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Phedon Nicolaides\*

# The "End Game" of the Enlargement of the European Union

*The process of enlargement would be facilitated if the EU and the candidates were less concerned about the date of accession and more keen to focus their efforts instead on identifying ways, on the one hand, to translate collective benefits into individual national benefits so that all member states would support enlargement and, on the other, to assess the readiness of the candidates with more precise criteria. Because of the nature of the negotiations, these two apparently unrelated problems are de facto interconnected. One way for the successful completion of the accession negotiations is for these two issues to be formally de-linked.*

For several months before the Feira European Council of June 2000, the countries that had applied for membership of the Union asked EU leaders to fix a date for their accession to the EU. In the end, no such date was fixed at Feira. The response of the EU, given through diplomatic channels, was terse. It was not possible to fix a date before the candidate countries could demonstrate that they were fully prepared to assume all the obligations of membership. Moreover, the EU argued, fixing a date and then, for whatever reason, failing to meet it would have worse consequences on the process of enlargement. To most people this sounded like a fair answer. After all, how can a date be fixed when it is likely that the process of preparation will take longer than what was believed even a year ago? So, it was argued, a date would be fixed only when the candidates could demonstrate sufficient readiness.

When we go beyond the arguments that captured the headlines at Feira alternative explanations become more plausible. The refusal of the EU to fix a date for the next enlargement is more likely to reflect two larger and more serious problems than the mere state of readiness of the candidate countries. The first problem is the potential inability of the EU to define an "enlargement deal" (or, as the EU Treaty requires, "the terms of accession" of new members) that would satisfy all its existing members. The second problem

is the vagueness of the entry criteria that must be satisfied by the candidates.

The purpose of this article is to explain why in a rather paradoxical way the process of enlargement would be facilitated if the EU and the candidates were less concerned about the date itself and more keen to focus their efforts instead on identifying ways, on the one hand, to translate collective benefits into individual national benefits so that all member states would support enlargement and, on the other, to assess the readiness of the candidates with more precise criteria. Because of the nature of the negotiations, these two apparently unrelated problems are de facto interconnected. One way for the successful completion of the accession negotiations is for these two issues to be formally de-linked. In order to understand the various dimensions of these problems and their interrelationship, it is instructive to begin by examining why the candidates asked for a date to be fixed.

There are apparently four reasons for that request:

□ First, the candidates (mostly through statements made by their Ministers of Foreign Affairs and the Chief Negotiators) seem to believe that the EU is deliberately slowing down the process of the accession negotiations because it is assigning higher priority to other issues. It is indeed true that the EU is currently preoccupied with the intergovernmental conference (IGC) for reform of the Union institutions and their decision-making procedures. But, of course, it has been well-known that enlargement could not proceed before the IGC was concluded. Nonetheless, few would have predicted just a couple of years ago that in the discussions on reform of decision-making procedures the whole debate on the future of the

\* European Institute of Public Administration, Maastricht, The Netherlands. The author, who is also acting as advisor to the Chief Negotiator of a candidate country, writes here in a strictly personal capacity. He wishes to acknowledge the very helpful comments received from Edward Best, Rita Beuter, Frank Bollen, Tom Casier and Antti Kuosmanen. Naturally, he is solely responsible for the views expressed in this paper.

Union and whether it should have a federal structure would be reopened. These are important but divisive issues on which consensus can be achieved, if at all, only with great difficulty, many compromises and after prolonged effort. "Eurocepticism" has spread far beyond the British shores.

□ Second, the negotiations have allegedly been conducted at a slower pace because, according to some of the candidates, the EU is getting cold on the idea of admitting new members in the near future. When the negotiations began in Spring 1998 the working hypothesis was that the first enlargement would take place in 2002. Some time later it was moved to 2003. Last year, officials in Brussels were talking of 2004. Now, 2005 is mentioned as a more "realistic" date. The date has been slipping farther into the future partly because, according to the EU, the candidates have not been making sufficient progress in tackling old problems and partly because they have been discovering new problems in the process of adopting and implementing EU rules. But the candidates argue in response that no country has ever been 100% ready before acceding to the EU and that it is probably impossible to be 100% ready before being immersed fully into the EU system of formal and informal policy-making procedures, cooperation networks, peer review and information exchange mechanisms. Naturally, the candidates focus less on their weaknesses and more on the perceived slowness of the EU to move the negotiations forward.

□ Third, the success of the front-running candidates in persuading the EU at the Helsinki European Council in December 1999 to adopt the principle of "differentiation" has not proved to be the panacea they expected. Differentiation means that those countries that are capable of moving faster in the negotiations will be allowed to do so and complete them in less time than the rest. With the benefit of hindsight, what appeared in December to be a concession, now seems to have been a "brilliant", even if unintentional, move by the EU that diffused the complaints of the candidates that their progress was not rewarded while actually making them "work harder". The front runners are now under more pressure not to make any demands for significant exceptions or special treatment. In fact they have realised that not only have they not moved faster, but even worse, their completion of the negotiations and their acceptance to close all the chapters without any requests for derogations does not secure faster entry into the EU. This is because no date for the next enlargement has been set and because conclusion of the negotiations

has never been explicitly defined to trigger entry automatically. Several other conditions will still have to be satisfied, most notably assent by the European Parliament and ratification of the accession treaties by all member states.

□ The fourth reason is that public opinion appears to be turning against enlargement both within the EU and the candidate countries themselves. Even when discounting the rising anti-enlargement feeling within the EU (the "Haider" factor), the candidates are worried that for the past five or so years they have been "selling" painful reforms to their domestic audience on the grounds that they are necessary for entry into the "promised land" of the EU. That land, however, seems now more distant than ever. They need a date to keep public opinion on their side.

So, the candidates have asked for a date partly in order to give an impetus to their domestic reform and preparation process and partly in order to force the EU to make a tangible commitment to receive new members sooner rather than later. Two questions arise in this respect.

First, is it likely that the EU will concede to fixing a date for the next enlargement? Second, should the candidates try to extract that concession from the EU? The questions are interlinked. Even if the candidates could succeed in obtaining a date, it does not necessarily follow that they should pursue that objective. In the context of the accession negotiations (or, any negotiations in general), any concession they extract from the other side will come at a cost. Therefore, they must always ask whether the gains are worth the costs. It will be suggested in the rest of this article that the answer to both questions is probably "no".

### Collective versus Individual Interests

Assuming that the EU member states have not hatched a secret plan to postpone enlargement (which is rather unlikely, despite the various conspiracy theories that circulate regularly in Brussels and national capitals), how valid are those four reasons outlined above? They are certainly not without foundation. But they cannot be the whole explanation of the slow progress of the negotiations and the enlargement process. If the problem, for example, is the current IGC, why has the EU not stated, even in conditional terms, that the date of the next enlargement will take place, say, a year or two after the ratification of the results of the IGC? It did something similar in 1995 when it promised Cyprus

that it would launch accession negotiations six months after the completion of the 1996 IGC that led to the Treaty of Amsterdam. If, on the other hand, the problem is just the readiness of the candidates, why has the EU not specified that candidates could accede, for example, one year after they complete the negotiations and fulfil all criteria of membership?

Therefore, one is led to the conclusion that the unwillingness of the EU to fix a date reflects other concerns and deeper problems. To unravel this conundrum let's begin with the assumption that enlargement will benefit the EU as a whole. Both in political and economic terms, this is not an unreasonable assumption. Enlargement will bring stability, consolidate democracy across most of the continent of Europe and will create the largest single market the world has ever known. This does not mean that there will be no costs. It only means that overall the benefits will outweigh the costs (in notation form we can write benefits,  $B$ , as greater than costs,  $C$ , or  $B > C$ . Using this notation will make it easier to explain an important point below about the distribution of those costs and benefits). Assume further, just for illustration purposes, that both benefits and costs are distributed across the Union, say, according to the size of each member state (this assumption is relaxed in the next paragraph). Then, we can specify that the "expected net benefits" of each member state are  $(B-C) \cdot s_i$ , where  $s_i$  is the relative size of each member state in the EU economy. That expression is positive (because  $s_i$  is a positive fraction), meaning that all member states should expect to gain.

So, why are the member states not more enthusiastic about enlargement? Just because enlargement will take place in the future does not mean that member states are myopic about the benefits it will bring. They simply know that the net benefits are not evenly distributed, as was postulated in the previous paragraph. For the  $i^{\text{th}}$  member state the net benefits are  $(B \cdot x_i - C \cdot y_i)$ , where  $x$  and  $y$  are the distributions of benefits and costs. The problem is that  $x \neq y$ . Whether for the  $i^{\text{th}}$  member state net benefits are positive or negative depends on the relative size of  $x$  and  $y$ . The crux of the issue here is not, as has often been claimed in the popular press, that some member states stand to lose more than others (or gain less than others). If those who would lose more (or less), also bore a proportionate larger (or smaller) share of the benefits, there would be no problem. Rather, the issue is that the benefits are distributed differently from the costs across member states.<sup>1</sup>

But even if we acknowledge that some of them stand to be net losers, this cannot be the end of the

story. As long as the EU as a whole gains, then it is, at least in theory, possible for the winners to compensate the losers. The sum of the net national gains must exceed the sum of the net national costs (or, in our notation form,  $\sum (B \cdot x_i - C \cdot y_i) > 0$ ), irrespective of the relative values of  $x$  and  $y$ . Member states have not yet agreed on a date for the next enlargement because they still have to negotiate among themselves the size of those compensatory "side payments".

### Internal Bargaining Unavoidable

It is rather easy to appreciate the underlying relationship between fixing a date for the enlargement and fixing the compensatory side payments. Both the total costs of enlargement and their distribution will partly be determined by the demands that the candidates will make in the accession negotiations. So far, they have hardly made any, but the reason is that so far they have been dealing with relatively easy chapters. Although the candidates have already outlined their demands in the position papers they submitted for the last batch and most difficult negotiating chapters in late 1999 and early 2000, the tough bargaining is not likely to start before mid-autumn of 2000 when the negotiations on more problematic issues such as agriculture and the structural funds may begin. The compromises reached, or not reached, on those issues will determine the outcome of the negotiations, which in turn will partly determine the internal bargaining in the EU that is most likely to ensue among the member states.

Bargaining among the member states is hardly avoidable because any concessions that are made to the candidates or any derogations that are granted to them are likely to affect member states in very different ways. If, for example, candidates are integrated immediately into the milk regime of the common agricultural policy, the main impact will be felt by mostly northern dairy producers. If, by contrast, the candidates secure special arrangements that modulate their contributions to the EU budget, the main impact may be felt by southern countries, which may have to raise their contributions to the budget.<sup>2</sup>

Even if the candidates declared that they would accept fully all of the *acquis* and that they would not ask for a cent more than what has already been provisionally allocated to them, there are at least two

<sup>1</sup> We can add another layer of complexity by examining how benefits and costs are distributed within, rather than across, member states. A member state may oppose enlargement, even if that as a whole it gains from it, when its overall stance is determined by the lobbying pressure of those groups that stand to lose out.

other reasons why existing member states would still have to negotiate among themselves:

□ Member states will have to decide what to do with the money that was earmarked for new members in the 2000-6 financial perspective which was agreed last year at the Berlin European Council on the basis of the assumption in Agenda 2000 that new members would enter the EU in 2002. Although that money may be regarded as "extra", the way that member states will divide it among themselves will very much depend on their expectations about who will gain or lose out from the accession of new members.

□ The integration of any new member into the EU, even if it were accompanied by no special treatment, would still have an uneven impact on the member states. A case in point is the exercise of the right of movement by the citizens of the East European candidates and the large immigration into Germany that is forecast to ensue in the first years after enlargement.

But, admittedly, arguing a point by showing that it could hold even in extreme situations is not the same as demonstrating that it is likely to happen. The situation that is likely to develop is much more complex. There are issues on which the candidates are determined to negotiate hard such as agriculture, land ownership, movement of persons, structural funds and contributions to the budget of the Union. On the latter point, the Commission already appears to concede that existing member states will have to agree to special arrangements that would ease the burden of budgetary contributions of the new members during the first few years after accession.

It can be concluded, therefore, that part of the problem is that in addition to the negotiations between the EU and the candidates, member states will inevitably have to negotiate among themselves. In this respect, they can be "part of the solution", but so far there has been no sign of any serious discussion taking place among the member states. The candidates are not far off the mark when they claim that member states are reluctant to deal with the tough issues. It is reported, for example, that on some negotiating chapters, such as agriculture, opinions

among the member states are so divided that the Commission has left blank significant parts of the text of the draft common position it submitted to the member states. On the other hand, the candidates have not helped matters by asking the EU to enter into "meaningful" negotiations whose outcome is naturally unknown and, ironically, as a result, heightens the prospect of internal negotiations among the member states.

### Need for Pre-commitments and "Unbundling"

The realisation that there are unknowns in the enlargement process is neither new, nor unusual. After all this is the essence of any negotiation. What is more worrisome is that the EU, by not making any pre-commitment now, may lead itself into a dead-end where the member states will find it impossible to reach consensus (i.e. a "zero-sum" game). In situations where agreement depends on the distribution of future outcomes but where that distribution is unknown, a typical way out of the potential impasse is to make pre-commitments so as to even out the eventual distribution or to undertake to compensate those that turn out to be net losers (a form of insurance against the eventuality that a future event will turn out to have a negative impact). The EU has so far avoided making any meaningful pre-commitments and, as a result, it risks finding itself in a situation where it will be very difficult for member states to reach satisfactory bargains (an exception but a significant one is the "ring-fencing" of future expenditure that was agreed in March 1999 at the Berlin European Council).

What kind of pre-commitments are possible at this stage? Naturally, it is not yet feasible to quantify with any precision the relative benefits and costs. What is, however, feasible at this stage is for the member states to agree on a framework of principles such as that "all member states will be expected to share the costs". One may even go as far as defining a "cohesion principle of enlargement". Let's be clear about the meaning of such pre-commitments. They will surely not remove all uncertainty about the outcome of the negotiations. Some tough bargaining will still have to be done. But they will make it easier for the member states to conclude that bargaining when it is known beforehand that it will be undertaken within a framework of principles.

Another way out of the potential impasse that may develop is to "unbundle" the various negotiating issues (by contrast, pre-commitments on compensation and side payments are like "bundling" or

<sup>2</sup> The "ring-fencing" that was agreed at the Berlin European Council in March 1999 earmarked expenditure but was rather silent on income. At the same time, however, there was agreement in Berlin that the burden on the large net contributing countries would not increase further. It follows, therefore, that if on the expenditure side payments are ring-fenced, while on the income side the contributions of the richer countries cannot increase much more, then the only possibility remaining is an increase in the contributions of the middle-income countries.

packaging different issues together so that everyone is assured to gain something). What is there to unbundle? To answer this question it is necessary to digress briefly. One of the reasons why the candidates have suspected the EU to be deliberately slowing down the enlargement process is that the EU has been subtly raising the entry barriers by defining stricter and more detailed criteria of performance and compliance by the candidates. It has also been constantly asking for additional information from the candidates about their internal administrative, political and economic reforms and appears to be finding new questions to ask and issues to clarify. To make matters worse, the messages and the answers the EU itself sends through its various services to the candidates are often perceived to be inconsistent.

It is not difficult to demonstrate that the various criteria of membership defined at successive European Councils have been raising the standards that the candidates are expected to meet. In the eyes of the candidates this amounts to shifting the goal posts and moving them farther away. For example, the principal and often-quoted criteria of membership defined at the Copenhagen European Council (June 1993) required "stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities; the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union; [and] the ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union". The Madrid European Council (December 1995) introduced the condition for appropriate "adjustment of administrative structures". The Luxembourg European Council (December 1997) went further by specifying that the "incorporation of the *acquis* into legislation is necessary, but is not in itself sufficient; it will also be necessary to ensure that it is actually applied". At the Helsinki European Council (December 1999) the candidates were told that "progress in the negotiations must go hand in hand with progress in incorporating the *acquis* into legislation and actually implementing and enforcing it". Most recently, the Feira European Council (June 2000) declared that "in addition to finding solutions to the negotiating issues, progress in the negotiations depends on the incorporation by the candidate States of the *acquis* in their national legislation and especially on their capacity to effectively implement and enforce it".

The candidates were initially asked to accept the full *acquis* (plus political union, something that

several, if not most, existing member states flatly reject), then apply it, then demonstrate progress in enforcing it and lastly (but probably not finally) enforce it effectively before they even complete the negotiations. Yet, the issue at hand is not what the candidates are asked to do. The issue is how to determine whether they have completed their tasks.

### Ambiguous Entry Criteria

On the one hand, it may be argued that it is very natural for the EU to raise the standards of admission for the simple reason that it keeps discovering new structural weaknesses in the candidate countries. On the other hand, however, the candidates complain that the EU is unfair because it does not apply the same standards to its own members. Careful reading of the conclusions of the European Councils quoted above reveals that the standards have not been merely elaborated or clarified. They have also been made stricter, brought forward in time and have proliferated.

Irrespective of whether that constitutes unfair treatment or not, the issue remains that the EU has no developed criteria, benchmarks or processes by which to judge the administrative capacity of its existing or prospective members. By not defining them more precisely and by largely innovating as it goes along, the EU makes the negotiations unnecessarily more complicated, sends inconclusive (and confusing) messages to the candidates and risks holding itself hostage to member states that could in the end decide to be obstructive on the pretext that the candidates have not definitively proven that they have the capacity to apply the *acquis* effectively.

It is in the EU's interest to avoid this eventuality. It can avoid it by de-linking the definition of clear and unambiguous criteria of membership from the process of assessment of whether they have been fully satisfied. There is nothing intrinsically wrong with the EU's wish to set high standards of entry. But the EU has gone beyond that. At the same time as it has been assessing fulfilment of existing criteria by the candidates, it has been adding new, tougher and fuzzier ones.

It is also quite unclear how it expects candidates to prove that they have indeed built sufficient capacity to implement the *acquis*. In relation to the existing member states, evaluation of the quality/capacity of implementation of Community law is often a legal question. Who will answer that question in relation to the candidates? The many vested interests on both

sides of the accession negotiations cast serious doubt on whether the impartiality that is indispensable in legal processes exists at all.

To repeat, the core of the problem is that the vagueness of the criterion about the implementation of the *acquis* can be exploited by any member state that wants to obstruct enlargement, even when it would be in the collective EU interest to admit new members.

Moreover, even if the candidates will be compelled in the end to commit large amounts of human and financial resources to bolster their administrative capacity in visible ways that will satisfy the EU, there can be no guarantee that they will maintain those resources after they enter the EU. One also wonders how the new members will behave towards the old members after the former gain entry into the EU. Will they try to extract some kind of revenge or will they have concluded, after the treatment they receive in the pre-accession period, that they should behave as selfishly as possible. The point here is that the EU may lose out in the longer run by pushing the candidates too hard now.

The present negotiating positions of both sides depend on their expectations about future outcomes. Given the fact that most of those outcomes are still unknown, it is disingenuous and probably futile for the candidates to ask the EU to fix the date for the next enlargement. More importantly, even if the candidates succeed in having a date fixed, something else will certainly become vague or indeterminate (because not everything can be fixed before the accession negotiations are over and before the member states carry out their internal bargaining to determine side payments).

Taking into account the need to manage those uncertainties (i.e. minimise risk), one possible way of de-linking the date of accession from the assessment of whether the candidates have sufficient implementing capacity (or administrative capacity) is to agree on the general principle of a transitional period for adjustment of the administrative structures of the candidates. During the transitional period they would not be able to exercise the rights of membership in those areas where their administrative structure does not function up to the expected standards. This is the "price" to be paid by the candidates. Even though entry into the EU will be fairly assured, the benefits that come with it will not be forthcoming unless EU rules can be applied and enforced.

A question that arises at this point is what kind of guarantee would the EU have that administrative

structures would indeed reach the requisite standard by the end of the transitional periods? Admittedly, no one can give such a guarantee at the present. But, there are means to insure against the possibility that, despite the transitional periods, adjustment of those structures proves in the end to be insufficient. The transitional periods do not need to expire automatically. Their ending or prolongation may be subject to joint review and agreement. For example, when Austria acceded to the EU, it was agreed that the transitional arrangements concerning alpine transit of heavy vehicles would last initially for three years but could also be extended up to nine years on the basis of recommendations by an independent review body. The innovative feature of that agreement was not only the flexibility of the duration of the transitional period but, perhaps more importantly, the fact that the review was joint and that assessment of the situation would not be carried out unilaterally by either side. It is arrangements of this kind that inspire confidence on both sides of the negotiating table.

Within this general framework of assured entry, once the general criteria are satisfied, the purpose of the negotiations would be, *inter alia*, to define the sectors or areas to be subject to that special but temporary regime. In this way, the candidates will obtain political equality and the political benefits of membership (they will be granted a place around the table so that their voice will be heard) without being able to exercise all the rights of membership until their administrative structures are truly capable of implementing EU rules effectively.

The economic "cold shower" of EU membership has been much discussed. Perhaps it is time to discuss the "administrative shock" of membership, whereby the administrations of the candidates are brought up to scratch by their immersion in the vast network of committees and working groups of the EU. Now they are expected to become "European" while being outside that network. One wonders how efficient this approach is.

## Conclusion: Prioritising Problems

Five points are worth repeating by way of conclusion:

□ First, and perhaps trivially, the EU and the candidate countries cannot eliminate all uncertainty from the accession negotiations and the enlargement process before they are both over. The candidates will have to be prepared for the unexpected. As long as outstanding issues remain to be resolved within the

member states, the candidates should expect the enlargement to be in a state of fluidity.

□ Second, the fact that uncertainty cannot be completely eliminated before accession does not mean that there is nothing for the EU or candidate countries to do at the present time. The candidates should decide what they want fixed above all: the date of entry, the derogations they wish to have at the negotiations or the entry criteria? They need to prioritise the issues to be tackled by both the EU and themselves.

□ Third, the analysis above suggests that they should aim for the entry criteria because vague criteria have a much greater potential to stall the enlargement process on both sides.

□ Fourth, the EU should begin identifying the pre-commitments that can be made by its members now in order to facilitate their bargaining later on.

□ Fifth, although the identification of viable pre-commitments is not an easy or riskless process, the

dangers of inaction are even greater because the existing member states may use their veto on accession of new members to protect their broader interests. Ironically, the success of the IGC that is supposed to pave the way for enlargement may make it even more tempting for member states to use their vetoes. The reason is that the IGC aims to make it more difficult for individual member states to obstruct collective decisions. Hence, as happened on several occasions in the past, they would naturally tend to rely on the few instances that they can wield a veto in order to apply pressure on their partners to make concessions on other, perhaps completely unrelated, issues of vital interest to them.

No one can predict with any high degree of accuracy how enlargement will progress in the next couple of years. It is nonetheless possible to surmise that there are circumstances that will make that progress easier and circumstances that will slow it down. This article has identified conditions that can do either.

George J. Viksnins\*

## Baltic Monetary Regimes in the XXI<sup>st</sup> Century

*The accession of Estonia, Latvia and Lithuania to the European Union would mean that they would join the Economic and Monetary Union in the status of "countries with a derogation". They would remain committed to adopting the euro eventually and to this end to joining ERM II. The following article examines the present monetary regimes of the three countries and the progress made so far in their preparation for EMU.*

In looking at the decade of transition in East and Central Europe, even economists seldom focus sufficiently on the enormous extent of the decline in exports, output and income which has taken place in the countries of the old Comecon (or CMEA, as it was also known in Europe). This collapse has been much sharper than the Great Depression of the 1930s in

North America and Western Europe. While real output in the USA fell by about one quarter in the 1929-1933 contraction, real GDP in most of the former Soviet Union has declined a lot more. For example, output in Russia itself fell by one half in the 1989-1996 period and has not recovered very much since then. In Georgia, beset by civil war and hyperinflation, 1996 output was only 25% of the 1989 level, and statistics for Turkmenistan are not yet available.<sup>1</sup> To be sure, some of the decline in output was both to be

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