



House of Commons
Home Affairs Committee

Student Visas: Follow-up

Eleventh Report of Session 2010–12

*Report, together with Government Response
to the Committee's Seventh Report of Session
2010-11 and formal minutes*

*Ordered by the House of Commons
to be printed 18 July 2011*

The Home Affairs Committee

The Home Affairs Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Home Office and its associated public bodies.

Current membership

Rt Hon Keith Vaz MP (*Labour, Leicester East*) (Chair)
Nicola Blackwood MP (*Conservative, Oxford West and Abingdon*)
James Clappison MP (*Conservative, Hertsmere*)
Michael Ellis MP (*Conservative, Northampton North*)
Lorraine Fullbrook MP (*Conservative, South Ribble*)
Dr Julian Huppert MP (*Liberal Democrat, Cambridge*)
Steve McCabe MP (*Labour, Birmingham Selly Oak*)
Rt Hon Alun Michael MP (*Labour & Co-operative, Cardiff South and Penarth*)
Bridget Phillipson MP (*Labour, Houghton and Sunderland South*)
Mark Reckless MP (*Conservative, Rochester and Strood*)
Mr David Winnick MP (*Labour, Walsall North*)

The following members were also members of the committee during the parliament.

Mr Aidan Burley MP (*Conservative, Cannock Chase*)
Mary Macleod MP (*Conservative, Brentford and Isleworth*)

Powers

The Committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 152. These are available on the Internet via www.parliament.uk.

Publication

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at www.parliament.uk/homeaffairscom.

Committee staff

The current staff of the Committee are Elizabeth Flood (Clerk), Joanna Dodd (Second Clerk), Sarah Petit (Committee Specialist), Eleanor Scarnell (Inquiry Manager), Darren Hackett (Senior Committee Assistant), Sheryl Dinsdale (Committee Assistant), Victoria Butt (Committee Assistant), John Graddon (Committee Support Officer) and Alex Paterson (Select Committee Media Officer).

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1 Introduction

1. Earlier this year, the Government held a consultation on its proposals for changes to Tier 4 of the Points-Based System for immigration—in essence, for student visas. We published our report on the Government’s proposals on 17 March 2011.¹ While acknowledging that in the past there had been abuses to the student visa system by those wishing to enter the UK, or to facilitate others entering the UK, in order to settle and work here, we expressed concerns that some of the proposed changes would deter legitimate students and undermine the UK’s position as being one of the most prestigious providers of higher education in the world. This report generated a good deal of press and public interest—the news story on the Committee’s own web page was viewed by almost 5,000 people in the week following its publication, a number which is ten times the average for self-produced committee news stories.

2. In light of the responses it had received to its consultation, the Government announced the changes to immigration rules on 22 March 2011 when the Home Secretary made a statement to the House.² We were pleased to note that the changes reflected some of the concerns we had expressed about the original proposals. We received the Government’s response to our report on 24 May 2011; it is appended to this report.

Government response to our Student Visas report

3. We believe that migration for the purposes of study, whilst it can be beneficial to the country, must be controlled and we are broadly supportive of the Government’s wish to make the system more robust. We particularly welcome the alternative to the Post Study Work route which enables students who have graduated from a UK university with a recognised degree, Post-Graduate Certificate of Education or Post-Graduate Diploma in Education to “switch into Tier 2 (before their visa expires) by exempting them from both the Resident Labour Market Test and the Tier 2 limit.”³ We also welcome the decision to allow UK Border Officers to refuse entry to non-English language students who “are unable to answer basic questions without assistance”⁴ from an interpreter.

4. However, we are less satisfied with other aspects of the Government’s response. For example, the Government has not yet responded to our recommendation for migration policy to be based on sounder evidence. We said:

Government policy ought to be evidence-based. We are concerned that a policy based on flawed evidence could damage the UK education sector and could have wider implications. We strongly urge the Government to examine the data which it currently uses to extrapolate migration figures. Whilst we are aware that it cannot do

¹ Home Affairs Committee, Seventh Report of Session 2010–11, *Student Visas* HC 773 (hereafter referred to as ‘Seventh report’)

² HC Deb, 22 March 2011, col 855

³ Appendix 1, p 10

⁴ *Ibid.*, p 11

so in time to coincide with this policy announcement, we are convinced that it ought to be a priority for the near-future.⁵

This is an important point and we take the opportunity to restate it here.

Impact Assessment

5. When we took evidence from Mr David Willetts, MP, Minister for Universities, during the course of our inquiry, he said:

The impact assessment that is being prepared as part of the Government's review of this policy will cover these economic impacts—it is intended to do so—and of course we will then release our overall impact assessment as part of the process when the decision is taken.⁶

However, the Impact Assessment was not available at the time the changes to the immigration rules were made, nor even at the time the Government provided its response to our report in May, when the Minister for Immigration wrote: “I agree with the report's recommendation that any changes in student immigration policy ought to be accompanied by a publicly-available impact assessment and this will be available in due course.”⁷

6. The Impact Assessment was eventually published on 13 June 2011, 12 weeks after the changes to the policy were announced and four weeks after we received the Government's response. **We were disappointed that the impact assessment was so delayed in this instance and calls on the Home Office to take measures to ensure that this situation does not recur.**

7. The figures estimated by the Impact Assessment are important for the debate over the UK's best interests in relation to foreign students. According to the impact assessment, over four years (in constant prices) the Government's policy would cost £3.6 billion net in a worst case scenario, £2.4 billion net in a central case scenario and £1.3 billion net in a best case scenario⁸. The costs (for the worst case scenario) are categorised in the assessment as follows:

- loss of student tuition fees to institutions (£170 million);
- reduced output from students and their dependants who can no longer come to the UK and reduced output from a change in student work entitlements (£2.0 billion);
- reduced output from Post Study workers (£1.2 billion);
- reduced visa and Certificate of Acceptance for Studies fee income for the UK Border Agency (£160 million).

⁵ Seventh Report, para 101

⁶ Seventh Report, Q 347

⁷ Appendix 1, p 12

⁸ Impact Assessment available at: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/ia/reform-students-pbs/ia-students-.pdf?view=Binary>

- Indirect financial and other costs which the Department has not attempted to estimate include: potential impacts on growth and the fiscal position; impacts on UK, EU and non-EU students; impacts on the UK population; wider impacts on public services; and wider impacts on the Higher Education sector.

The benefits are assessed as follows:

- reduced course provision costs for the education sector (£75 million);
- reduced costs to UKBA as fewer visas would have to be processed (£150 million);
- reduced costs for public services (£840 million); and
- resource savings (non-cashable) in enforcement costs of £45 million which may be used to combat more significant abuses of the immigration system that potentially result in harm to the UK economy and society.
- Benefits whose financial impact—if any—has not been estimated include: a reduction in abuse of the student route, a reduction in net migration, and a reduction in the risk of illegal working. Institutions who comply with the new legislation and accreditation process benefit from an enhanced reputation. There will also be a potential increase in public confidence in the immigration system, and improved social cohesion.⁹

8. In addition, the Impact Assessment covered issues associated with student recruitment and fee income. A number of assumptions were made, as follows. Only 1% of undergraduate students and 0.1% of postgraduate students would fail to reach the higher English language requirement under the proposals. No potential students would be deterred from attending UK institutions by the restrictions on their rights to work during their course of study. Only some private and public Further Education institutions and some English language schools would fail to get Highly-Trusted Sponsor status and therefore lose the ability to recruit non-EU students; no universities would be affected. **We note that this last in particular may be optimistic in light of the recent suspension of Highly-Trusted Sponsor status for Glasgow Caledonian University.**

9. The Impact Assessment discounts the loss of income to private Further Education institutions and English-language schools (which it admits are heavily reliant on non-EU students) by assuming that eight out of ten places at FE colleges that would no longer be available for non-EU students would be filled by EU-students or British nationals, and that English-language schools would similarly be able to fill spare places with EU students and non-EU students pursuing shorter courses on the Student Visitor Route. The Impact Assessment also assumes that these students would pay the same fees as those they replace. As far as other institutions (publicly-funded FE colleges, universities and private schools) are concerned,

Other than for English Languages courses, we have not attempted to estimate precisely how institutions might adapt their behaviour if they are constrained from admitting long-term migrants, perhaps by offering shorter courses. To the extent

⁹ *Ibid.*, p4

that displaced students flow back as student visitors, falls in educational institution tuition fee income and UKBA fee income will be lower.

We question whether it will be as easy for institutions to fill student places and replace lost income as the Government's Impact assessment suggests.

10. The Home Secretary's dismissal of the validity of the impact assessment seems to confirm our deep concerns that inadequate migration data sources, both historical and current, are thwarting both the Migration Advisory Committee and the Home Office from developing genuinely evidence-based immigration policy. Given the significance of the higher education sector to the UK economy and the need to boost international confidence if UK universities are to be able to continue to recruit the brightest and the best it is exceptionally important that policy in this area is seen to be carefully considered and evidence based. Policy decided in advance of the publication of the impact assessment does not send that message. We do, however, welcome the research being carried out by the Migration Advisory Committee to look into the impacts of migration on public services and we await their report with anticipation.

11. The Home Secretary was clear that despite the impact assessment predicting a high economic cost, and in the absence of a more reliable measure of economic impact, the government would go ahead with its policies without an evidence base.

Dr Huppert: Does that mean that you are going ahead with a policy without an impact assessment that you believe?

Theresa May: There will be a number of areas where the Government decides to take a policy decision on something because it believes that it is the right thing to do.¹⁰

We are concerned that the Home Office still does not take evidence-based policy as seriously as it could. We urge them to adopt a more evidence-based approach to policy making rather than risk determining policies separately from examining the evidence.

Immigration statistics

12. When estimating the number of migrants in the UK, the Government does not have a simple method of counting people in and out, instead the Office for National Statistics uses data from a variety of different sources.¹¹ We have consistently argued for immigration policy to be evidence-based and have made recommendations concerning immigration statistics in three of our Reports in this Parliament alone.¹² The UK Statistics Authority recently published a report on immigration statistics which stated that

The currently available statistics on immigration and emigration fall some distance short of painting the comprehensive statistical picture that Parliament would want to

¹⁰ Home Affairs Committee, Oral evidence of 5 July 2011, *The work of the Home Secretary*, HC 1372-i, Q 36

¹¹ Pg 1 Immigration Statistics Monitoring Brief 5-2011 (Available at <http://www.statisticsauthority.gov.uk/assessment/monitoring/monitoring-briefs/index.html>)

¹² See, for example, Home Affairs Committee, *Immigration Cap*, First Report of Session 2010-11, HC 361, p. 10

be available to inform the public policy debate. This is true at the national level but even more pronounced at the local level where there is often little relevant data.¹³

13. One of the aim of the Government's e-Borders programme is "provide more accurate information on migration to and from the United Kingdom."¹⁴ However, the report produced by the UK Statistics Authority warns that e-Borders

will not offer a complete solution in itself. The Committee has asked the Government to enable the linkage of entry and exit information, and the Government has responded²¹ saying that it supports the development of e-Borders. Information²² from the Migration Statistics Improvement Programme has highlighted that whilst some statistical benefits are likely to be delivered from the e-Borders system in the long term, it will not be possible to produce direct migration counts from it. This is because the administrative records that will be collected from the carriers will not routinely include the country of residence of the traveller.¹⁵

The report clarifies that "Progress will be dependent on how far and how fast the UK moves to establish the administrative recording and matching of the passport details of people entering and leaving the country. To the extent that this is not put in place, there is no alternative statistical solution that will deliver comprehensive, integrated and reliable data."¹⁶ This seems to indicate that whilst e-Borders will not provide exact figures in terms of net migration, it will become a vital part of the process which will allow the accurate counting of migrants entering and leaving the country.

14. We take this opportunity once again to remind the Government of paragraph 110 in our first Report of this Parliament, on the Immigration Cap (HC 361) "There has been a consistent tendency, under both the current and previous Governments, to rush through complex changes to the immigration system. ... Such unnecessary haste leads to poor decision-making which is more likely to be challenged in the courts." The Government did not address this statement in its response to our Report on the Immigration Cap nor when we referenced it in our first Student Visas Report: we hope that this warning will be observed in future. Whilst we realise the difficulty and cost involved in collecting the required data, we hope that the announcement of the award of the e-Borders contract to Raytheon and IBM represents the first step towards a migration policy based on actual migration figures, rather than placing reliance on incomplete data compiled from a range of surveys.

¹³ Immigration Statistics Monitoring Brief 5-2011, p4 (Available at <http://www.statisticsauthority.gov.uk/assessment/monitoring/monitoring-briefs/index.html>)

¹⁴<http://webarchive.nationalarchives.gov.uk/20100408093604/http://www.ukba.homeoffice.gov.uk/managingborders/technology/eborders/howebordersworks/>

¹⁵ Immigration Statistics Monitoring Brief 5-2011, pp4-5

¹⁶ Immigration Statistics Monitoring Brief 5-2011, p5

Appendix: Letter from the Minister for Immigration containing the Government Response to Student Visas Report

I would like to begin my response by thanking the Committee for its report and I hope that you have since found much to reassure you following the Home Secretary's statement to Parliament on 22 March. In particular, I welcome the Committee's endorsement of our decisions not to impose a numerical limit on student visas at this time, whilst imposing tough measures to tackle the problems of bogus colleges and deter bogus students.

As was made clear in the March statement, international students not only make a vital contribution to the UK economy but they also help make our education system one of the best in the world. However, it had become very apparent that that the old student visa regime was failing to control student immigration adequately, with real evidence of poor quality colleges and abuse of the student route.

The announcement on 22 March followed an extensive public consultation to which over 31,000 people responded. The final package of reforms focuses on eliminating abuse within the system whilst supporting a high-quality, high-value international student sector.

This is a radical set of reforms, bringing change to almost all aspects of the system, including accreditation requirements, standards of English required, working rights, dependent sponsorship and post-study work. We have published a detailed description of these proposals in a Statement of Intent.¹⁷

We want to ensure students come for a limited period and to study not to work. These measures form an important part of the Government's comprehensive action across all immigration routes to achieve our goals for better migration, properly controlled. This includes the new permanent limit on non-EU economic migrants which came into force on 6 April and planned consultations for later this year that will cover breaking the automatic link between work and settlement and the family route, ensuring that family migration is fair for both applicants and local communities.

I set out below some specific responses to the recommendations in your report.

Safeguarding the UK knowledge economy

The report highlights the importance of UK business schools in the UK education export industry and seeks *"assurances from the Government that any proposed changes are examined for their impact on the viability and success of UK business schools"* (paragraph 22). The vast majority of UK business schools operate in partnership with universities and will therefore be protected under the changes announced on the 22 March. I hope the Committee will be reassured to know that in our meeting following the announcement of

17 <http://ukba.homeoffice.gov.uk/sitecontent/documents/news/sop4.pdf>

the policy, representatives of the London Business School commented very positively on our reforms.

The report also expressed concerns about negative impacts on the UK's skills base of reforms to the student immigration system, and urges *"the Government to safeguard the UK knowledge economy"* (paragraph 24) when introducing any changes. This consideration was made very clear in the announcement and our reforms focus on protecting universities and the students they have told us are the most valuable to them.

International student market

In the report you also discuss the importance of the international student market to the UK economy. You also note that *"the past experiences of the USA and Australia in reforming their visa systems highlight the sensitivity of the international market in education to countries' student visa regimes, and it would be wise for the UK to bear this very much in mind"* (paragraph 32).

We are aware of the challenges we face.

However, international comparisons with key competitor markets have been examined throughout the reform process. I am confident that our offer remains competitive when set against key alternative markets, and in some ways our offer remains more generous, for example in regard to maintenance requirements for student dependents.

Language level and Secure English Language Tests (SELT)

I note that you recommend that *"the Government does not increase the minimum language level for Highly Trusted Sponsors at any course level"* (paragraph 40) but that if this were to be implemented the Government should work with pathway providers to ensure students are still able to follow these courses. You state that the Government must clarify the appropriate language test and the standard required.

I therefore hope you will welcome our decision to keep our requirement to a B1 level for lower courses, including pathway courses, and publish the definition of the IELTS score equivalents and the equivalents for each of the other approved test providers (both B1 and B2 levels). Moreover, we are allowing universities to use their own testing processes.

Academic progression and returning home

I am pleased that the report welcomes our plans to require academic progression and would like to reassure the Committee that genuine students will be able to study at the same NQF level where sponsors vouch for academic progression (e.g. for a second Masters degree) (paragraph 42). The report also concludes that a requirement for students to return home after their course would be too onerous (paragraph 48). Again, I hope the Committee will welcome our decision to replace this proposal with a limit on the time a student can stay in the UK, with exceptions for those studying certain professional qualifications and PhDs.

The Post Study Work route

I note that the report suggests maintaining the current Post Study Work route and that if the Government were to pursue its reform that careful consideration be given to the options the report outlines (paragraphs 58-9). A route which gives international graduates unlimited access to the labour market is hard to justify at a time when almost one in ten UK graduates is currently unemployed.

So, as you will be aware, the Post Study Work route will be closed from April 2012. We will accept no further applications, but I hope that the Committee will be reassured that this will not affect those who have already obtained a Post Study Work visa. At the same time, it is important that the UK can retain the best international graduates who make a valuable contribution to our economy. We will facilitate graduates from a UK university with a recognised degree, PGCE, or PGDE switching into Tier 2 (before their visa expires) by exempting them from both the Resident Labour Market Test and the Tier 2 limit. This means that all talented graduates with the skills to get a graduate job have the opportunity to stay on and work in the UK after graduation. We will also develop a route for graduate students to stay in the UK as entrepreneurs.

Term time work and work placements

I note that the report recommends that "*work is undertaken urgently to quantify and clarify the scale of abuse*" (paragraph 62) and would like to take this opportunity to remind the Committee that we have obtained our data from a wide range of internal sources within the Home Office (beyond the Labour Force Survey). Based on this evidence, suggesting high levels of noncompliance in the privately-funded further education sector, I hope the Committee will welcome our decision to allow students studying with publicly funded institutions to work, whilst prohibiting work for all other students.

With respect to the concerns outlined in the report about changes to the study to work ratio for certain professions, I am pleased to reassure the Committee that this will be protected through a provision to retain this at 50:50 for university students (paragraph 67).

Dependants

The report recommends the level of course be taken into account if prohibiting dependants (paragraph 69). As you will know, from summer 2011, only students who are either government sponsored or studying a post-graduate course (NQF 7) and above at a university will be able to sponsor dependants (who will have unrestricted access to the labour market). We have substantial evidence to suggest that the student route has been misused at the lower levels and have imposed the limit for this reason.

I disagree with the report's recommendation that Master's students on courses under 12 months be able to sponsor dependants and remind the Committee that dependants will still be able to apply for a six month visitor visa in their own right (paragraph 69).

High Risk/Low Risk

I note the concerns in the report about differential requirements on the basis of nationality (paragraph 75). However, the Committee should be aware that the substantive requirements for all applicants will remain the same. In the case of low risk nationalities where the sponsor is Highly Trusted, we shall, in general, waive the requirement to provide documents (other than the Confirmation of Acceptance for Studies and identity document) at the time of application.

We have developed a robust evidence base considering different elements of risk in order to support this proposal. The new policy is compliant with the Equality Act 2010 and will be set out clearly in the Immigration Rules.

I agree with the report's recommendation to review the current Highly Trusted Sponsor criteria to ensure this is robust and this will be completed by summer 2011.

Accreditation

I welcome the Committee's support for the introduction of stricter accreditation procedures (paragraph 77). As you will be aware, from April 2012, all Tier 4 sponsors will become subject to the inspection regimes applying to publicly-funded institutions and to independent schools (and need to become Highly Trusted Sponsors).

I believe that the transitional arrangements put in place until April 2012, whereby sponsors not meeting the new requirements will be subject to an interim limit on the number of students they can sponsor, are sufficient, without the need to re-approve a private accreditation body (paragraph 79). The UK Border Agency's arrangements with four of the five private accreditation bodies for Tier 4 have now lapsed; the other will lapse in May. These arrangements had not been renewed pending a review of the system, and will now be replaced by the new arrangements.

Further recommendations

I note the report's recommendation to allow greater discretion for Entry Clearance managers and refer the Committee to our new measures announced to facilitate the refusal of bogus students e.g. UK Border Agency officers being able to refuse students unable to answer basic questions without assistance (paragraph 80).

I feel that the re-introduction of much greater discretion could undermine the clear and objective criteria that underpins the Points Based System and return the system to one of inconsistent, subjective decision making.

In reference to your recommendation on options for tightening up the system on educational agents, our position remains clear: that we expect educational institutions to recruit their students carefully and if they use agents they should do so with care (paragraph 83).

I note that the report recommends the UK Border Agency commission research into the merits of a substantial deposit for international students (paragraph 84) .. I do not think that this is a necessary step at this stage, given the other action we are taking to secure the

route. I believe the current 28 day maintenance is sufficient for this purpose, but you will be aware that we will now require confirmation that these funds are genuinely available for the purpose of funding students' study and upkeep in the UK. Should we detect continued abuse of the maintenance requirements, we will consider alternative solutions including escrow accounts.

Impact Assessment

I agree with the report's recommendation that any changes in student immigration policy ought to be accompanied by a publicly-available impact assessment and this will be available in due course (paragraph 88).

The International Passenger Survey

I also agree with the report's conclusion that "*policy decisions ought to be based on the best possible information*" (paragraph 93). The International Passenger Survey (IPS) is the foundation for the Office for National Statistics (ONS) figures on net migration. These are the best measures we have available, have been based on a consistent definition since 1991, are produced in accordance with National Statistics codes of practice and are used widely across Government. I therefore do not agree with the Committee's recommendation that Government investigate, as a matter of priority, "*a more reliable system of data collection*" (paragraph 93). However, where reliable supplementary data sources are available, they, of course, will form an element of the range of evidence that we draw on when formulating policy, and in due course eBorders will provide increased border crossing data.

Exit Checks

I note that the report recommends "the Government deliver a timetable for the reintroduction of exit checks as soon as possible" (paragraph 94) and reassure the Committee that they are currently in the process of being put in place and will be fully operational in 2015.

Future Viability of Tier 4

In reference to the development of the consultation proposals I would like to remind the Committee that these were both developed with, and approved across, other Government Departments including the Department for Business, Innovation and Skills and the Foreign and Commonwealth Office (paragraph 98).

We will monitor the impact of our changes on the student visa system, and if necessary make further adjustments to eliminate abuse and ensure that Tier 4 provides a robust, secure route for legitimate students to come to the UK to study with genuine education providers.

Conclusions

I note that the Committee is "not persuaded that students are migrants". disagree with this assertion and remind the Committee that under longstanding international (UN) measures, students (and others) who come to the UK for more than a year are counted as

migrants. I agree with the report that not all students remain permanently but significant numbers do. Of those migrants granted settlement in 2009 -13% (over 23,000) originally came to the UK as a student.

Formal Minutes

Monday 18 July 2011

Members present:

Rt Hon Keith Vaz, in the Chair

Nicola Blackwood
Michael Ellis
Lorraine Fullbrook
Dr Julian Huppert

Steve McCabe
Rt Hon Alun Michael
Bridget Phillipson
Mark Reckless
Mr David Winnick

Draft Report (*Student Visas: Follow Up*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 14 read and agreed to.

Ordered, That the Government Response to the Committee's Seventh Report of Session 2010-11, *Student Visas*, be appended to the Report.

Resolved, That the Report be the Eleventh Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till Tuesday 19 July at 12 noon

List of Reports from the Committee during the current Parliament

The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2010–12

First Report	Immigration Cap	HC 361
Second Report	Policing: Police and Crime Commissioners	HC 511
Third Report	Firearms Control	HC 447
Fourth Report	The work of the UK Border Agency	HC 587
Fifth Report	Police use of Tasers	HC 646
Sixth Report	Police Finances	HC 695
Seventh Report	Student Visas	HC 773
Eighth Report	Forced marriage	HC 880
Ninth Report	The work of the UK Border Agency (November 2010-March 2011)	HC 929
Tenth Report	Implications for the Justice and Home Affairs area of accession of Turkey to the European Union	HC 789