cover all pre-accession needs will make EU support for membership preparations more effective.³⁴

As part of the drive for 'conditionality' States granted 'candidate country status' will have to adhere to, and reach, new benchmarks

Benchmarks are a new tool introduced as a result of lessons learnt from the fifth enlargement. Their purpose is to improve the quality of the negotiations, by providing incentives for the candidate countries to undertake necessary reforms at an early stage. Benchmarks are measurable and linked to key elements of the acquis chapter. In general, opening benchmarks concern key preparatory steps for future alignment (such as strategies or action plans), and the fulfilment of contractual obligations that mirror acquis requirements. Closing benchmarks primarily concern legislative measures, administrative or judicial bodies, and a track record of implementation of the acquis. For chapters in the economic field, they also include the criterion of being a functioning market economy. [...]

Henceforth, the results of dialogue with the countries on their economic reform will also be fed into the negotiation process. The Commission will prepare the dialogue with Member States and report back to them in the relevant Council bodies. This dialogue focuses on the fulfilment of economic criteria and on convergence with the EU economies. It is essential that, before accession, acceding countries are functioning market economies able to compete on the internal market. Pre-accession assistance will be focused more precisely to help meeting this objective.³⁵

3. Communication

Ensuring that there is public support for future enlargements is the third key element of the Commission's amended enlargement strategy. It notes:

Previous enlargements have generally garnered support from public opinion, but have also led to doubts and misapprehensions. Citizens need to be better prepared for future enlargements.³⁶

³⁴ 'Enlargement Strategy and Main Challenges 2006-2007, Including Annexed Special Report on the EU's Capacity to Integrate New Members', *European Commission*, COM(2006) 649, 8 November 2006, p23

³⁵ *Ibid* p.6

³⁶ *Ibid* p.23

Although acknowledging that it has a role to play, the Commission's strategy places the primary responsibility for this on the shoulders of Member States and candidate countries, reasoning that "leaders at national, regional and local level are best placed to understand the concerns of their constituents and to communicate directly with them. Member States which are themselves committed to the enlargement process need to explain better to citizens the concrete benefits they expect from enlargement."³⁷

4. Integration Capacity

Apart from consolidating enlargement, advocating greater conditionality and highlighting the need to communicate with the public, crucially the strategy places a far greater emphasis than before on what it calls the EU's 'absorption' - or as it has now been re-named - 'integration capacity'. The Commission notes

The EU's absorption capacity, or rather integration capacity, is determined by the development of the EU's policies and institutions, and by the transformation of applicants into well-prepared Member States. The capacity of would-be members to accede to the Union is rigorously assessed by the Commission on the basis of strict conditionality. Integration capacity is about whether the EU can take in new members at a given moment or in a given period, without jeopardizing the political and policy objectives established by the Treaties.³⁸

The Strategy goes on to set out how the Union's capacity to maintain momentum for European integration as it enlarges has three main components: institutions, common policies and budget.

On institutions, it points to the fact that the Nice Treaty provides institutional rules for up to 27 Members. If the Western Balkan countries (and others) are to join the EU, the EU must first decide on a new institutional settlement. On policies, it argues that the Union needs to be in a position, as it enlarges, to continue developing and implementing common policies in all areas. As a result, in the future, each Commission opinion on a country's application for EU Membership will include an assessment of the impact of its accession on EU policies. Finally, on budgets, each Commission opinion will also include estimates of the budgetary impact of a new accession.

The idea that the EU has an 'absorption' or integration capacity is far from a new concept. Katinka Barysch, of the *Centre for European Reform*, notes:

The EU's concern about absorption capacity is neatly summed up in the following quote: "The prospect of further enlargement at a time when the full consequences of the preceding one have not yet been absorbed must give rise to concern. The Commission considers therefore that any further enlargement must be accompanied by a substantial improvement in the efficiency of the Community's decision-making processes and strengthening of its common institutions."

³⁷ 'Enlargement Strategy and Main Challenges 2006-2007, Including Annexed Special Report on the EU's Capacity to Integrate New Members', *European Commission*, COM(2006) 649, 8 November 2006, p23

³⁸ *Ibid* p.17

This is not from the 2006 strategy paper. It's from the Commission's 1976 opinion on Greece's membership applications.³⁹

In 1993 the European Council made the Union's capacity to absorb new members a condition for enlargement. The Commission has explained:

The Union has to ensure it can maintain its capacity to act and decide according to a fair balance within its institutions; respect budgetary limits; and implement common policies that function well and achieve their objectives.⁴⁰

In more recent years the German and Austrian Christian Democrats used the term to oppose the EU enlargement process, especially with regard to Turkey.⁴¹ The Commission went on to use the concept in its 2005 Enlargement Strategy Paper, before including it in the 2006 report. Although absorption capacity is not a formal condition for membership, the Commission's extensive references to it, combined with the current political climate, make it more likely that it may become a de facto criterion in the future.

D. Assessing the Strategy

The Commission and its supporters argue that the amended enlargement strategy which will be applied to the Western Balkans accords with a new political reality. In the three years since the Thessaloniki Agenda was adopted, the EU has grown from 15 to 27 Members. The Commission has chosen, in its words, to learn the lessons from the last wave of enlargement and apply them to the next. For instance, newly introduced benchmarks have been designed to make it easier to monitor an applicant's progress. Other lessons have been learnt and acted upon, such as the introduction of a new funding mechanism in the form of the "Instrument for Pre-Accession Funding", which ought to ensure funding flows more efficiently to states in need of support, regardless of whether they are classed as a 'potential candidate country' or a 'candidate country'. Other practical improvements have been highlighted

More recently, the EU has shifted its focus towards strengthening state administrations and public institutions, to enable them to understand, implement and enforce EU rules and regulations. The EU has extended its successful 'twinning' programme to the Western Balkans. For example, the EU will bring French and Slovene experts together with Serbian and Montenegrin officials responsible for EU integration to share expertise and experience. These kinds of exchanges have already helped some of the Balkan countries. Thus in 2004-05 Macedonian officials managed to answer in record time the 3,000 questions that the Commission had posed to prepare its 'opinion' on the country's membership

³⁹ 'Absorption capacity – the wrong debate', 9 November 2006, *CER Blog*,

<http://centreforeuropeanreform.blogspot.com/2006/11/absorption-capacity-wrong-debate-by.html>

⁴⁰ 2005 Enlargement Strategy Paper, Communication from the Commission, 9 November 2005, COM (2005) 561 final, p3

http://www.europa.eu.int/comm/enlargement/report_2005/pdf/package_v/com_561_final_en_strategy_paper.pdf

⁴¹ 'Enlargement criticism from EP to European Commission', *Anadolu Agency*, 20 November 2006

application. During this exercise they received a lot of help from Croatian colleagues who had only recently undergone the same exercise.⁴²

Similarly, the now increased emphasis on conditionality arguably reflects, in large measure, negotiations with the EU's newest Member States. Romania and Bulgaria highlighted the need to ensure that issues such as judicial reform and the fight against corruption and organised crime are tackled at an early stage if other reforms are to be pursued effectively and within agreed timescales.⁴³ The Commission also hopes that by engaging the public through better communication, for example by listening to their concerns and taking a tough line on conditionality, that it will be possible to prepare the public and garner their support for future enlargements.

In spite of these apparently positive developments, the Commission's new strategy has been criticised on a number of levels.

1. Criticism

a. *Influence of Public Perceptions*

At a very basic level some argue that public perceptions about enlargement have unduly influenced the EU's new strategy. While few commentators argue that public concerns are not genuine, there are those who argue that they are nevertheless misplaced and therefore not a reason for the EU to turn its back on potential candidate countries. In their view, contrary to apparent public belief, successive studies have indicated that enlargement has not created unfair competition in the EU single market.⁴⁴ The Commission points out

The enlarged Union has meant a more efficient division of labour and made the EU better equipped to compete globally. Overall, the latest enlargement has acted as a catalyst for economic growth and modernisation in the EU. A number of major studies have made this clear recently. For example, concrete benefits are seen in the three Member States which introduced the free movement of labour, upon the accession of the ten new Member States. They have seen benefits in terms of increased national income and tax revenues and shrinkage of the grey economy. Workers from new Member States have helped to overcome skills shortages in the labour market and have adapted well to their new cultural environment. In the light of these experiences, a further five Member States have opened their labour markets and another two have partially opened them.⁴⁵

The International Commission on the Balkans (ICB) states that

⁴² 'The EU Must Keep its Promise to the Western Balkans', Tim Judah, *Centre for European Reform*, 18 May 2006

⁴³ 'Enlargement Strategy and Main Challenges 2006-2007, Including Annexed Special Report on the EU's Capacity to Integrate New Members', *European Commission*, COM(2006) 649, 8 November 2006, p5

⁴⁴ 'Enlargement, Two Years After – An Economic Success', *European Commission*, COM(2006)200, 3 May 2006

http://ec.europa.eu/economy_finance/publications/occasional_papers/2006/ocp24en.pdf

⁴⁵ 'Enlargement Strategy an Main Challenges 2006-2007, Including Annexed Special Report on the EU's Capacity to Integrate New Members', *European Commission*, COM(2006) 649, 8 November 2006, p4

The truth is that the population of the small Balkan countries is about 4 percent of the EU population today. The challenge is not to the "absorption capacity" but to the moral capacity of the Union.⁴⁶

The premise of this criticism, that the public concerns are misplaced, is not controversial. The Commission itself accepts that better communication of the benefits of enlargement is required. The other aspects of the new strategy are more contentious. While the Commission defends them as reasonable and necessary, critics such as the ICB consider them to be a dangerous and excessive concession to public fears.

b. Impact on the Western Balkans

Another criticism of the EU's approach centres upon the existing and future effects of the EU's lack of enthusiasm for enlargement in the Western Balkans. Some commentators point out that the EU's allure for Western Balkan states is already diminishing, prompted largely by the EU's less enthusiastic approach to enlargement following the no votes in the 2005 constitutional referendums. Recent comments by Balkan leaders appear to support this argument

Bosnian Prime Minister Adnan Terzic told the conference that enlargement was the EU's strongest instrument to spread democratic reform, and it would be extraordinary if the EU were growing tired of it just as the United States was pressing for democratisation elsewhere in the world. "Talk of enlargement fatigue and (limits to the EU's) absorption capacity show the need for internal reform in the EU and for better communication with citizens," he said.⁴⁷

There is concern that without the ultimate prospect of full membership, or even the prospect that this may be significantly delayed or reduced to some form of privileged partnership, there is a danger that internal reforms in the Western Balkans could slow down, stall, or even regress. Without the incentive of full membership, it would become more difficult for governments to push through the often painful reforms demanded by the EU. As the Commission has noted:

In both the Balkans and Turkey, the effectiveness of conditionality in driving reforms depends on maintaining a credible political perspective for eventual integration into the Union. Aspirant countries can best sustain public support for bold and often painful reforms when the EU supports them, works with them, and keeps its own promises.⁴⁸

Lord Ashdown, the international community's former High Representative for Bosnia and Herzegovina, has stated that

⁴⁶ Statement from the International Commission on the Balkans, 9 May 2006

<http://www.balkan-commission.org/>

⁴⁷ 'Balkan leaders warn EU against enlargement fatigue', *Reuters News*, 5 December 2006

⁴⁸ 2005 Enlargement Strategy Paper, Communication from the Commission, 9 November 2005, COM (2005) 561 final, p3
http://www.europa.eu.int/comm/enlargement/report_2005/pdf/package_v/com_561_final_en_strategy_paper.pdf

The prospect of joining Europe and NATO is the one glue that holds the Balkans on the path of reform. Take that glue away and, whilst I would not say that they would track back immediately to conflict, they would certainly go back to an area of dissolution and a black hole of lawlessness.⁴⁹

Writing for *The Centre for European Reform*, Tim Judah predicts similar negative consequences

If the credibility of the accession process weakens – because EU leaders put short-term political decisions over long-term strategic considerations – the EU's leverage over the weak states of the Western Balkans will diminish drastically. In this case, economic and administrative reforms in the region would slow down, and the search for sustainable solutions to the outstanding political problems would become vastly more difficult. Instead of entering a new era in which their region would consolidate internally and focus on getting ready for EU entry, the region could turn into an entrenched base for trafficking and organised crime and a haven for terrorists and Islamic fundamentalists. Such an outcome would be disastrous for the Western Balkans, and eventually also for the rest of Europe.⁵⁰

The Economist highlights the potential for a Balkan 'ghetto':

At worst, there is a risk that the EU could end up dividing the Balkans, rather than modernising it—splitting the region into countries on the road to membership (Bulgaria, Romania, Croatia, Macedonia) and the ghetto of the rest, whose status would be uncertain and whose “pre-accession” limbo might be made worse by cuts in aid.⁵¹

There is a balance to be struck between offering the Western Balkans encouragement that EU membership is a realistic possibility and emphasising that membership is conditional on reaching EU standards. Critics suggest that the new emphasis on consolidation and integration capacity threatens to undermine the possibility of membership and therefore fails to strike the necessary balance. The consequences of such a failure could be disastrous for the Western Balkans.

c. Impact on the EU

A third line of criticism relates to the effect on the EU of failing to offer the Western Balkans a credible route to EU membership. The International Commission for the Balkans suggests that

It is in the Balkans that the EU must show that it has the power to transform weak states and divided societies. This is imperative for the Balkans, but no less so for the EU. Unless the EU adopts a bold accession strategy which integrates all Balkan countries into the Union within the next decade, it will remain mired as a reluctant colonial power at enormous cost in places like Kosovo, Bosnia and even

⁴⁹ 'The Further Enlargement of the EU: threat or opportunity?' (53rd Report, Session 2005-06, HL Paper 273), Evidence from Lord Ashdown of Norton-Sub-Hamdon.

⁵⁰ 'The EU Must Keep its Promise to the Western Balkans', Tim Judah, *Centre for European Reform Essay*, 18 May 2006

⁵¹ 'Third time lucky?', *The Economist*, 12 January 2006

Macedonia. The real referendum on the EU's future will take place in the Balkans.⁵²

This argument is based on the fact that the EU cannot choose to divorce itself from the Western Balkans; it can only choose what kind of relationship it will have. If the Western Balkans join the EU, the relationship could be a profitable one. If this does not happen the relationship will continue to be expensive and could become increasingly unstable.

d. Strategy is not bold enough

The House of Lords EU Committee have argued that the current strategy is not bold enough. In its report entitled *The Further Enlargement of the EU: threat or opportunity?* it calls for the EU to adopt a more pro-active approach:

The accession of the Western Balkans confronts the EU with new challenges compared with the previous eastward enlargement. The countries that joined the EU in 2004 were relatively homogenous, stable nation states that were motivated by the desire to 'rejoin Europe'. In the Western Balkans, the EU is dealing with more fragile, fractious countries. To help these countries along the path to greater stability and prosperity the EU needs a more proactive approach: simply setting conditions and waiting for governments to fulfil them in their own time will no longer be enough. The EU must also devote real resources to the accession process, both in terms of expertise and money. Since the accession of these countries will take time, the EU needs to find ways of maintaining momentum for positive change. It should gradually integrate the candidates into various EU policy areas, and should include them in a customs union.⁵³

This criticism focuses on the way in which the strategy is implemented, rather than its content. The Committee suggest that the EU has failed to adapt its strategy to the specific challenges of accession in the Western Balkans.

e. Conclusion

The complex and contentious nature of EU enlargement make criticism inevitable. It is true that at least some of the public disapproval is attributable to the failure to convey the advantages of enlargement. However, given the results in the French and Dutch referendums on the Constitution, it is understandable that the Commission responded with more than just a commitment to improve communication.

The criticism that the Commission's new strategy may have a negative impact on the Western Balkans and the EU itself is perhaps exaggerated. It is questionable whether a Commission strategy that did not react to the change in enthusiasm for enlargement would have made the outcomes any less likely. The European Policy Centre shared this positive assessment of the Commission's new strategy

⁵² Statement from the International Commission on the Balkans, 9 May 2006
<http://www.balkan-commission.org/>

⁵³ 'The Further Enlargement of the EU: threat or opportunity?', *House of Lords European Union Committee*, 53rd Report, 2005-06, HL 273, para 196

On the whole, the Commission paper [2006 Enlargement Strategy paper] helped to diffuse this potential explosive issue and offered a compromise approach that is balanced and acceptable to all sides within the Union.⁵⁴

2. Prospects for Further Enlargement

The Western Balkan states face a difficult year. Although the EU ended 2006 by reaffirming its commitment to integrate the Western Balkans, there remain four substantial impediments to progress.

a. *Constitutional Treaty*

Under the present Treaty, as amended by the Treaty of Nice, institutional provisions allow for a maximum of 27 Members (a capacity which was reached with the accession of Bulgaria and Romania on 1 January 2007). The accession of the Western Balkan states was always contingent upon the EU adopting institutional reforms. The problem for the Western Balkan states is that the necessary reforms were contained in the EU Constitutional Treaty that was rejected in the French and Dutch referendums. In its 2006 Enlargement Strategy paper the Commission underlined the importance of institutional reforms

Institutional reform is needed to improve the effectiveness of the decision-making of an enlarged EU. A new institutional settlement should have been reached by the time the next new member is likely to be ready to join the Union.⁵⁵

This is widely interpreted as a reference to the revival of the EU Constitutional Treaty, or some alternative treaty. The European Policy Centre commented

Cleverly enough, the Commission paper did not mention the Constitutional Treaty as such and used, instead, more generic language. But the message was - and is - clear: no more accessions until some institutional reform is in place.⁵⁶

Germany took over the presidency of the EU in January 2007. Thus far it has shown a strong desire to revive the Constitutional Treaty as quickly as possible. As *The Economist* notes

Angela Merkel, the chancellor, told her parliament that it would be “an historical failure if we do not succeed in working out the substance of the constitutional treaty” by the next European elections in 2009. That means getting a new text ready by the end of 2007. She has promised to draw up a so-called road map for the future by the end of the German presidency in June 2007. Two special events in the next few months are designed to keep the pressure up: a meeting in late January of the 18 countries that have ratified the constitution, to demand action

⁵⁴ ‘Wishful Thinking?’, *The European Policy Centre*, December 2006

<http://www.theepc.be/en/pub.asp?TYP=ER&LV=294&see=y&t=15&PG=ER/EN/detail&l=&AI=667>

⁵⁵ ‘Enlargement Strategy and Main Challenges 2006-2007, Including Annexed Special Report on the EU’s Capacity to integrate new members’

http://ec.europa.eu/enlargement/pdf/key_documents/2006/nov/com_649_strategy_paper_en.pdf

⁵⁶ ‘Wishful Thinking?’, *The European Policy Centre*, December 2006

<http://www.theepc.be/en/pub.asp?TYP=ER&LV=294&see=y&t=15&PG=ER/EN/detail&l=&AI=667>

from the nine that have not; and a “Berlin declaration” in March to mark the 50th anniversary of the Treaty of Rome.⁵⁷

At the January 2007 meeting of countries that had ratified the constitution there was acceptance that the constitution would have to be modified following the referendum results in France and the Netherlands. However those attending wanted any modifications to add to the constitution, rather than subtract from it. In the words of Alberto Navarro, Spain's Europe minister:

If needed, we could add something about climate change, immigration or energy... We are ready for that. But the clear message from Madrid is that we prefer to improve the text rather than cut out from it.⁵⁸

Despite the concerted efforts of the countries which have ratified the constitution to revive the treaty, there has been very little progress. The two largest non-ratifying states, France and the UK, will have new leaders in the second half of 2007. This adds an element of uncertainty to the proceedings. Even more importantly, there remain substantial differences of opinion as to what form the revised constitution should take. Britain, Poland and the Czech Republic are thought to favour a limited, ‘technical’ treaty. This is in sharp contrast to the ratifying countries’ demand that any revisions should add something to the constitution.

Even if a compromise between the opposing factions within the EU is eventually found, there is a danger that the preceding period of uncertainty will do substantial damage to the reform process in the Balkans.

b. Public support

The Commission is only too aware that “Broad public support is essential to sustain enlargement policy.”⁵⁹ In its November 2006 Enlargement Strategy it states:

For enlargement to be a success, the EU must ensure the support of its citizens. Member States need to take the lead in communicating effectively the enlargement process and in particular the benefits that it offers for EU citizens. Democratic legitimacy remains essential for the EU accession process.⁶⁰

The negative French and Dutch referendum results were widely interpreted as evidence of significant public opposition to the enlargement process. The membership prospects of the Western Balkans depend upon the resolution of this lack of public support.

⁵⁷ ‘A monster lives again – Charlemagne’, *The Economist*, 6 January 2007

⁵⁸ ‘Friends of EU constitution defend treaty’s ‘fundamental content’, *EUObserver*, 26 January 2007

⁵⁹ 2005 Enlargement Strategy Paper, Communication from the Commission, 9 November 2005, COM (2005) 561 final, p4
http://www.europa.eu.int/comm/enlargement/report_2005/pdf/package_v/com_561_final_en_strategy_paper.pdf

⁶⁰ ‘Enlargement Strategy and Main Challenges 2006-2007, Including Annexed Special Report on the EU’s Capacity to Integrate New Members’, *European Commission*, COM(2006) 649, 8 November 2006, p5

The latest *Eurobarometer* report on public opinion in the EU, published in December 2006, found that

On the eve of the 5th round of enlargement, the gap between supporters and opponents of further enlargement remains small. On average, 46% of EU citizens support further enlargement (+1 point since Spring 2006) while 42% continue to oppose it.⁶¹

This minor increase in public support for enlargement will do little to reassure the Western Balkans. It is clear that supporting further enlargement currently constitutes a significant political risk for leaders in several Member States. The importance of public support has increased with the French decision to put all accessions after Croatia to a national referendum.

The Commission has advocated a response based on national governments communicating the advantages of enlargement to their citizens. The membership prospects of the Western Balkans are now more dependent on national governments successfully executing this strategy.

c. Kosovo

Following the end of hostilities in 1999, Kosovo remained a province of Serbia but was put under the control of a UN-led civil administration. Replacing this administration and determining the final status of Kosovo has been an important and contentious issue ever since. The Commission has indicated that a resolution of this situation is essential to the enlargement process in the Western Balkans:

Progress in the Western Balkans towards a future in the European Union includes the implementation of the future status settlement for Kosovo. A positive outcome is also key to a significant improvement in Serbia's progress on its path to the EU.⁶²

Serbia resolutely opposes independence and favours some form of enhanced autonomy short of full independence, whereas Kosovo sees independence as the only possible outcome. In March 2007 Martti Ahtisaari, the UN Special Envoy for Kosovo, concluded that was no prospect of agreement between the parties. The UN Security Council may therefore decide to impose a solution.

The major obstacle to action by the Security Council is the reluctance of Russia, which holds a veto on the Security Council, to impose a solution that does not have Serbian approval. Russia's EU ambassador Vladimir Chizhov recently stated that: "If it is a negotiated solution, Russia will not oppose it. But if it is an imposed solution, Russia will oppose it".⁶³ It has justified this stance on the basis that granting Kosovo independence

⁶¹ 'Standard Eurobarometer 66 – Autumn 2006'
http://ec.europa.eu/public_opinion/archives/eb/eb66/eb66_highlights_en.pdf

⁶² 'Annual Policy Strategy for 2008', European Commission
http://ec.europa.eu/atwork/synthesis/doc/aps_2008_en.pdf

⁶³ 'Russia raises prospect of UN veto on Kosovo', *EUObserver*, 9 February 2007

would create a negative precedent, potentially destabilising other regions keen for independence. *The Economist* warns that a Russian veto could have grave consequences:

If Russia refuses to agree, far from saving Kosovo for Serbia, it risks tipping the region back into chaos. Kosovo will declare independence anyway, and many countries (including America and Britain) will recognise it. There will be no extra protection for Serbs, and no follow-on mission to the UN.⁶⁴

The recent deaths of two Albanian protestors in Pristina⁶⁵ underlined the fact that if the UN is unable to impose and monitor a solution, there is a substantial risk that the region will be destabilised. This would undoubtedly be a significant setback to the process of integrating the Western Balkans with the EU.

d. Alternatives to Full Membership

Concerns about the EU's commitment to offering full membership for Western Balkan countries have also been fuelled by national politicians who have floated the idea that the Balkans should be offered a "privileged partnership" as opposed to full membership. If this proposal is adopted it could delay the membership prospects of the Western Balkans, potentially indefinitely.

Prominent politicians in France and Germany have made the case for "privileged partnerships"

Nicolas Sarkozy, the French interior minister and presidential hopeful, has called for a freeze on enlargement until the EU has re-organised its institutions. Instead, Sarkozy has suggested that those still queuing for accession should be offered 'strategic partnerships'. [...]

Edmund Stoiber, the premier of Bavaria and leader of the CSU, the junior partner of Angela Merkel's CDU, says that after the accession of Bulgaria, Romania and Croatia EU enlargement should stop. Chancellor Merkel has suggested that 'privileged partnership' should be an option for the Western Balkans. Similarly, when the centre-right members of the European Parliament, grouped into the European People's Party, met in Rome in March 2006, they adopted a manifesto which sets out to offer "an especially close partnership" to various unidentified countries, which from the text would seem to indicate the Western Balkans.⁶⁶

However, at the December 2006 summit of European Union leaders Ms Merkel appeared less enthusiastic towards "privileged partnerships"

The summit said that Turkey and Serbia were still welcome, although it suspended eight of the 35 "chapters" of negotiation with the Turks. Ms Merkel, who once backed only a "privileged partnership" for Turkey that fell short of full

⁶⁴ 'A violent response – Kosovo', *The Economist*, 17 February 2007

⁶⁵ Ibid

⁶⁶ 'The EU Must Keep its Promise to the Western Balkans', Tim Judah, *Centre for European Reform Essay*, 18 May 2006
http://www.cer.org.uk/pdf/essay_balkans_judah_july06.pdf

membership, changed her tune and suggested that membership may be attainable after all.⁶⁷

Olli Rehn, the EU Enlargement Commissioner, has indicated disapproval of “privileged partnerships”

The European Union's enlargement chief warned European politicians on Wednesday that advocating a “privileged partnership” with Turkey instead of full EU membership weakened the bloc's credibility and harmed reform.⁶⁸

The “privileged partnership” proposal is a clear threat to the enlargement hopes of the Western Balkans. The threat will increase if Mr Sarkozy wins the French Presidential election in May 2007, as any one Member State could potentially halt enlargement. However the Western Balkans can rely on the Commission and numerous Member States, including the UK, to make the case for full membership. It would take a much higher level of support than is apparent for “privileged partnerships” to replace the EU's current enlargement strategy. “Privileged partnerships” also pose a greater threat to Turkey's membership aspirations than those of the Western Balkans.

E. The Position of the United Kingdom

In contrast to other Member States, the UK has been vocal in its support of the Western Balkans. Speaking in November 2006, Minister for Europe, Geoff Hoon said

The British Government has long championed enlargement, which has brought stability and prosperity not only to new Member States but has been hugely beneficial to existing ones.⁶⁹

Referring specifically to the Western Balkans, he noted

Every accession is an important step in reinforcing European stability, particularly so in regions that have recently suffered from conflict. I am also looking forward to the further and deeper co-operation that enlargement will bring on issues that affect our citizen's quality of life such as organised crime and illegal immigration.⁷⁰

In a statement to the House in December 2006, the Foreign Secretary Margaret Beckett adopted the same positive attitude to enlargement. She echoed critics of the change in EU strategy by warning against making accession substantially more demanding

...[E]ffective conditionality is one thing, but fresh conditions are something altogether different. Having agreed membership requirements and invited people down that path, it would be quite wrong to put up new hurdles or to deliberately construct barriers designed to halt this or any further enlargement. The strategic

⁶⁷ ‘Back to the Constitution – The EU Summit’, *The Economist*, 23 December 2006

⁶⁸ ‘Turkey partnership talk hurts EU credibility’, *Reuters News*, 4 October 2006

⁶⁹ FCO News Release, 8 November 2006

⁷⁰ Ibid

case for enlarging the EU to include the candidate countries and to keep the door open for other European neighbours remains as powerful as ever.⁷¹

The Government's enthusiasm for enlargement in the Western Balkans is shared by the Official Opposition. Speaking at Chatham House in January 2007, William Hague, Shadow Foreign Secretary, stated that

As for the EU, its widening to include twenty-seven members is a truly historic achievement, with enormously beneficial results for the security and prosperity of the whole continent. That widening should continue in the future, with countries of the Balkans, Turkey and even the Ukraine in mind.⁷²

The British Government's enthusiasm for enlargement is in contrast to public opinion. A recent *Financial Times* poll found that

47 per cent of Britons believe migration by workers within the EU has been negative for the economy, almost double the 24 per cent of people who hold the same view in Spain. Meanwhile, 76 per cent of British respondents wanted to tighten border controls and 66 per cent said there were "too many foreigners" in the country, in both cases more than their counterparts in France, Italy, Spain or Germany.⁷³

⁷¹ HC Deb, 6 December 2006, Column 339

⁷² 'Thinking ahead: The foreign policy of the next Conservative government', Rt Hon William Hague MP, 31 January 2007

http://www.conservatives.com/tile.do?def=news.story.page&obj_id=134802&speeches=1

⁷³ 'Hostile UK fails to see benefits of migration', *Financial Times*, 19 December 2007

III EU Relations with Individual Countries

Country	Stabilisation & Association Agreement Negotiations Opened	Stabilisation & Association Agreement Negotiations Concluded	EU Financial Assistance Allocated for 2006	EU Determined Short Term Priority Areas for Reform
Albania	Jan 2003	Jun 2006	€45.5 million	Implementation of Interim Agreement covering trade-related issues; political, judicial and economic reform; fight against corruption and organised crime
Bosnia-Herzegovina	Nov 2005	Ongoing	€51 million	Full co-operation with ICTY; completion of negotiations for a SAA and its implementation; constitutional evolution including action on armed forces and police re-structuring
Montenegro	Oct 2005 ⁷⁴	Ongoing	€23 million	Continue co-operation with the ICTY; judicial reform; the fight against organised crime and corruption; upgrade its administrative capacity
Serbia	Oct 2005	Suspended	€167 million	Engagement with ICTY; constructive approach to issue of Kosovo

1. Albania

As the last of the Eastern European states to overthrow communism and with a legacy of international political isolation, Albania's experience of interaction with the EU is relatively short. In 1992 it entered into a Trade Agreement with the EU and in the intervening years has worked, with varying degrees of success, to implement domestic reforms in a bid to move towards EU standards. On 12 June 2006, after three years of negotiations, Albania and the EU concluded an agreement on a Stabilisation and Association Agreement. It was an important milestone in Albania's quest for EU membership and, in the opinion of one commentator, "the most important political event of Albania's painful 15-year transition from a particularly odious brand of communism."⁷⁵

The Stabilisation and Association Agreement must be ratified by each EU Member State before coming into force, a process which could take some years. In the meantime, an interim bilateral EU-Albania free trade agreement, which has been in operation since February 2003, will continue to function.

With the conclusion of SAA negotiations, Albania now faces the daunting task of implementing the 500 page agreement which sets out a series of political, economic, legal and judicial reforms that must be implemented in line with EU-set standards.

⁷⁴ Montenegro was part of a State Union with Serbia when SAA negotiations started. Since the independence referendum in Montenegro on 21 May 2006 in which Montenegrins voted to become independent, the EU has negotiated with Montenegro separately.

⁷⁵ 'One Step Closer', *Transitions Online*, 15 June 2006

Although the economy, driven by the service and construction industries, is growing at an average of 6% a year, gross national income per person was only US\$2,060 in 2004, making it one of the poorest countries in Europe.⁷⁶ An estimated 5% of the population live on an income of less than \$1 a day and 25% of the population live below the national poverty line of \$2 a day. It is estimated that 40% of the population have no access to basic services such as education, water, sanitation and heating.⁷⁷

There are other problems, too. Corruption, trafficking and organised crime are widespread and compounded by a relatively weak and inefficient state administration, particularly in key sectors such as the judiciary, prosecution, police, tax and custom authorities. These factors, combined with an inability on the part of the authorities to effectively control financial transactions and prevent money laundering, constitute serious threats to the country's prosperity, and hinder its ability to uphold its international obligations in relation to human rights.⁷⁸ There are also concerns that political infighting is hindering progress on key issues such as electoral reform and proposed laws on food standards, free competition, and the national bank - all of which are required by the SAA.⁷⁹

While the Commission's November 2006 Annual Progress Report praises Albania for making progress in several key areas, showing determination to fight corruption and adopting a plan to fulfil European Partnership and SAA obligations, it points to further problematic areas. In particular it voiced concerns that administrative capacity needs to be rebuilt following major staff changes and ministerial restructuring. More work also needs to be undertaken on political and judicial reform and human rights, as well as the fight against corruption and organised crime. It adds that the legal framework for media freedom needs to be improved and properly implemented.⁸⁰

An article in *Transitions Online* offered a similarly gloomy assessment of Albania's prospects:

While Albania's politicians were delighted by the signing of the SAA, some observers believe it was more the result of European leniency than Albanian achievement. Indeed, the country's media greeted the ceremony in Luxembourg with a certain measure of skepticism, pointing to high-level corruption in public administration, the political stranglehold on state institutions including the judiciary, and the country's inability, after 15 years of transition, to hold elections that meet European standards. Many Albanian citizens are still unable to travel

⁷⁶ World Bank Country Brief 2006:
<http://www.worldbank.org.al/WBSITE/EXTERNAL/COUNTRIES/ECAEXT/ALBANIAEXTN/0..menuPK:301421~pagePK:141132~piPK:141107~theSitePK:301412.00.html>

⁷⁷ Department for International Development Country Profile – Albania,
<http://www.dfid.gov.uk/countries/europe/albania.asp>

⁷⁸ UNDP: Country Programme Document For Albania 2006-2010, 24 February 2005
<http://www.undp.org.al/download/cpd/cpd.pdf>

⁷⁹ 'Balkan Insight: Party Squabbles Slow Pace of European Integration', *Institute for War and Peace Reporting*, 2 November 2006

⁸⁰ 'Albania 2006 Progress Report', *European Commission*, SEC (2006) 1383, {COM (2006) 649 final}, 8 November 2006
http://ec.europa.eu/enlargement/pdf/key_documents/2006/Nov/al_sec_1383_en.pdf

abroad legally because the government has failed to issue proper identity cards, and tax evasion is ripe.

The European Commission has evidently made the determination that Albania can indeed live up to the expectations set out in the SAA. The Albanian media, by contrast, paint the picture of a society that is not mature enough to produce a credible political leadership that could bring tangible benefits to this poor country. The next few years will show who's right.⁸¹

2. Bosnia-Herzegovina

Although Bosnia's bid for closer ties with the European Union has been many years in the making, it was not until 25 November 2005 that talks on an SAA were opened. Progress on defence and police reform, as well as a new public broadcasting law, were among the key factors which convinced the EU to press ahead with negotiations.

The first round of talks, which began on 25 January 2006, went well. However, the EU subsequently made it clear that the pace and conclusion of these negotiations depended upon continued progress and reform in key areas such as police restructuring and, in particular, full co-operation with the International Criminal Tribunal for the Former Yugoslavia (ICTY).⁸²

Until the SAA is concluded there is no contractual agreement between the EU and Bosnia and Herzegovina (BiH). In the interim, discussions continue to take place within an EU/Bosnia and Herzegovina Consultative Task Force which was established in 1998 as a joint vehicle for technical and expert advice. Meetings of the Consultative Task Force have constituted a central forum for technical and political dialogue.

Throughout 2006, the EU has emphasised the need to accelerate reforms, many of which appear to have stalled or at least slowed during the year, in particular, those relating to the implementation of the October 2005 agreement on police restructuring. In its November 2006 Progress Report the Commission made the following assessment of Bosnia's progress.

The conduct of the general elections of 1 October [2006] represented further consolidation of democracy and the rule of law. A strategy for the public administration reform has been adopted. Some steps have been taken towards providing the State institutions with sufficient resources.

Bosnia and Herzegovina needs in particular to step up its efforts regarding the police reform. Other priorities are adopting all necessary public broadcasting legislation and the strengthening of the public administration, as well as full co-operation with the ICTY. Constitutional reform should be undertaken, to ensure that the country's institutions work properly both at state and entity level.

Economic criteria

⁸¹ 'One Step Closer', *Transitions Online*, 15 June 2006

⁸² 'EC Council Reviews Western Balkans', *Enlargement Weekly*, 29 September 2006
http://ec.europa.eu/enlargement/press_corner/newsletter/index_en.htm#a7

Some progress has been made towards becoming a functioning market economy. Coordination on fiscal policies across the country deepened and a value added tax has been successfully introduced. Fiscal consolidation continued and growth remained strong.

However, imbalances in the trade and current accounts remain to be tackled. Proper decision-making as regards economic and fiscal policies needs to be ensured. Privatisation and corporate restructuring have to be speeded up. The business climate and corporate governance need to be improved.

European standards

Bosnia and Herzegovina has made further steps towards meeting European standards. Progress has been made in the fields of taxation, anti-trust policy, transport, energy and some of the justice and home affairs-related areas.

It needs to intensify its efforts in other areas such as free movement of goods and services, customs, state aids, SMEs, employment, education, environment and statistics. Concrete action is necessary to achieve a single economic space within the country. Overall administrative capacity needs further strengthening.⁸³

Under the Dayton Peace Agreement⁸⁴, BiH is obliged to co-operate with the ICTY. However, the absence of any notable co-operation from the Republika Srpska⁸⁵ in helping to bring indictees to trial has tested the EU's patience. Movement on this issue would have a positive effect on overall reconciliation. Lord Ashdown, the former High Commissioner for Bosnia, has stated that the fact that war criminals are still at large is "holding back hundreds of thousands of Bosnians from seeing their country assume its rightful place in the world."⁸⁶

Some observers are not however convinced that international pressure is enough to overcome problems at a national level. For example, in 2005 the *International Crisis Group*⁸⁷ warned that the international strategy for Bosnia and Herzegovina risks derailment: "It consists entirely of preparing the country for eventual European Union (EU) membership in the hope that integration processes will overcome ethno-political divides and their intertwined economic and criminal interests."⁸⁸

Two significant decisions were recently taken in relation to the international presence in Bosnia:

⁸³ Key findings of the progress reports on Kosovo and the potential candidate countries: Albania, Bosnia and Herzegovina, Montenegro, Serbia, MEMO/06/412, 8 November 2006

⁸⁴ For more information on the Dayton Peace Agreement see Library Research Paper 97/110, *Bosnia*

⁸⁵ The Serb Republic (not to be confused with the Republic of Serbia) which is part of BiH

⁸⁶ High Representative's Farewell Speech to the BiH House of Representatives, Sarajevo, 30 January 2006
http://www.ohr.int/ohr-dept/preso/presssp/default.asp?content_id=36492

⁸⁷ The ICG is an independent, non-profit, non-governmental organisation, working through field-based analysis and high-level advocacy to prevent and resolve deadly conflict.

⁸⁸ 'Bosnia's Stalled Police Reform: No Progress, No EU' Europe Report N°164, 6 September 2005,
<http://www.crisisgroup.org/home/index.cfm?id=3645&l=1>

On February 27th the European Union confirmed its provisional decision to cut the size of its peacekeeping force. At the end of the Bosnian war, 60,000 NATO-led peacekeepers went in. In 2004 they were replaced by a 7,000-strong EU force, the biggest the union has ever deployed. That force will now be cut to 2,500 by the end of the year.

Does that mean that Bosnians can on their own sustain the peace and rebuild their country so that it one day joins the EU? Not quite, apparently. For the other decision was to extend the office of the high representative in Bosnia. This job, which carries powers to sack elected political leaders and impose laws, was due to be wound up by the end of June 2007. But it will now go on for another 12 months.

The present high representative is a German, Christian Schwarz-Schilling, who came to office determined that Bosnians must soon run their own country. But he has now changed his mind—or at least decided that it is too early to give up the job's powers. The question is whether all Bosnians will agree. Bosnian Serb leaders are hinting that they may not. They are talking rather of holding a referendum on independence, if and when Kosovo gains its own independence from Serbia.⁸⁹

In February 2007 the International Court of Justice ruled that Serbia was “not financially responsible for the genocide committed by Bosnian Serb forces in the 1992-95 Bosnian war”.⁹⁰ The EU hopes that the verdict will be used as a step towards regional reconciliation.

3. Serbia (including Kosovo)

Over a number of years, Serbia's relationship with the EU was gradually extended and deepened on the basis of 'Enhanced Permanent Dialogue' (EPD). EPD aimed to encourage and monitor reforms on the basis of the European Partnership adopted by the EU Council in June 2004 and updated in January 2006. This covered priorities such as conflict management, post-conflict reconstruction, infrastructure, institutions building and cross-border co-operation.

The process had facilitated considerable progress but this came to an abrupt, though far from unexpected, halt on 3 May 2006, when the European Commission suspended talks with Serbia and Montenegro (now Serbia)⁹¹ aimed at concluding an SAA. This was in response to the Serbian Government's failure to arrest and extradite General Ratko Mladic for trial in The Hague. The wartime commander of the Bosnian Serb army has been indicted by the International Criminal Tribunal for the former Yugoslavia on charges

⁸⁹ 'Where the past is another country – Bosnia', *The Economist*, 3 March 2007

⁹⁰ 'Court rules Serbia not financially liable for genocide', *Financial Times*, 27 February 2007

⁹¹ Following the independence referendum held on 21 May 2006 in Montenegro (in which 55.5% of voters expressed their support for independence), on 5 June the Serbian Parliament, acting in accordance with Article 60 of the Constitutional Charter of Serbia and Montenegro, confirmed the continuity of Serbia as a legal successor of the State Union and informed the EU and other representatives of the international community accordingly. On 12 June 2006 the Council of Ministers adopted Conclusions, in which, taking note of the Serbian Parliament's Decision, it recognised the Republic of Serbia as a legal successor of the State Union.

of genocide, in part relating to the murder of some 8,000 Bosnian Muslims following the fall of Srebrenica in July 1995.

The Serbian Government adopted an action plan in July 2006 aimed at making progress on the Mladic issue. However Serbia's Prime Minister Kostunica subsequently warned EU officials that implementing the plan would take time, because relevant laws would need to be amended.⁹² Summarising the current state of play in its November 2006 Annual Progress Report, the Commission stated

Serbia initially made significant progress in the Stabilisation and Association Agreement (SAA) negotiations, where it showed its considerable administrative capacity. However, in May 2006 negotiations were called off because the Belgrade authorities did not meet their commitments to cooperate with the International Criminal Tribunal for the former Yugoslavia (ICTY). Negotiations will be resumed as soon as full cooperation with the ICTY is achieved.

Political criteria

Serbia is to be commended for the responsible way it handled the dissolution of the State Union following Montenegro's independence. The adoption of a new Constitution is a welcome development. Civil service legislation has been improved and administrative reform proceeded well. The strategies on judicial reform and fight against corruption have been adopted. Overall, the situation of human rights and of minorities has improved further. Serbia is actively contributing to regional cooperation.

However, the new Constitution presents some areas of concern, notably in relation to the independence of the judiciary. The fight against corruption must be stepped up. Civilian control over the military must be implemented effectively. Serbia needs to achieve full cooperation with ICTY. It also needs to have a constructive approach as regards Kosovo.

Economic criteria

Serbia has made notable progress towards being a functioning market economy. Economic growth has continued. Foreign direct investment has been boosted, mainly due to privatisation. Economic integration with the EU has advanced.

However, stabilisation and reform efforts need also to be continued in order to enable Serbia to cope with competitive pressure in the future. Serbia continues to need strong fiscal adjustment. It has also to strengthen the enterprise sector and promote greenfield investments by stepping up corporate restructuring, implementation of bankruptcy procedures and privatisation.

European standards

Serbia made good progress in approximating its legislation and policies in most areas, including the fight against money-laundering and trafficking in human beings, as well as standardisation, accreditation, movement of services, certain areas concerning the internal market, customs, education, employment and

⁹² 'Serbia: A Game Plan for Europe?', *Transitions Online*, 19 July 2006, www.tol.cz

social policy, SME policy, agriculture and transport. Overall, Serbia has further strengthened its administrative capacity to be able to implement the SAA properly.

However, efforts are needed in a number of the areas such as taxation, state aid, public procurement, intellectual property rights, consumer protection, food safety, environment, information society and financial control. Serbia has also to make efforts on visa policy, border control, asylum, police and security services reform, the fight against organised crime and the protection of personal data.⁹³

Serbia's progress is, as previously stated, inextricably linked to the issue of Kosovo's final status. Kosovo gives rise to two main issues in relation to the EU: the first is how well the provisional institutions of self-government (PISG) are working and the second is Kosovo's final status.

On the former, the Commission's 2006 Progress report states that, although political stability has been maintained and the PISG are taking on progressively more responsibilities, more needs to be done to strengthen the rule of law as key short-term priorities of the European Partnership have only been partly addressed.⁹⁴ The Commission summarises Kosovo's prospects as follows

Political criteria

Kosovo has remained stable and made progress in the transfer of responsibilities to the provisional institutions of self government. New ministries of justice and the interior have been created. An important reform package was adopted to improve the functioning of Kosovo's Assembly. Kosovo has enhanced its participation in regional fora and cooperation initiatives.

However, the focus on status has delayed significant reform efforts. Kosovo's administration remains weak, affecting the rule of law. Judicial institutions have made little progress in civil and criminal justice. In spite of the authorities' high-profile outreach campaign to improve the situation of minorities, minority groups continue to be in a disadvantaged position. Conditions for the sustainable return of refugees and displaced persons remain difficult. There has been little progress regarding corruption, which remains widespread.

Economic criteria

Consensus on the fundamentals of economic policy has been broadly maintained and fiscal policy tightened. A medium-term economic policy framework has been established and the first expenditure framework has been adopted. Marked progress has been made in the privatisation of socially owned enterprises and the incorporation of publicly owned enterprises.

⁹³ Key findings of the progress reports on Kosovo and the potential candidate countries: Albania, Bosnia and Herzegovina, Montenegro, Serbia, MEMO/06/412, Brussels, 8 November 2006, <http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/06/412&format=HTML&aged=0&language=EN&guiLanguage=en>

⁹⁴ 'Enlargement Strategy and Main Challenges 2006-2007, Including Annexed Special Report on the EU's Capacity to Integrate New Members', *European Commission*, COM(2006) 649, 8 November 2006, p49 http://ec.europa.eu/enlargement/pdf/key_documents/2006/Nov/com_649_strategy_paper_en.pdf

However, Kosovo has made limited progress towards becoming a functioning market economy. Macroeconomic stability has not been achieved, mainly due to the fragile fiscal and external positions and the weak enforcement of property rights. Unemployment remains high.

European standards

Kosovo has made some progress towards approximate its legislation and policies with European standards.

However, limited progress has been made in the effective implementation and enforcement of legislation passed. More efforts are needed to create an administrative environment that will ensure further approximation to European standards. Some progress has been made in the environment, transport, energy, customs, taxation, police and border control. Kosovo needs to improve in areas such as fight against organised crime, trafficking of human beings and drugs, agriculture, statistics and intellectual property rights.⁹⁵

On the second and related issue of Kosovo's final status, EU Member States have been at pains to encourage Serbia to soften its stance against independence for Kosovo. However, the decision to suspend talks, while regarded as vital if the EU is to be seen to have any teeth on the principle of conditionality, has arguably weakened its leverage over the Serbian Government. The EU has sought to address this problem by making optimistic statements on the possible timetable for Serbian accession. In March 2007 the *Financial Times* reported that:

Olli Rehn, EU enlargement commissioner, recently held out the prospect that Serbia could become a candidate for EU membership by 2008. That would require frozen talks on an "association agreement" between Brussels and Belgrade to be rekindled in the next month or so and concluded in the autumn.⁹⁶

Serbia recently held parliamentary elections in which

[...] the greatest share of the vote was won by the ultra-nationalist Serbian Radical Party, whose leader, Vojislav Seselj, is on trial before the United Nations war crimes tribunal in The Hague. A second glance is more reassuring: the real message of the election is that a majority of Serbs, including many who voted for the Radicals, favour moving the country forward on the path of European integration.⁹⁷

The newly constituted parliament may contain an encouraging number of pro-European members, but it remains totally opposed to the EU's preferred final status for Kosovo. As *The Economist* reported

⁹⁵ Key findings of the progress reports on Kosovo and the potential candidate countries: Albania, Bosnia and Herzegovina, Montenegro, Serbia, MEMO/06/412, Brussels, 8 November 2006, <http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/06/412&format=HTML&aged=0&language=EN&guiLanguage=en>

⁹⁶ 'Kosovo poser goes to the UN after talks fail', *Financial Times*, 13 March 2007

⁹⁷ 'Radical in name only – Serbia's election', *The Economist*, 27 January 2007

Since the election on January 21st Serbia has had a caretaker government, but it and the prime minister, Vojislav Kostunica, have rejected the Ahtisaari plan. This week the new parliament did the same. Mr Kostunica's spokesmen try to provoke Western guilt by suggesting that Serbia's loss of Kosovo would be like Czechoslovakia's loss of German-populated Sudetenland to Hitler after Munich in 1938. Yet the EU has endorsed the Ahtisaari plan.⁹⁸

4. Montenegro

On 21 May 2006 Montenegrins voted in favour of independence from Serbia. Following the referendum, and the subsequent declaration of independence by the Montenegrin Parliament, the Council of Ministers adopted Conclusions stating on 12 June 2006 that "the EU and its Member States decided to develop further their relations with the Republic of Montenegro as a sovereign, independent state".

Prior to the referendum the EU had adopted a 'twin track' approach to the State Union of Serbia and Montenegro, effectively negotiating with each of the two republics to encourage them to implement the obligations contained in the Stabilisation and Association Agreement. In its declaration of independence the Montenegrin Parliament "Confirmed as its strategic priority an accelerated integration into the European Union, and is determined to continue to efficiently fulfil the conditions and requirements included in the Copenhagen criteria and the Stabilization and Association Process". In light of the outcome of the referendum in Montenegro the Commission announced a proposal for a new SAA negotiating mandate for talks with the Republic of Montenegro.⁹⁹

In November 2006, the Commission noted:

Political criteria

Montenegro has made some progress in the area of the political criteria. It managed smoothly the process leading to independence. The parliamentary elections held on 10 September 2006 were conducted in line with international standards. Efforts to increase the efficiency of the government, parliament and public administration have continued. Some elements for a political consensus on key choices have started to emerge. Willingness to fight corruption and to consolidate the rule of law, including judicial reform, has increased.

However, in practice, weaknesses remained. The judicial system is weak, while corruption and organised crime remain problems. The country needs to significantly upgrade its institutions and its efforts, to achieve results on the ground. The Constitution to be adopted needs to be fully in line with European standards. Cooperation with the ICTY should continue.

Economic criteria

Montenegro has made some progress towards becoming a functioning market economy. The country maintained a broad consensus on the essentials of

⁹⁸ 'A violent response – Kosovo', *The Economist*, 17 February 2007

⁹⁹ 'EU-Montenegro Relations,' European Commission
http://ec.europa.eu/enlargement/montenegro/eu_serbia_and_montenegro_relations_en.htm

economic policies. Macroeconomic stability prevails, economic growth gained pace and foreign direct investment remained high.

However, growth remains dependent on few sectors, and external imbalances widened. The labour market remained rigid and unemployment high. The business environment is hampered by regulatory obstacles. Reform efforts must be pursued to enable the country to cope with competitive pressure and market forces within the Union in the future.

European standards

Montenegro made some progress in approximating legislation and policies with European standards. It further advanced in strengthening its administrative capacity in particular in coordination of European integration matters, including on the negotiations for a Stabilisation and Association Agreement.

However, it is still at an early stage of preparations and considerable resources need to be allocated to deal with the challenges of introduction and full implementation of legislation. This concerns notably key areas of the SAA, such as free movement of goods, customs, competition, public procurement, agriculture and social policy, and employment. Special efforts are required in the area of Justice Freedom and Security, including the fight against organised crime and visa policy.¹⁰⁰

Most observers believe that Montenegro's separation from Serbia will improve its membership prospects, particularly as it will no longer have to face the burden of delivering indictees to ICTY in The Hague. Certainly, the re-election of the pro-European Prime Minister Milo Djukanovic in the first general election since independence, after a campaign which advocated fast-track integration, indicates a political willingness to progress SAA negotiations as swiftly as possible. *The Economist* goes so far as to predict that "the tiny country hopes to catch up with nearby Croatia, which is well on its way to membership."¹⁰¹

¹⁰⁰ Key findings of the progress reports on Kosovo and the potential candidate countries: Albania, Bosnia and Herzegovina, Montenegro, Serbia, MEMO/06/412, Brussels, 8 November 2006, <http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/06/412&format=HTML&aged=0&language=EN&guiLanguage=en>

¹⁰¹ 'Sailing Apart', 13 September 2006, www.economist.com

Appendix One – IPA Assistance 2008-10

Table 1

MIFF breakdown for IPA assistance 2008-10

€ million (current prices)

	2007	2008	2009	2010
Turkey				
Transition Assistance and Institution Building	252.2	250.2	233.2	211.3
Cross-border Cooperation	6.6	8.8	9.4	9.6
Regional Development	167.5	173.8	182.7	238.1
Human Resources Development	50.2	52.9	55.6	63.4
Rural Development	20.7	53.0	85.5	131.3
Total	497.2	538.7	566.4	653.7
Croatia				
Transition Assistance and Institution Building	47.6	45.4	45.6	39.5
Cross-border Cooperation	9.7	14.7	15.9	16.2
Regional Development	44.6	47.6	49.7	56.8
Human Resources Development	11.1	12.7	14.2	15.7
Rural Development	25.5	25.6	25.8	26.0
Total	138.5	146.0	151.2	154.2
FYR of Macedonia				
Transition Assistance and Institution Building	41.6	39.9	38.1	36.3
Cross-border Cooperation	4.2	5.3	5.6	5.7
Regional Development	7.4	12.3	20.8	29.4
Human Resources Development	3.2	6.0	7.1	8.4
Rural Development	2.1	6.7	10.2	12.5
Total	58.5	70.2	81.8	92.3
Serbia				
Transition Assistance and Institution Building	178.5	179.4	182.6	186.2
Cross-border Cooperation	8.2	11.5	12.2	12.5
Total	186.7	190.9	194.8	198.7
Montenegro				
Transition Assistance and Institution Building	27.5	28.1	28.6	29.2
Cross-border Cooperation	3.9	4.5	4.7	4.8
Total	31.4	32.6	33.3	34.0
Kosovo				
Transition Assistance and Institution Building	60.7	62.0	63.3	64.5
Cross-border Cooperation	2.6	2.7	2.8	2.8
Total	63.3	64.7	66.1	67.3
Bosnia and Herzegovina				
Transition Assistance and Institution Building	58.1	69.9	83.9	100.7
Cross-border Cooperation	4.0	4.9	5.2	5.3
Total	62.1	74.8	89.1	106.0
Albania				
Transition Assistance and Institution Building	54.3	61.1	70.9	82.7
Cross-border Cooperation	6.7	9.6	10.3	10.5
Total	61.0	70.7	81.2	93.2
Total Country Programmes	1,098.7	1,188.6	1,263.9	1,399.4
Regional and Horizontal Programmes	100.7	140.7	160.0	157.7
Administrative costs	55.8	54.0	56.5	64.6
Total	1,255.2	1,383.3	1,480.4	1,621.7

Source: EC, Instrument for Pre-Accession Assistance (IPA) Multi-Annual Indicative Financial Framework for 2008-2010

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¹⁰² Table provided by Edward Beale, Economic Policy and Statistics Section