

Scientific Council for Government Policy

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**Flying together in a larger and more diverse
European Union**

H. Wallace

W. Wallace

The Hague, June 1995

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FOREWORD

This study has been written as a contribution to the WRR report 'Security and Stability in Europe'. William and Helen Wallace provide us with a clear analysis of the many aspects of the process of European integration. They focus their attention on the contest between the forces of integration and the forces of fragmentation; a contest which has always been an integral part of the efforts to increase cooperation in the EC. In addition, their expansive analysis of the terminology of *differentiation* in the integration process introduces much needed clarity into a discussion generally characterized by confusion and complexity. The Council is most pleased with this contribution by two experts in this field.

M.C. Brands

CONTENTS

	PREFACE	7
1.	INTRODUCTION	9
2.	SOME PRELIMINARY CONSIDERATIONS	13
3.	THE CHALLENGE OF DIVERSITY	19
4.	A NEW VERSION OF OLD PROBLEMS	23
5.	THE NEED FOR NEW LANGUAGE	27
5.1	Flying geese	28
5.2	Orchestrating Europe	29
5.3	From metaphor to practice	30
6.	DIVIDING LINES	33
6.1	Core policies	33
6.2	Core countries	45
6.3	Core institutions	47
6.4	Objective differences	49
6.5	Differences of taste	50
6.6	Differences of claim	52
6.7	Functional consortia	53
7.	TERMINOLOGY	55
7.1	Two or multi-speed Europe	55
7.2	Two or multi-tier Europe	56
7.3	Variable geometry Europe	56
7.4	A la carte Europe	57
7.5	Differentiated Europe	57
7.6	Abgestufte Integration	59

7.7	Subsidiarity	60
7.8	Concentric circles	62
7.9	Magnetic fields	63
7.10	Hub and spoke Europe	64
7.11	Flexible Europe	65
7.12	Exclusion of the uncooperative	66
7.13	Reinvigorating the 'core'	67
8.	THE MYTH OF UNIFORMITY, REALITY OF DIVERSITY	69
9.	PRESSURES ON THE INHERITED COMMUNITY MODEL	73
10.	MAASTRICHT - A TURNING POINT?	75
10.1	Economic and Monetary Union	75
10.2	Common foreign and security policy	76
10.3	Justice and Home Affairs	77
10.4	Social Policy and the Protocol	77
11.	MATCHING POLICIES TO MEMBERS	81
11.1	Migration issues	81
11.2	Environmental policy	81
12.	THE DIVERSITY OF NATIONAL CIRCUMSTANCES ...	85
13.	THE PRESSURES OF EASTERN ENLARGEMENT	101
14.	THE SEARCH FOR REMEDIES	105

PREFACE

This study is written as a contribution to the debate on the future development of the European Union, as it faces the Intergovernmental Conference of 1996 and with the prospect of further enlargement beckoning¹. We are conscious that we have only scratched the surface of the many issues that bear down on the debate about reform. If we have managed to shed some light on these issues it is because we have had a great deal of help from many other people. Our particular thanks are due to Steven Everts, Anthony Forster, Eva Østergaard-Nielsen, Pauline Schnapper and Julie Smith, especially Julie who has relentlessly endeavoured to make us sort our arguments out. They are responsible for many valuable points - we are responsible for any confusions. We owe much to Maarten Brands and his colleagues at the WRR for asking us to write the study and for their forbearance during its gestation. We have endeavoured to keep in our minds the focus of the WRR study on *security and stability in Europe*, although we have from time to time been distracted by questions relating to Britain and Europe. Nonetheless it has been salutary for us to try to look at these difficult issues from outside our own country and its often painful debate on European integration. Lastly we acknowledge the tolerant support and computer skills of Harriet and Edward, who have been much disturbed by this report's production, but who have both become experts on the flying patterns of geese.

¹

This study has been completed April 1995.

1. INTRODUCTION

The European Union (EU) stands at a moment of more difficult choice than at any previous point in its history. A Community created originally for an intimate grouping of six close neighbours now faces the possibility of enlargement to twenty-odd members within the next decade. Over the past four decades it has already more than doubled in size to sweep into its orbit most of the countries in western Europe. In so doing it has acquired many of the former doubters about the integration model, as well as countries looking to consolidate their democratic reforms within a broader European family. While all the members look to secure economic advantages from membership, their needs vary from those of the heavily predominant German economy to the much less advanced countries, such as Greece or Portugal. The character of the existing membership ranges from the warm Mediterranean shores to the chilly reaches of the Arctic Circle. The differences are already pronounced in the existing EU of fifteen. These differences look small compared with those that would be added by an eastern enlargement up to the borders of Russia (or thereabouts).

But it is not simply a question of how to handle diversity within an enlarged EU. Europeans face strategic choices about where their core interests lie in a reconfigured geopolitical context and with sharpened economic pressures. On the one hand the European region as a whole needs to develop new multilateral patterns of collaboration and interchange, especially as the reform democracies try to work their way towards settled market economies and stable democratic systems. On the other hand Europeans find themselves forced into greater self-reliance, without American leadership to provide guidance or a Soviet adversary to inject the stimulus of solidarity. Thus the Europeans have to take much more responsibility for shaping their own environment than hitherto and to find ways of promoting their own preferences vis-a-vis their various neighbours, partners and competitors. There is a tension between *Europe the region* and *Europe the collective power*², which can perhaps not be reconciled easily within a single cooperative framework. The debate about 'variable geometry' and 'hard cores' ranges across these issues.

²

Giscard d'Estaing, 'Europe: les raisons de l'echec', *Le Figaro*, 10/11 January 1995.

The aim of this study is to examine the issue of how to manage an increasingly diverse EU in its new context, against the background of earlier debates on this topic and of current concerns about the viability of the EU post-Maastricht, about its future priorities, and about the implications of further enlargement for those priorities. Our purpose is to comment on the 'variable geometry' debate, though we have deliberately tried to find different language in which to develop the analysis³. The study attempts to disentangle the different preferences and preconceptions which run through the various proposals, old and new, which are often disguised by the metaphorical language in which they are presented. The study sets out some of the policy, institutional and political choices which the debate poses. Some of these issues will be confronted, or ought to be confronted in the Intergovernmental Conference (IGC) to be convened in 1996.

The study argues that the inherited Community model does need major adaptation, if it is to cope with the triple strain of an eastern enlargement, the questioning of integration among the old members and the new external context⁴. In any case the policy agenda needs updating to take account of new policy needs and new policy ideas. There are, however, two major dangers of moving away from the inherited model of integration: one is the risk of fragmentation and unravelling; the other is the risk of an unbridgeable gulf being created between a small group of allegedly 'core' countries and the rest, in particular between a group of richer and net payer countries and the rest. It would, we argue, be dangerous and destabilising to lurch from the old model of relatively tight-knit integration to an unconditionally flexible model of cooperation, since the disciplines and obligations of multilateralism that the Community has embedded are not to be thrown away lightly⁵. On the other hand, to cede the leading responsibility for managing Europe's strategic choices to

³ Helen Wallace, *Europe: the challenge of diversity*, RIIA, London, 1985.

⁴ William Wallace, *Regional Integration: the West European Experience*, Washington: Brookings, 1994.

⁵ John Gerard Ruggie, ed., *Multilateralism Matters: the theory and practice of an institutional form*, New York: Columbia University Press, 1993.

a restricted inner group, with the others left to follow in the slipstream, or not, would be to risk serious intra-European tensions and rivalries.

The challenge is thus to find an intermediate framework that can preserve and sustain the strong achievements of the Community model, while varying detailed policies to take account of the diverse characteristics of an enlarged group of European countries. Here, we all have to admit it is hard to identify frameworks that will address *both* the differences among the existing EU15 *and* the quite different needs of the reform democracies. We believe it to be an illusion to think that the same kinds of elasticity will necessarily meet both kinds of diversity. In particular there are costly risks attached to the prospect of a core group of 'more integrationist' *and* richer European countries pulling away both from the less integrationist and from the less wealthy. While we recognise that to condemn integration to proceed at the pace of the slower or of the less enthusiastic (we stress that these two categories are not at all coterminous) is both undesirable and unrealistic, we insist also that bridges need to be maintained between the different groups of members, so as to develop and sustain some core 'common interests' and to provide 'solidarity' mechanisms that conserve a form of constructive cohesion.

Our preferred metaphor is 'flying geese' to symbolise a group travelling regularly and systematically in the same direction, but varying the roles of leadership and carrying different stresses and strains, depending on their position in the formation. The flying geese clearly share common interests and common goals; they have to adapt to their environment and the turbulence of the winds that buffet them; they have to take account of physical or objective realities, as well as to signal preferences to each other and to follow the same disciplines; and they have to help each other to reach their shared destination. The metaphor is constructive in focusing attention on collective action rather than dispersed segments - too much of the current debate is about segmentation and fragmentation. Of course to transpose the metaphor into institutional rules and policies is another matter. The sceptic might argue, with some justification, that part of the problem within the EU is that it is composed of different kinds of birds - some eagles, some sparrows, even some

chickens that cannot actually fly. Nonetheless we hold to the metaphor as symbolic of the case for keeping in the discussion a model of integration that implies an effort to keep the whole flock together. Here we make only some suggestions, accompanied by some prudential observations, recognising that there are no simple or simplistic solutions to the current issues of reform.

2. SOME PRELIMINARY CONSIDERATIONS

Our broad observations as regards the issues of diversity and generating leadership within an enlarging EU, are as follows:

- We must distinguish what might happen from what we would prefer to happen, and thus take seriously the possibility of a 'core group' trying to forge ahead with a restricted form of deeper integration. We think this should be resisted because it would generate systemic costs. The aim should be to keep a larger rather than smaller number of countries engaged, while still achieving a sense of collective direction.
- An incentive structure has to be redefined that induces the potential core group to follow an *inclusive* rather than an exclusive path. This would require that the others pre-commit themselves to accept some of those obligations that characterise deeper integration, even if as medium term, not immediate, objectives. We note the relevance of the budget here and the difficulty of maintaining financial solidarity, as net payers resist the costs.
- The leaders of countries which are not prepared, as a matter of political choice, to pre-commit might nonetheless find themselves excluded from some areas of deep integration and suffer some consequential penalties, eg reduced access to some financial schemes or less 'voice' on the relevant decisions.
- The leaders of countries which could demonstrate more *objective* reasons for non-participation in particular policy regimes might be eligible for support schemes that would facilitate their later participation and would normally retain their 'voice' in policy discussion.
- We interpret 'deep' integration to include as possible 'core policies': economic and monetary union, common defence and the strengthening of collective political institutions. The first two imply the third, but are not necessary corollaries of each other; that is, it is possible to envisage deeper economic integration without common defence and vice versa. Thus the groups of potential core countries may differ in the two cases, i.e. the UK

may not be in the EMU group, but might be in the defence group, and similarly Austria and Denmark could be in the economic core but not the defence core.

- We take the achievement of market integration more or less as read, as the *sine qua non* of the integration model in policy terms, buttressed by the rule-sustaining mechanisms developed by the EC. But its sustainability is linked to some recognition of cohesion, to judicious catering for varied circumstances and to the preservation of tough compliance and judicial mechanisms. What other flanking policies are implied remains a debated question, with views varying between political persuasions and between countries.
- Differentiation based on objective factors is much easier to accommodate than differentiation based on differences of taste or contingent political preference. The EU must retain the capability to vary policy application to take account of objective distinctions and will need to refine the relevant procedures much more to respond to eastern enlargement.
- Differences of taste are also an important challenge, given the persistent variations in social and political culture across the EU and their reflection in different market preferences, as well as in varied policy choices and priorities. We argue that some of these may be similarly indulged as long as they do not undermine collective rules or produce negative externalities for other member states or the system as a whole, though we fully recognise that what is acceptable as a justification for a difference of taste is highly judgemental. Here the importance of credibility for the EU with public opinion in the member states is a pertinent criterion, given the questioning of the EU's legitimacy.
- Differences of contingent political preference are much harder to accommodate, since they may represent the views of individual governments rather than 'national interests'. The authority of the EU is bound to be contested and contestable if it and its laws appear to endorse domestic partisanship and to polarise support and opposition, an obvious

difficulty with at least two agreements at Maastricht - the social protocol and the declaration concerning abortion and the Irish constitution ⁶.

- The tolerances for differentiation need to be framed by both collective rules and sensitive policy judgements. They thus require a Court of Justice able to exercise impartial authority, a Commission that is well informed about differences on the ground, and a Council that is able to accommodate, not estrange, minority views.
- Cohesion has been an important instrument of inclusion and a bridge between richer and poorer member states. Its erosion would probably have polarising and disintegrating consequences. The issue is less about absolute sums of money and more about mechanisms of solidarity in a heterogeneous group.
- An important source of divergence arises when the member state most affected or exposed on a particular policy issue is in a clear minority: whether it be the main producer of the relevant product (the case already on some enacted single market legislation) or the border state (Greece as regards Albania, Italy as regards Slovenia). Again the operating principle should be to accommodate, not to isolate, member states with a particularly important stake in any given policy regime. 'Consensus minus one' may be a useful idea for reaching agreement in areas where majority rules cannot easily be accepted as the general decision rule, but if the 'minus one' means the member state most affected then the result is likely to be unstable or inappropriate policy.
- The risk of efforts to ensure that diversity is not tantamount to fragmentation is that flexibility could erode common interests and undermine collective action. Leadership patterns have also to be reinforced or reestablished. We hold to the view that this requires inputs from the

⁶ *Treaty on European Union, 1992: Protocol on Social Policy; Protocol annexed to the Treaty on European Union and to the Treaties establishing the European Communities. We understand that most national negotiators at Maastricht failed to grasp the meaning or purpose of this obscurely-titled protocol, which declares merely that 'nothing' in these treaties 'shall affect the application in Ireland of Article 40.3.3 of the Constitution of Ireland.'* This risked however a direct conflict with Article 48 EC on free movement of labour.

Commission as well as decisions from the Council and European Council and that leadership is not the sole prerogative of large member states.

- Both the Commission and the Council are unwieldy bodies, the Commission vulnerable to capture by special interests or policy fashions, the Council vulnerable to manipulative coalitions⁷. Segmentation of bargaining, an over-pronounced feature of the EU policy process, and fragmentation induced by diversity are a dangerous mixture. One of the most important requirements for the EU is a strengthening of mechanisms to aggregate interests and priorities.
- The notion (widely believed in some countries) that the main fault line is between large and small member states does not accord with observed experience in the EU. Dilution is sometimes feared as a consequence of the membership of too many little countries, often with imputed 'eccentric' interests. But large member states are also, perhaps more often, sources of blockage and pleas for special treatment. Contrary to much of the emerging conventional wisdom⁸ we doubt that altering the voting weights, rules and thresholds in the Council will contribute much to the solution of current tensions in the EU political debate. We recognise, however, the pressure of the argument for modifying voting rules, most plausibly by adding a population criterion. This might anticipate German preoccupations since unification and would also draw a distinction between the larger, 'semi-small', small and 'micro' countries (these terms are drawn from the parlance of practitioners, some tongue in cheek).
- Much of the current debate is phrased in the language of competition, between member states, between the supranational and the national arenas, between EU institutions. One corrective to current tensions would be to

⁷ Fiona Hayes-Renshaw and Helen Wallace, *The Council of Ministers of the European Union*, London: Macmillan, forthcoming.

⁸ Council Decision of 29 March 1994 concerning the taking of Decision by qualified majority by the Council, *OJ* C105/1, 13 April 1994 (the Ioannina Compromise); Charlemagne (pseudonym), 'L'Equilibre entre les Etats Membres', forthcoming in the *Festschrift* for Niels Ersboll, edited by Peter Ludlow and to be published by the Centre for European Policy Studies, Brussels.

look for means of developing more formulae of partnership. Maybe the time has come to experiment with mixed groups of member states' representatives and Commissioners to devise collective proposals that could then be argued through in both institutions, with the groups composed to include the key opinions on any given issue. Similarly external representation or handling of new external issues might be addressed by task forces jointly composed from the Council and the Commission.

- Only in an atmosphere that is both tolerant of legitimate distinctions and able to generate and sustain momentum will eastern enlargement (a) be acceptable and (b) be made to work. Moreover it will be difficult to address the challenges of diversity sensibly unless eastern enlargement, at least in principle, is configured into the redesign.
- The key components of the integration model for the central and east Europeans are market integration, geo-political stabilisation and effective multilateralism. Careful thought has to be given to how much of the *acquis communautaire* is essential for these purposes and where variation of rules or very long transitions might make sense. Similarly in devising new arrangements for the security dimension of the EU it is important to consider whether reservations about the inclusion of central and east European members rest on judgements about their likely impact on policy or rather on existing member states' reluctance to undertake new security commitments to them.

In terms of institutional adaptation and the next IGC these precepts imply that:

- the role of the European Court of Justice in guaranteeing fair play should not be weakened, since it provides a means for judging cases for objective differentiation and for testing the arguments on whether differences of taste are harmful to others;
- the Commission, as a college, remain representative of *all* the member states and have sufficient authority to speak up for the neglected as well as to devise suggestions for collective action;

- the Council be nudged to negotiate in ways that identify common interests as well as national concerns in building consensus, as well as sensitively rallying qualified majorities;
- ways need to be developed to foster partnership between the Council and the Commission, rather than competition; and
- the fora for representing political territory and party affiliation (European and national parliaments and Committee of the Regions) be recognised as channels for requests for differentiation on grounds of taste or claim.

3. THE CHALLENGE OF DIVERSITY

The question which lies squarely on the table is whether a single framework of rules, policies and institutions can or should be made to apply evenly to a range of such varied members. This is not a new problem - the European Community (EC) has always had to stretch to accommodate diversity, as the *cognoscenti* of the treaties and European legislation know very well⁹. But the problem has become much more sharply defined than hitherto and the subject of fiercely polarised debate. Why so?

- First, the unfinished business of the Maastricht negotiations over 'Union' (both economic and monetary union and political union) has provoked deep controversy within and between countries over the extent of commitments to common policies and to a more ambitious political framework.
- Second, the EMU project points up in unavoidable terms the divergences of economic performance that might enable only some EU member states to take part at first, or perhaps ever.
- Thirdly, the accession of the large majority of the former EFTA countries (i.e. including Denmark and the UK as well as recent joiners - Portugal is the odd country out so far from EFTA) to the EU has brought the 40-year-old divide between the integration-minded and the cooperation-minded inside the EU, rather than acting as a dividing line distinguishing insiders from outsiders.
- Fourthly, the new challenge of developing a European security framework and defence capability for after the cold war and without US leadership begs the question of which European countries are likely to be able to generate the means to secure Europe and its external interests.
- Fifthly, the push towards membership from the reform democracies of central and eastern Europe puts on test the adaptability of the inherited Community model of political and economic integration.

⁹ Claus-Dieter Ehlerman, 'How flexible is Community law? An unusual approach to the concept of "two speeds"', *Michigan Law Review* 82, 1984, pp. 1274-1293.

All of these factors must lead us to ask whether it makes sense, or would be desirable, to expect all (however many 'all' might actually mean) European countries to be equally involved in and equally committed to common policies in all relevant areas of 'shared concern' and potential 'common interests' within the EU. Even supposing that all wished so to proceed, it is not self-evident that a large and diverse group would be capable of moving from good intention to sustained action, unless there is some form of tight leadership at the centre. The only working example of managed diversity on this scale is the federation of the United States. But, as we know very well, that model has imperfections and in any case is not negotiable, and might well not be desirable, as a model for Europe.

So the issue is whether the model of European integration can be recast and keep on board both current and possible future members on a basis of parity, or whether some new model should be adopted which would one way or another divide the European countries into formally distinct groups. The next IGC provides an opportunity for thinking in these terms. It might be an opportunity for positive thinking, i.e. to develop forms of cooperation and integration that would improve on the *status quo*; it could, however, provide the catalyst for an unravelling of the integration model, leaving the succession to inchoate and fragmented circles of unpredictable cooperation.

The risks of the latter are not to be dismissed lightly for several reasons.

- The existing *acquis communautaire* cannot be taken for granted as a permanent bedrock for integration, partly because some policies well embedded in the *acquis* are in desperate need of radical reform - agriculture is the obvious case in point -, and partly because sustained solidarities are almost certainly a prerequisite of disciplined behaviour. Thus the single market and four freedoms (or at least three, since labour movement remains only partly achieved) may not be guaranteed against erosion and cheating in the absence of political solidarity.
- The cross-class consensus which helped so much to define the policy terms of the original treaties (i.e. christian and social democrats committed to the

'social market'), at least for the founder members is no longer present either within the existing membership or the potential future membership. Thus elites in the member states are more divided than before over the goals of integration and so are their electorates. The 'modernisation' objectives which helped so much to shape the collective policy agenda are now diffuse and contested, increasing the range of views and preferences on integration issues.

- The unification of Germany, however much a welcome result of the relaxed tensions in Europe since 1989, is also a source of severe disequilibrium. It unsettles the purported balance among the so-called larger member states; it changes the geo-politics of Europe; and it snaps at the heels of the notion that integration is about pinning down Germany in a settled and sustainable multilateral framework.

4. A NEW VERSION OF OLD PROBLEMS

The current debate is in part a reprise of earlier debates in the history of European integration - indeed there is a cyclical character to the discussion. In the early sixties there was a competition between the Monnet model and the Fouchet model, with Gaullism weighing heavily in the debate. The seven-member WEU was used intermittently as a forum for privileged consultation between the 'Six' and Britain; there was talk of an 'association' status for Britain and a fleeting discussion of a separate 'technological' community which would have included Britain. In the early seventies the first discussion of a 'two-speed Community' was prompted by the simultaneous discussion of EMU and the effort of digesting enlargement. In the early eighties a combination of enlargement, EMS and differing responses to economic restructuring produced a proliferation of suggestions about 'differentiated' integration.

Many of the elements have thus been present in one form or another in the previous history of (west) European integration. In the past the question was resolved by, on the one hand, deferring the question: in the sense of leaving open the competition between advocates of tighter integration and protagonists of looser integration and, on the other hand, facilitating modest differentiation to take account of immediate stresses and strains.

The context of the current debate has been shaped by a great many different developments, inside and outside the EU. The end of the cold war has transformed the EU's external environment, reshaped its relations with the United States, with the European neutrals, central and eastern Europe and with Russia, and thus redefined the issues at stake in foreign and security policy and defence. The unification of Germany has altered the EU's internal balance. Conflict in former Yugoslavia has exposed the inadequacies of west European responses to crises without clear US leadership, not only in terms of mechanisms for coordinating action, but, more importantly, in terms of establishing policy preferences.

Negotiation of the Maastricht Treaty on European Union (TEU), which began a few months after the unification of Germany and ended as the Soviet Union disintegrated, clarified some underlying divergences among member states - and postponed clarification of others until a further IGC in 1996. Popular reactions to the Maastricht Treaty, from Denmark to France, for the first time exposed the limitations which public acceptability places on integration through intergovernmental bargaining and package deals (the close result in the Danish referendum on the SEA had hardly been noticed elsewhere in the EC and the negative Norwegian vote in 1972 had been interpreted as a problem only for Norway). The collapse of the exchange-rate mechanism of the European Monetary System (EMS) in September 1992, giving way to the strains imposed by financial transfers within unified Germany and to speculative international traders, underlined the difficulties of moving towards monetary union and the likelihood that only a small group of member states would be able to move in that direction within the medium term. The end of the cold war brought a lengthening queue of applicant states, from north, east and south-east; threatening to upset both the *acquis communautaire* and the political and institutional balance of the EU.

Together these constitute radical challenges to the European Union. Both institutional and policy adaptation are unavoidable. The EU is an inherently conservative entity, however, which moves from one package-deal compromise to the next with a good deal of inertia, with determined efforts to defend entrenched advantages, and a built-in reluctance to address strategic issues. *All* member governments are constrained by the distinctive taboos of their domestic politics. Governments which recognize the necessities of closer cooperation have hesitated to admit to their parliaments and electorates the extent of the cooperation in which they are already engaged, let alone to explain the implications of closer integration. The loose terminologies of *core Europe*, *multi-speed integration*, or *Europe à la carte* serve as often to disguise hard choices from domestic audiences as to clarify alternatives to be negotiated among governments. The observer needs carefully to disentangle illusions from real problems in this debate.

What is new is that there should be such a concentration of factors that throw into question the workings of the inherited Community model as such and lead to a sharper focus to the competition between integration and cooperation, or even *à la limite* disintegration. In this debate the issue of which countries can (or should) be engaged in which arenas of cooperation (or integration) has swum to the surface. The consequence of an unsatisfactory or incomplete effort at reform in the Maastricht negotiations and the Treaty of European Union, with the prospect of another round of reform at the next Intergovernmental Conference and eastern enlargement beckoning, is that some issues about the workings of the institutions have to be confronted. In the period of 'pre-negotiation' that is already under way variable geometry is a declared item on the agenda, although it means many different things to different participants and interested parties.

What is less clear is whether institutional issues will be addressed in tandem with key policy issues or as free-standing items. In the past treaty reforms have taken firmer roots (with both elites and electorates) when institutional changes have been clearly defined as tools to achieve agreed policy ends. Institutional questions when left to rest on their own merits can very easily lead to quarrels about power and position. The issues of variable geometry are more likely to be capable of resolution and of stabilising the debate about European Union if they are tied to policy tasks that require joint attention and that touch common interests, with the possibility that different policy clusters might logically imply different institutional configurations.

5. THE NEED FOR NEW LANGUAGE

These various factors of change are destabilising in terms of both day-to-day policy adjustment and overall mindsets. It is thus hardly surprising that there should be such a plethora of confusing language about possible means of moving forward - concentric circles, variable geometry, core Europe, flexibility, multi-speed, etc. Discussions on the management of diversity within the EC - now the European Union (EU) - have depended heavily on analogies from other fields to encapsulate the complexities they describe. The image of variable geometry was taken from aeronautics. Two-speed or multiple-speed Europe conjures up images of conveyor belts or bicycles. A la carte and multi-tier take us into gastronomy, restaurants and wedding cakes. *Abgestufte Integration* - graduated integration - takes its metaphor from hill farming, from steps and terraces. References to a 'variegated' Europe take us into botany. Concepts of 'core' Europe suggest apples (whether ripe or rotten), or alternatively nuclear power stations. All such analogies are imprecise attempts to simplify the cross-cutting political, economic and institutional issues at stake in reshaping the balance within the EU.

Details of these various terms and the metaphors that they are intended to convey are set out later in this study. We have decided deliberately not to start with the established vocabulary of the debate so far, but rather to look for alternative language. We looked for new words precisely in order to stand outside the emerging camps in the debate and instead to focus on the political and economic fault-lines that seem to us most relevant as potential criteria for judging the possible, the desirable *and the undesirable*. We also wish to insist that no moves to overturn the current integration model are cost-free.

In searching for new terms we found appropriate metaphors in music and in nature. We have sought terms with positive connotations rather than negative, with an inclusive bias rather than exclusive intent, and, mindful of how little we can predict (the one unambiguous lesson of 1989), with a functional elasticity of application. In this sense our purpose is much the same as that of the coiners of 'variable

geometry' as a term in the late 1970s, keen to apply what were then advanced technological methods to vary the flight configurations of aircraft from which high standards of performance were demanded.

5.1 Flying geese ¹⁰

An alternative metaphor is to be found in the migratory behaviour of flocks of flying geese. They fly in formation, mostly in V shape when they know in which direction they are travelling, sometimes in 'huddles', when their destination is unclear. The formation is functional in terms of aerodynamics, configured to provide lift and to maintain speed as efficiently as possible over long distances, as well as to defray the impact of turbulence as far as possible. Geese have large bodies relative to their wingspan - they have to carry a lot of weight (the states hang heavy), their rather short wings (their elites) being required to beat hard and fast to maintain momentum. Yet somehow this feat is repeatedly and successfully achieved year after year. Within the broad formation - 'skein' - geese apparently fly in family groups, eating together when the skein takes breaks on the journey, each skein composed of several families. The stronger or 'dominant birds' take responsibility for 'signalling' to the others and lead the take-offs as the birds enter flight.

The key point for us is what enables this feat to be achieved so predictably. Here we come to a popular misconception. There is no single leader of the flock. Instead the geese take turns to fly in different positions in the formation. Those who have to work hardest are those right at the front and those at the back, the latter suffering the impact of turbulence and benefiting from less pull than those nearest the front. The best positions to occupy are thus near the front, but not at the front. Astutely the geese rotate positions to vary the responsibilities for the group as a whole and to protect the tired members of the flock. If a tired goose falls out of the formation, others fall out to help fly the laggard back into the flock. It is a neatly

¹⁰ We gratefully acknowledge the expert advice of Carl Mitchell, of the Wildfowl and Wetlands Trust, Slimbridge, Gloucestershire, England.

balanced and symmetrical arrangement, the product of some mix (here the experts differ) of aerodynamic and behavioral factors.

The appeal of the 'flying geese' metaphor is that it allows for variable numbers of members of the flock and repeated variation in leadership, as well as for sub-sets of members with a closer group identity, which nevertheless remain dependent on the collective process and rules governing their behaviour. Different member states or the Commission may take a turn at the front. The tired laggards also vary and can hope for a more comfortable flight on some parts of the journey. The members of the flock have a sense of direction and common interests in maintaining momentum by sharing responsibilities.

5.2 Orchestrating Europe

The EC began as a sextet, intimate enough for all players to stay in time without a regular conductor and mostly in harmony - though with occasional sharp discords and never in full unison. In the 1970s and 1980s it grew to a more diverse chamber group, in which not all players performed with the same skill or enthusiasm. In the 1990s it has moved towards the size of a small orchestra. It is already clear that not all members can, or wish to learn how to, play the entire repertoire, and so some leave or rejoin the platform as the concert moves from one item to the next. Some players stay on the platform throughout - the Commission, the Court of Justice and the European Parliament, though with long rest periods when some more intergovernmental topics are played out. Some of the original members have begun to doubt that it is possible to perform effectively with such a large group in the absence of a strong conductor. They suggest that it would be more sensible to return to an intimate and mutually-confident ensemble, allowing the others to take the beat from them and to join in when invited. Others appear to suggest that the European orchestra can manage without a conductor or disciplined rehearsal, content to provide amateur performances with those players who are willing to take part in each item, a kind of 'Europe from scratch'. Whether this will be enough to satisfy audiences, either within Europe or outside, is left in doubt. We can easily

speculate about the instrumental personalities of different countries and of the EU institutions, as well as about their necessity in order to achieve a satisfying performance of different scores - Britain and other late joiners playing second strings, with France, Germany and Benelux as the first strings, the Eftans as woodwind and the central and east Europeans providing the brass and percussion sections, some more frequent and welcome participants than others, depending on the item in the repertoire.....

The analogy is nicely fluid in that there is a continuing core - the strings, or at least the first strings - but a good performance of a demanding and modern repertoire demands a wider range of instruments. Each section adds something and what matters is their ability to play together. Good performances need many rehearsals and careful attention to both technical proficiency (the substantive needs of integration) and artistic expression (the symbolic elements of integration and ideas for policy). Also orchestras work on the basis of harmonies not unison, sometimes even with deliberate discords built into the scores of modern compositions.

The difficulty or the challenge with the analogy is that the orchestra depends on both first rate composers and talented conductors. In the analogy we might see the Commission as the composer - after all a good score does not necessarily depend on a single author. The question is how far the Council or the European Council can play the role of the conductor - or to be cynical whether it can replace the implicit role of the US as a conductor not quite present on the stage, but advising as conductor of a larger orchestra called 'the West'. In any event orchestras do not play for themselves but for their audiences and they are not invited back if the audience is displeased.

5.3 From metaphor to practice

Both metaphors have utility in providing an image of constructive collaboration, in which membership and the allocation of roles can vary, while facilitating integrated behaviour and collective achievement. Neither metaphor should be overstated; they

are only metaphors. Nonetheless they serve to show the importance of forms of collective behaviour in which different participants play different roles, of varying significance, yet roles which are mutually dependent: that is, necessarily multilateral and focused on shared tasks and common goals. Both metaphors illustrate ways of organising what can be rather large and expandable groups systematically, repeatedly and predictably, but also adjusting to different requirements and contexts. The issue for this study is whether or not such metaphors belong to the realm of the unreal, leaving us to focus on alternative metaphors that imply segmentation into different and potentially discrete groups, and which are in many cases static rather than dynamic.

6. DIVIDING LINES

The implication of much of the current debate is that forms of segmentation are more or less inevitable and perhaps already beginning to be consolidated. The lines of segmentation are related to:

1. core policies,
2. core countries,
3. core institutions,
4. objective differences,
5. differences of taste,
6. differences of claim, and
7. functional consortia.

6.1 Core policies

Several policy arenas are being put forward as defining groups of core policy commitments that have to be adopted in order to sustain a particular level and intensity of integration. These are summarised here - the order of presentation is not necessarily intended as a hierarchy of salience. Indeed there are competing claims as to what is the most salient. In particular we should note a broad divide between those who take EMU as the core of cores and those who take the security arena as the inner core, especially since 1989. It is important to note that this is a difference of strategic analysis, not of mild preference. If EMU is the inner core of achievable policy commitments, one particular group of countries is likely to adhere to the core. If the security arena is the core, then a rather different group of countries might logically adhere to it. The excluded (or passenger) countries are different in the two cases. Alongside this is the question of whether one core must take precedence or whether money and defence might provide complementary cores without necessarily identical membership. Thus Britain might be in the defence core but not the money core, while Sweden or Austria (and possibly Denmark) might be in the monetary core, but not the defence core. Germany is the fulcrum around which any monetary union must revolve; but it is not self-evident

that Germany must also be the fulcrum round which closer moves towards integration in foreign policy and defence must revolve, in the face of potential insecurity to Europe's south and south-east as well as east.

A. *Single market and 3/4 or 4/4 freedoms of movement*

By convention the single market and the four freedoms, complemented by the rules of competition and the common commercial policy, comprise the founding core of the EC model and its key policy goals. These are the elements that cannot be stripped away, being deeply embedded in the treaties and subsequent legislation, as well as in the legislation of the member states and the operating practices of economic agents. It is generally argued that this cluster of commitments must be accepted by all member states on the same basis and that other countries should not be admitted until and unless they are able to undertake the full range of commitments. In particular this argument has been made vis-a-vis less developed European associates, previously Greece and still Turkey, now also the reform democracies. Hence the 'pre-accession' strategy agreed at Essen in December 1994 called for a White Paper on how the Europe Associates of central and eastern Europe would align themselves to these rules *before* accession ¹¹.

Reality is a little more complex than the theory. Of the four freedoms one, labour movement, is much less extensive than the other three, even without the British social opt-out agreed at Maastricht ¹². The rules of the single market are partly offset by allowances made for local differences of habit or public policy ¹³. Acceding member states have been allowed some transitional provisions to allow time for adaptation. Thus there is significant legislative differentiation. Nonetheless the notion that full acceptance of the single market is a *sine qua non* of full EU membership is strongly held, tempered by some tolerance for local variation of the relevant rules, as long as it does not damage the other members of the group.

¹¹ Conclusions of the Essen European Council, 9-10 December 1994.

¹² Stephan Leibfried, 'The social dimension of European Union: en route to positively joint sovereignty', *Journal of European Social Policy*, 4:1994, pp. 239-262.

¹³ The most famous example is the exception granted for Denmark to ban the sale of beer in cans rather than bottles, under Article 100 A 4 of the Single European Act.

Claims for differentiation within this cluster of policies are, however, perhaps gaining in intensity, especially to take account of differences 'of taste' (see below). The recourse to subsidiarity is in some ways another version of the claim for differentiation, with its combination of legitimised devolution and more permissive application of notionally common rules.

In the case of the reform democracies the issue is whether this basic *acquis* is so essential that it must be broadly accepted and enforceable in advance of their accession to the EU, albeit varied to meet the diverse circumstances of this new group of potential EU members. The threshold of policy attainment is for these countries high; hence it presents an immediate preoccupation for both the EU and the Europe Associates. If forms of differentiation were accepted in advance for the Europe Associates comparable to those already accepted for existing EU members, the problem of their alignment would be alleviated but not removed. One pragmatic solution would be to adopt long, perhaps very long, transition periods for adopting this *acquis*, some of that transition preceding, but *some also following*, accession¹⁴. Another option would be to reassess the *acquis* and to distinguish between the essential and the desirable elements of the *acquis*, for example between those parts of the *acquis* that relate to products and those that relate to process or the circumstances in which products are produced. For the existing member states this is a kind of heresy and perhaps particularly for the recent joiners who have just been through the painful process of accepting the *acquis* as a whole. Yet for the reform democracies a distinction of this kind may be crucial, enabling greater certainty about their adaptation to international markets, even though the uncertainty continues over their accession to the EU.

B. *Cohesion and compensation for the less advanced or losers*

From the outset the treaties contained provisions for policy and budgetary compensation to those who were less advanced or potential losers from agreed

¹⁴ This way forward, similar to what was offered to the Mediterranean applicants 15 years ago, is currently under discussion in the preparation of the Commission White Paper on pre-accession, to be discussed at the Cannes European Council in June 1995.

common policies, initially especially the customs union. This acceptance of some redistribution has rested on three arguments: first, an equity rationale of 'fair play'; second, a pragmatic rationale of negotiated side-payments; and, third, measures to facilitate convergence with the more advanced member states. Mechanisms for cohesion and compensation have grown more extensive and expensive over the years and are now rather well established as measures to deal with economic and social diversity¹⁵. Indeed many would argue that such measures are necessary to sustain mutual solidarities and thus in the interests of the payers as well as of the recipients. Transfers to facilitate convergence were a key point in the MacDougall Report¹⁶, and were lightly attached to the EMS. They were downplayed in the discussions of EMU in the late eighties¹⁷.

Cohesion measures are becoming increasingly contested within the EU15, and are likely to be more strongly challenged in the process of southern and eastern enlargement¹⁸. Contestation derives from worries about the costs of cohesion and from the reluctance of the 'net payers' to acknowledge the principle of cohesion. The larger number and potential voting weight of claimants accentuates the increasingly polarised argument, curiously combining with the increased number of payers - a group which the Dutch have now somewhat uncomfortably joined¹⁹. The prospect of even more demanding eastern members is sharpening the debate, leading some to argue that eastern enlargement is thinkable only if financial transfers are reduced both for current and for potential beneficiaries. Jacek Saryusz Wolcki, one of the Polish ministers involved in this debate, has called the prospect

¹⁵ See the Delors 1 and 2 packages on financing and the cohesion provisions of the Treaty on European Union.

¹⁶ *The Role of Public Finance in the European Communities* (The MacDougall Report), Commission of the EC, 1977.

¹⁷ Tomaso Padoa-Schioppa *et al*, *Efficiency, Stability and Equity*, Oxford: Oxford University Press, 1987.

¹⁸ There has been a number of outside estimates of the cohesion (and agricultural) costs of eastern enlargement; see, for example, Richard Baldwin, *Towards an Integrated Europe*, CEPR, London, 1994.

¹⁹ On this the prudence of German and British language should be noted.

of accession to the EU based on market integration but no cohesion 'platonic membership'!. Even as much as this might be more than those who would have to carry the consequences could contemplate by way of generosity.

So the issue on the table is whether redistribution is a sustainable core goal for the EU. We should note that there are now more and louder voices calling for retrenchment and for leaving the less advanced to sort things out for themselves. The willingness of German taxpayers to undertake this burden has palpably diminished since unification, given the large domestic costs involved²⁰. Some countries also attract less sympathy than others as claimants; Greece and Italy have become clearly less favoured, a change which now impacts mainly on the discussion about Italy as an early member of EMU.

We then have to ask whether this question of redistribution is simply to do with money and economic efficiency, or also to do with political cohesion. Irrespective of whether the rationale for redistribution is the more idealist equity principle, the more realist side-payment, or an instrument of convergence, the elements of redistribution within the EU have a systemic and system-maintaining function. The erosion of political cohesion and its budgetary expression cannot be expected to be neutral in its impact on the system as a whole, since it diminishes altruism and increases egotism on the part of the more advanced countries and also reduces the incentives for the 'laggards' to adapt.

C. *Economic and Monetary union*

EMU has come to be argued as a core goal that is now the necessary corollary to the single market for both economic and political reasons. The economic arguments predominate in the formal documents and the political in the surrounding discourse about integration. The economic rationale for EMU as a core goal for the EU (even as *the* core goal) has to do with the classical argument about stages of economic integration - from single market to single currency. The EMU debate had

²⁰ Several opinion polls have established this, *Financial Times*, February, 1995.

accepted from the outset that a group of countries with economies which had divergent levels of performance or structural differences would have to develop EMU either with only some countries as full participants or by agreeing accompanying measures to aid convergence in the less advanced countries. EMU as currently formulated in the Maastricht texts embraces the former view, namely that those who proceed to the third stage can be only those which, in effect by their own efforts, attain the convergence criteria. On the reading of both the texts and the debate, it is clear that a monetary union will proceed among a group smaller than the whole EU, if it is to go ahead at all.

The political rationale for EMU has two related elements. First, in the economic sphere it is deemed to be the toughest test of political engagement to integration and to be very difficult to reverse. In this sense it would sort out the integration-minded sheep from the more sceptical goats. Second, EMU is also about the re-embedding of Germany within an integrated European framework, because of the economic weight of Germany and the enhanced political status of the united Germany. Thus to proceed to EMU would make a simultaneous alignment of the politically committed and economically strong; hence its attraction for those who are keen to be in the leading pack of EU members on both political and economic criteria.

For this gain to be made a formally constituted EMU is required, not just a *de facto* Deutchmark zone. But for the German political class or electorate to accept the consequential burden may require a cutting free from the incorrigibly poor performers and potentially expensive travelling companions among the less convergent countries. Belgium and Italy are the test cases here in so far as these two countries have hitherto always been in the inner group of integrationist countries. Much of the discussion in Germany about hard cores is aimed precisely at cutting adrift from Italy as the necessary condition for gaining German electoral support for EMU, the implication being that the Belgian case could probably be fudged.

We should not, however, neglect the relevance of other current EU members which might not meet the convergence criteria, since their participation in the EU has so far been on a basis of parity. To cast these countries to the periphery as regards EMU and to erode mechanisms of redistribution would be to drive a wedge between first and second class EU countries, the richer and the poorer. There is a possibility that once this wedge was driven in it might never be possible to move from the second group to the first, i.e. that the division might turn out to be permanent, whatever might be stated about the scope for later alignment - *rien n'est plus permanent que le provisoire*.

The Maastricht text admits the political doubts of two member states about EMU - Britain and Denmark - in the addenda which acknowledge that their participation would require a national political decision²¹. No such leeway is granted to Germany, though the German ratification instrument asks for a parliamentary endorsement for acceptance of the third stage. Much of the positioning about core countries is tied to this debate about EMU as *the* core policy. We note that the debate about eastern enlargement has hardly touched the issue of EMU, the assumption predominating that their involvement in EMU lies beyond any foreseeable future, even though macro-economic stabilisation may be a key aim for them.

D. *Common Foreign and Security Policy*

So far the provisions for developing the Common Foreign and Security Policy (CFSP) assume that the relevant group is the totality of EU members. Indeed in the recent accession negotiations with the EFTA applicants one point of debate was whether or not countries with a history of neutrality could really play a full part in the CFSP²². Doubts about this were damped down by assurances during the accession negotiations, though these assurances remain to be tested in practice. If it turned out that historically neutral countries were a brake on the development of

²¹ *Treaty on European Union, 1992: Protocol on Denmark; Protocol on certain provisions relating to the United Kingdom of Great Britain and Northern Ireland.*

²² See the Commission *Opinions* on the neutral applicants.

CFSP one would expect pressures from the more 'engaged' to detach themselves from the neutrals. This seems not, however, at present to be a probable outcome, in so far as the relevant 'neutrals', or at least their governments, have been at great pains to insist on their willingness to be fully engaged in CFSP. The rather tense debate in Austria on this issue suggests, however, that there might indeed be some difficulty in carrying the neutral or 'militarily non-aligned' along with a CFSP that aimed to strengthen its bite on security issues. The debate on this has subsided for the moment, though it surfaces in a slightly different way in the discussion of European defence. Nonetheless we can expect these issues to erupt again in the IGC if the choice is formulated as a choice between intensification of WEU as a 'soft' security framework or as one which might be more actively involved in handling 'hard' security issues.

The more articulated argument recently has been about countries which appear to have 'eccentric' foreign policies, which under unanimity decision-rules can block policy. Greece is generally the first country to be quoted in this context; its policies towards Turkey, the former Yugoslav republic of Macedonia and Albania have all been much criticised elsewhere in the EU. Two kinds of response might be expected: one would be to find ways of excluding the individual eccentric; the other, the more seductive, is to call for changed decision-rules to overcome all potential eccentricity, thus removing the right of the individual member state to exercise a veto - a development that would be contested by the French and British governments, among others. If the notion of voting on CFSP gathers any momentum it would have to deal with the penalties attached to majority voting as well as the prizes. These include the foolishness of outvoting the member state with the keenest interest in the given issue - the case for Greece as regards both the former Yugoslav republic of Macedonia and Turkey - and the risk of outvoting a country whose weight would be needed to give impact to a foreign policy decision and whose opposition or reticence might actually undermine a common position: the argument that held sway when the German government signalled that it would recognise Croatia even if its EU partners did not follow suit. Denmark and Ireland may find it much easier to accept majority voting on policy towards Cyprus or

Turkey than Greece; but it is Greece which forms the EU front line on these issues. Greece, on the contrary, might find it easier to rally to a majority vote on Baltic issues than Finland or Sweden.

The important point to note here is that if segmented groups are permitted to emerge then the minority positions of crucial players could become entrenched, thus rendering more not less insoluble issues that affect the credibility and delivery of European policy. On the other hand to be condemned to go at the pace of the slowest and most reluctant may be a recipe for permanent inaction. It was for this reason that the 'Quint' was established, a small group of representatives from France, Germany, Italy and the UK meeting with the Turkish government to discuss matters of mutual interest that might then help to smooth discussions in wider EU circles. It was through this format that efforts were made early in 1995 to improve west European relations with Turkey and subsequently to lift the obstacles to the EU/Turkey customs union, along with some amelioration of the difficulties relating to Cyprus.

Another strand in the discussion is whether the CFSP could be extended to include the reform democracies ahead of their full membership of the EU. Or to put it another way, can the different pillars of the EU have different memberships? This was floated in the proposal by Frans Andriessen for a European Political Area²³ and has continued to be mentioned as a possible option. Several points are relevant to this discussion. There are strong grounds for including in the discussion of issues that directly touch them (e.g. policy towards Ukraine) policy-makers from the Europe Associates. To enable them to block decisions by the EU15 would be a different question. Much depends on how far the development of CFSP is through the use of Community instruments (through economic measures such as trade sanctions or incentives), since that implies coterminous memberships. Where to strike the balance of the argument depends on what priority is attached to CFSP both as a goal of the EU and as a means of contributing to the stabilisation of post

²³ As originally suggested by Frans Andriessen in April 1992.

cold war Europe. These two distinct criteria may of course lead their proponents to opposing conclusions.

E. *Collective defence*

There has been differential engagement in the provision of collective defence for Western Europe for the past 45 years. Only some EU members were also full members of Western European Union or Nato or both, and some European members of Nato remained outside the EU. So the traditions are of varied participation rates and varied exercise of leverage, with both 'opters-out' and free-riders around the group of 'serious' defence-minded countries. In any case US leadership provided much of the cement and the discipline for building 'consensus'. The debate about giving the EU a defence dimension calls these traditions into question, if it would imply the same intensity of commitment from all EU members. This is not the place to rehearse all the arguments on this subject. We simply note that we know from the past that variations of participation are not necessarily obstacles to the development of collective defence frameworks, and need not be tied to the exact groupings that appear to make sense for economic integration.

The debate about a core group of countries engaged in providing a common defence raises tricky issues for both inner and outer circles of EU members, as well as for Nato members outside the EU and those European countries that belong to neither group. In the inner group of countries there are worries that the attachment of the doubters (or the reluctant) within the EU to a common defence effort would condemn the process to depend on the pace and purposes of the most reluctant. There are two potential solutions to this: one would be for the inner group to float free of the reluctant group; the other would be to retain the larger group, but to exercise majority voting rule that could override (while perhaps not engaging) the reluctant or to have a two-layer voting system²⁴. Equally the reluctant group has worries about being steam-rollered. They might therefore try to block any such

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An analogy can be drawn here from CEN and CENELEC.

development; an alternative is to do as the Danes have and insist on a right to remain outside ²⁵.

It is hard to tell whether this is going to be a major point at the next IGC and also whether it will be addressed pragmatically or dogmatically. The recent agreement at Chartres in November 1994 between the British and the French about extending bilateral defence cooperation - in a European context - suggests that the mood may have shifted from dogmatism to pragmatism ²⁶. It is important to note here that in part the breakthrough between Britain and France results from their close cooperation in Bosnia (British soldiers reporting to French officers and vice versa). But by the same token we should note the irritation on the part of other countries - eg Netherlands and Spain - at being less consulted on policy or operations than they feel would be appropriate to their own substantive contributions to UNPROFOR; the Bosnia contact group has a restricted membership - US, Russia, Britain, France and Germany. The British were early in with their proposals for the adaptation of WEU (February 1995), proposing the retention of WEU rather than its combination with the EU, especially in order to keep Nato alive as the primary defence forum, but holding back-to-back meetings at head of government level with the European Council.

F. *Shared regime for 'home affairs'*

The third pillar of Maastricht, for Justice and Home Affairs, extends to all EU members a version, but only a version, of what had earlier been agreed among the smaller Schengen group. This area of cooperation is widely cited as one which is amenable to partial membership or differentiated levels of engagement. If the EU were to become a polity then partial arrangements for only some member states would be hard to entertain, since they would touch very directly issues of

²⁵ See the conclusions of the Presidency from the Edinburgh European Council of December 1992.

²⁶ The Chartres bilateral Franco-British Summit took place in November 1994, see Francoise de la Serré and Helen Wallace, *Franco-British relations in post Cold War Europe*, Franco-British Council, London, March 1994.

citizenship and immigration policy. As long as the EU is less than a polity it is easier to tolerate smaller groupings for policy cooperation in this field, with membership governed by similarities of national regimes or the functional consequences of geographical position. Indeed it would even be possible to envisage some of the policy regime being extended to neighbouring non-members of the EU in advance of full EU membership, for example in dealing with refugees and asylum-seekers or cooperation on drug-trafficking.

'Schengen' has been widely referred to as a model for variable geometry or flexibility in cooperation and participation. It was born from two very restricted groups - Benelux, created in 1948, and the much later Franco-German agreement from 1984 - which combined in the first Schengen agreement. Importantly these five governments were determined to 'fix' the rules *before* others were allowed to join, leaving the latter only the option of assimilation. The wider EU format in the third pillar has a different content and procedures from Schengen. We shall not know for some time how these different arrangements work in practice: i.e. whether (a) Schengen agreements will in practice predefine the area of cooperation for the wider group; and (b) whether Schengen agreements are sustainable in their loose intergovernmental mode. Thus we cannot easily judge whether Schengen is a good model and perhaps comparable to WEU in the defence field. Schengen came into operation in March 1995 with some necessary resurrection of harder borders between Schengen countries and the rest of the EU, thus the Nordics, the UK and Ireland. Denmark, Sweden and Finland are looking at ways of sorting this out by all joining Schengen together, carrying Norway into Schengen with them if they can. The matter was under active discussion in March 1995 - Norway would then be the only non-EU member, but to deny it access to Schengen would be to destroy a long established and benevolent arrangement for a regional passport union among the Nordic countries.

The third pillar created by the Treaty on the European Union (TEU) includes all EU members on the basis of quite sketchy common commitment and light intergovernmental institutions. It is widely argued that the third pillar is the most

unsatisfactory part of the new TEU arrangements in the sense of having failed to deliver substantive results. Some blame this on the weak procedural rules and the rather insular attitudes of its participants, the post-TEU committees still reflecting earlier ultra-prudent forms of dialogue. In addition, however, the existence of Schengen and the risks of its failure have captured more time and attention from the participating governments. Moreover the issues under discussion in both Schengen and then third pillar are not such as to invite hasty decision-making, as is clear from the repeated delays in implementing Schengen.

6.2 Core countries

We have deliberately discussed policy issues first and only country issues afterwards, since to define a hierarchy of countries in abstraction from policy functions seems unwise. Nonetheless the debate about core countries has been opened and is likely to continue throughout the IGC ²⁷. This debate, so far mostly conducted through newspaper articles and the CDU paper by Karl Lamers and Wolfgang Schäuble, sketches several different core groups, which tend to be elided:

- the 'critical mass' of countries without which integration cannot proceed further and for which 'exit' is not an option, generally taken to comprise the Benelux countries, France and Germany, a group which hold a very important share of the wealth and the wealth-generating capacity of the EU;
- the 'omnipresent', i.e. those that are involved intensely in all the core areas of collaboration, especially EMU and defence, which might be a larger group than the five;
- the 'leadership cadre', those which are able to provide direction or to define the agenda - highly contestable as a notion and too easily reduced to only two countries, namely France and Germany, (even though such a reductionist and exclusive core might actually no longer function, since it is

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Karl Lamers, Reflections on European Policy, CDU/CSU Fraktion, September 1995.

- by no means clear that it rests on an accurate reading of the past contribution of the Franco-German relationship to European integration);
- the 'integrationists', i.e. all of those that sign up for reinforced supranationalism and intense integration, leaving inclusion to be much governed by the decisions of individual member states to opt in to the inner circle - here it should be noted that Spain would be an obvious addition to the inner group, in spite of its obvious difficulties with EMU;
- core countries meaning all EU members except the repeated dissidents (Britain and Denmark....) or the eccentric (Greece, as it is often seen from other member states that lack empathy for the issues that make Greece different).

The judgemental character of some of these groupings and their dependence amongst other things on the contingent preferences of particular governments in office makes these categories rather unhelpful. Probably only the first two - the 'critical mass' and the 'omnipresent' - are ones that ought to be of serious relevance to the discussion and in any case they would more or less be coterminous as groups. However, the EU is caught in the middle of a highly political and polarised debate about core and non-core countries. If segmentation or fragmentation into groups takes hold as an organizing principle, then these politicised categories will be hard to avoid. Another version of this conflict concerns the relative voting weight in the Council of the 'larger' and 'smaller' member states.

Clearly there is a crucial political choice to be made between the formalising of a core group, which might in practice have its own complementary rules and institutions, as Giscard d'Estaing has publicly proposed, and the admission that the voices and preferences of some countries count more than those of others. The latter is already true and is probably endemic as a feature of the EU, albeit more often implicit than explicit. To formalise a core group would be to move in a different direction altogether and, as yet, has not been widely advocated. As we have indicated above much depends on whether the discussion is led by EMU or by defence policy concerns. Our preference is for pragmatic acceptance of differential

influence and as far as possible inclusive memberships, with potential alignment to the leading pack open to those countries that have objective differences of situation.

This does not remove the pressure on those countries - Britain is the key example - that may repeatedly exclude themselves from the group of core participants in the most intense arenas of 'deep' integration. The costs of exclusion have to be counted in loss of influence as well as greater 'flexibility'. The probable reality is of some countries being repeatedly at a distance from the heart of power within the EU. However, here we should note that the Benelux countries have been able to stay at the heart, and that smaller member states do have opportunities to insert their voice effectively at least on some issues. We take the view that the kind of influence that they exercise is more to do with the quality of their arguments, their role as 'pivotal' players and the relevance of their stake on particular issues than to do with formal voting weights - i.e. commitment may be more important than size.

6.3 Core institutions

Historically the core institutional framework was built on the 'Community model', as now represented by the first pillar of the EU. The debate on institutional formats was about which policy issues could and should be brought within this institutional framework, in which the Commission and the European Court of Justice played central roles. More informal arrangements or 'para-Community' frameworks always existed as means of dealing with issues that for one reason or another could not be fully drawn in - in the monetary field, for political cooperation and for judicial cooperation. But generally efforts to establish alternative frameworks on a structured basis were resisted. WEU in the defence field was the only major exception for rather special historical reasons. 'Progress' in integration came to depend on how far the informal circles of looser cooperation could be drawn in, EPC being a key example.

In the 1980s this rather tidy and consistent pattern began to yield to a more diversified patchwork. WEU was enlarged, after a rather difficult argument; Schengen was established as initially a small group of five countries; the European Economic Area (EEA) was created as a wider circle around the EC, with some shared regimes. The pattern having been broken and with the prospect of 'pan-Europe' looming, the Community model came into competition not only with national levels of governance, but also with other organising principles for European governance. Thus the invention of the pillars and their incorporation into the Maastricht negotiations embedded a more direct competition between models: for particular policy arenas, for the main framework of the EU, and for partial inclusion of others in EU policy regimes.

The elevation and legitimation of intergovernmentalism as an alternative model, not just as a provisional or transitional regime, opened the door to more permissive criteria for involvement, compliance and burden-sharing. This model is now in more direct competition with the Community model than before. Intergovernmentalism lends itself to voluntarism of association, variable groups of participants and differing degrees of collective commitments, while the Community model builds in ratchets of obligation and burden-sharing and assumptions of universally shared engagements. Thus some of the current debate is about which of the two models will win the institutional competition, or about which policy arenas can be accepted by at least some countries for a version of the Community model. This competition is now therefore also beginning to generate suggestions about ways of developing a Community-like framework for a group of countries smaller than the current membership of the EU. Giscard d'Estaing's proposal for an institutionalised core group is exactly in this vein as a means of organising an EMU core within the Community pillar, but with some separate supranational institutions.

A related discussion concerns the defence arena. Foreign and security policy cooperation under the terms agreed at Maastricht lies within the second pillar, with all EU members participating. In principle the next IGC is to be asked to consider how far the CFSP might extend to common defence policy and ultimately common

defence. One alternative floated in the discussion would be to make the WEU the fourth pillar (not part of the second), thus allowing a separate institution, with different operating rules and perhaps a different membership, to be part of the EU.

The tension in this debate is of course about crucial differences of preference as to the model of integration and as to the freedom of action that would be retained on key issues of 'high politics', a concern that interacts with and conditions attitudes to 'getting things done'. Some governments have taken the view that action-capability is dependent on a form of 'communitarisation'; others argue the precise opposite, that action is likely to be possible only as and when the serious governments choose to act together, with or without the rest. The probability is that there will be a continuing competition between something like the Community model and forms of intergovernmental cooperation, both those which include all EU members and those built around smaller groups of countries. This makes for elasticity and perhaps an avoidance of dogma, but it also makes it harder to link issues across different institutional arenas. Much reliance would be put on the European Council to make the linkages and to search for 'coherence', to use the phrase from the Single European Act ²⁸.

6.4 Objective differences

It would obviously be absurd for European legislation and the application of its rules not to take account of objective economic, geographical and climatic differences within and between member states. Indeed the EU system of decision-making would be rightly discredited if it could not recognise the difference between keeping cows in the sparsely populated Arctic region of Finland and large scale dairy farming in central France. Mostly the policy drafting and executing process can handle obvious objective differences and the ECJ can, as it has, uphold differentiated application of the rules. Where the onus lies for ensuring that legislation is sensibly framed is an interesting question. The Commission drafts

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SEA, Title III, Article 30,5 called for the 'consistency' of EPC with the Community.

legislation, but it is not omniscient and is often under-resourced in terms of time, staff and expertise. Objective differences in individual member states thus have also to be identified by member governments. We should note here that member governments are not infallible either and do not always flag up relevant points at the appropriate moment; in any case it is much easier to castigate the Commission for making the error.

A more important point is that the 'objective' difference may be defined in slippery terms which seem like procrastination or awkwardness or that some special point is dressed up as objective when it is actually a difference in national preference or policy provision or cover for a commercial advantage. For all these reasons there are reasonable inclinations on the part of the Commission and the ECJ to hold to a narrow rather than a broad definition of objective diversity and also to ensure that any exceptions are rooted in the relevant Community texts.

6.5 Differences of taste

Objective differences shade very easily into differences of taste²⁹. Diversities of situation or of purpose are rooted in alternative habits, cultures or preferences. The Danes disapprove of beer cans and the Swedes of easily available alcoholic beverages. The British dislike the way in which most veal calves are reared elsewhere (particularly in the Netherlands), but apparently are willing to tolerate dirty beaches. The Spanish like bull-fighting and the Swedes hunt bears. The Irish have strict controls on abortion, while their British neighbour has permissive legislation.

The list stretches out much further. Food issues and the treatment of animals are prominent among sensitive issues in this area, with passionate defenders of national customs attacking with equal passion the habits of other nations which seem to them cruel or unclean. Questions of social policy or of environmental standards are

²⁹ Peter Leslie, '(De)centralization and interregional conflict,' in *Federal state, national economy*, Toronto: University of Toronto Press, 19XX.

sometimes of the same order. Distinctive national patterns of values interact with different levels of income and tax revenues to emerge as policy preferences which vary markedly from state to state. Provision of industrial training, for example, is marked by sharp national differences which are rooted in political, professional and administrative traditions, and in political and social choices, which are not reducible to rational harmonization or negotiated compromise. The balance chosen between road and rail transport, or between intensive and extensive urban planning, are questions on which local and national communities may legitimately take different sides. Preservation of the familiar countryside, as against a return to a wilder nature - woods against pasture, hedges against open space - are issues which touch on national identity and national myth.

The question is then which of these differences of taste are acceptable, which have a nuisance value for or economic impact on other EU members, which cover commercial interests and which should be considered beyond the business of the EU. Any federal or quasi-federal system has to cope with differences of taste; even the highly centralised UK accepts significant differences of taste in Scotland, enshrined in different legislation. Where the differences of taste arise in relation to areas agreed for the EU to legislate the differences have to be argued through and the arguments made convincing. The Danes went a very long way in this direction at the Edinburgh European Council of December 1992³⁰. The EFTA candidates also made big headway in promoting acceptance of their higher environmental standards in the accession negotiations³¹. We know that these points tend to emerge publicly as evidence of public distaste for and distrust of European legislation; food regulations are a particularly neuralgic topic everywhere. But absolute permissiveness would cause big problems. The EC's efforts to ensure that foreign computers might be blocked from sale on the Spanish market appeared to the Spanish public to be a threat to the presence of the tilde on the keyboard - as

³⁰ Conclusions of the Edinburgh European Council, 11-12 December 1992.

³¹ The applicants won acceptance of their higher standards after accession with an EU commitment to renew the *acquis* in these fields.

evident a threat to Spanish distinctiveness as a ban on the umlaut would be to German culture.

Subsidiarity is the vogue answer to these questions, meaning either that member states should be freer to implement the European rules to take account of local preferences, or that the EU should not be legislating on some topics at all. Conflicting views on differences of taste cannot be avoided; it is probably a justifiable criticism of the EU that it has been too activist and sometimes too inflexible in responses to well-based differences of taste. What matters therefore is whether there is enough trust in the process of collective decision-making and rule-application for a sensible and sensitive path to be steered between joint rules and local heterogeneity. Here we should recall that the Cohesion Fund established under the Treaty on European Union is partly designed to provide support for local changes that would enable some of the poorer member states or regions to improve their infrastructure and thus take part in some policy regimes more easily, for example in the environmental field³². What some find hard to accept is the notion that differences of taste may be stubbornly persistent, i.e. that convergence of practice and of preference may simply not occur in some areas.

6.6 Differences of claim

Differences of claim³³ arise from competing bids for shares of collective resources or of position within the collectivity. The authorities responsible for adjudication, distribution and compensation have to establish the basis on which claims will be met. The collectivity functions when differences of claim can be met and breaks down when differences of claim cannot be met. Much of the debate in Canada currently revolves around differences of claim, with the possible outcomes that the Canadian federation may cease to be viable or that a province might secede, unless

³² See the Treaty on European Union provisions on cohesion.

³³ We are indebted to Peter Leslie (see his op cit.) and a conversation with him on differences of claim, language earlier developed by Jack Mint and Richard Simeon, *Conflict of Taste and Conflict of Claim in Federal Countries*, IIR, Toronto 1982.

a new settlement can be reached. Interestingly in Canada much has depended on Ontario being the settler of claims of last resort, much as Germany has been in the EC/EU.

We should bear in mind in the European context how much depends on Germany being willing to be the provider of last resort and how much the claims of others depend on German willingness to be the collective insurer. Germany has been the main provider for the additional claims of other members since the EC's formation. The experience, and the costs, of German unification have reinforced popular resistance to this *Zahlmeister* role. The prospect of a long queue of eastern neighbours each presenting claims for large transfers of resources strengthens such resistance, and increases the attraction - for the Netherlands and France, as for Germany - of retreating to a smaller core within which existing patterns of distribution might be maintained at modest cost. But this would involve a denial of the extension of community, in the widest sense, to these ex-socialist countries: a breakdown in the European collectivity to which West European governments are politically committed.

6.7 Functional consortia

The original terminology of variable geometry, in the late 1970s, was essentially focused on the importance of developing consortia of participants along functional lines, especially to enhance the technological capabilities of the then EC. The preoccupation belongs to the period in which the R&D and technology programmes of the EC were being developed, closely linked to groupings of countries and companies with a particular stake in specific high-tech industries. Current EU policy is more diffusely construed and the consortium principle of self-including groups of countries seems less pertinent, especially given the ambivalences of European industrial policy. Some elements of the discussion linger on in other frameworks, such as the European Space Agency or Eureka. Here we should note in passing that efforts to 'communitarise' these consortia have not

succeeded and thus that their patterns of varied participation impinge relatively little on the discussions within the EU as such.

The two cognate areas where functionally defined participation is pertinent to the broader debate in the EU are the development of Trans-European Networks (the TENS) and the reconfiguration of the (west) European defence industries. The projects under development as TENS are necessarily selective in membership and in competition for limited resources. Opportunities therefore abound to discriminate in favour of particular projects and particular countries or groups of countries. The TENS also are, theoretically at least, a policy instrument capable of including the Europe Associates as partners.

In the defence sector the pressures on national budgets and the redefinition of equipment requirements are impacting sharply on the defence industry. It may well be the case that patterns of collaborative procurement will be greatly influenced by what patterns of defence collaboration emerge and prove to be sustainable. Thus, for example, the development of the Eurocorps and planning for its potential role and deployment is beginning to generate procurement decisions in which industries from the participating countries have an advantage. The choices about participation in such schemes have both defence policy and industrial implications, both of which over time can be expected to bear on the debate about the 'core' group for defence.

7. TERMINOLOGY³⁴

We summarize here the accumulated terminology both from earlier debates on the consequences of diversity and from recent discussions. Discussions on the management of diversity within the EC/EU have, as noted earlier, depended heavily on analogies from other fields to encapsulate the complexities they describe.

7.1 Two or multi-speed Europe

This was originally coined as a phrase in the early 1970s to refer to relative levels of economic performance, especially in German discourse. It was first attributed to Willy Brandt³⁵. The phrase reflects fears from the more prosperous countries as to the burdens of supporting the less prosperous and fears from the less prosperous of being left behind by the more prosperous. Hence the connotations were always somewhat pejorative and based on negative reasoning. With the continuing debate about the feasibility of EMU and the achievement of the convergence criteria the phrase retains negative connotations in those less convergent countries with governments which want to achieve membership of EMU. Per contra for the convergent countries the phrase has become a tempting explanation for going ahead with the restricted grouping already anticipated in the EMU provisions of the TEU. In the reform democracies the phrase is a source of worry for those who believe that economic convergence targets are helpful disciplines to aid transition in a European framework. The Poles and Czechs have been the most sensitive on this point.

³⁴ This section summarises and updates Helen Wallace with Adam Ridley, *Europe: the Challenge of Diversity*, Routledge for the RIIA, London, 1985, which analysed the variable geometry debate of the mid-1980s in the run-up to the drafting of the Single European Act and which summarises the literature and practitioners discourse of a decade ago.

³⁵ Willi Brandt, Speech to the French Organization of the European Movement, 19 November 1974; reprinted in *Europa Archiv*, Document 1975, pp. 33-38.

7.2 Two or multi-tier Europe

Tiers are a more hierarchical concept, implying gradations of influence and acceptance in the inner counsels of Europe. The connotations are more about relative political position than about economic performance. They imply an overall 'rating' for member states across the range of relevant policy arenas. The imagery is also static, suggesting little scope for moving between tiers. Again therefore the language is much more acceptable to those who would be in the upper tier than those who might occupy lower positions.

7.3 Variable geometry Europe

The phrase variable geometry was first coined in French discourse in the late 1970s, appearing in French planning documents and speeches from the then less well known Jacques Delors, at the time an MEP³⁶. The metaphor, drawn from the aeronautical innovations of the period (the 'swing-wing' plane in English), was intended as a benign metaphor of flexibility that would promote different flight configurations for different purposes: i.e. a functionalist concept. Originally the language was seen as especially relevant to efforts to enhance industrial and economic competitiveness, in which different member states (or in effect industries or firms from only some member states), by virtue of their different industrial and technological endowments, would participate in different policy consortia. No implications were intended of deliberate exclusion, but rather, as in aerospace and space collaboration, to encourage the participation of those who chose to invest in the relevant capabilities. Since its original coining the phrase has been used more widely and less precisely as a 'safe' omnibus term for varied participation in cooperative endeavours. It seems safe because it is apparently decoupled from the pejorative overtones of multi-speed or multi-tier and because it encourages the perception that it is the individual member state that chooses whether to join and stay with the consortium. The soft boundaries of the groupings make the concept

³⁶ See *La France dans les années quatre-vingt*, Commissariat au Plan, Paris, 1979.

less useful for those policy arenas in which some necessary core membership is a prerequisite. For example a variable geometry EMU would not make much sense without German participation. The original metaphor was after all about the configuration of the wings of the aircraft, assuming that the composition of the body and of the engine would rest on different and less changeable criteria.

7.4 **A la carte Europe**

The phrase *à la carte* is amongst the most misunderstood and misleading. It was used by Ralf Dahrendorf originally to challenge the notion of a hard and immutable *acquis communautaire* and to suggest that the diners at the table might have changing preferences for their meals and not want always to be tied to the same set menu³⁷. Set menus become stale; already in the 1970s it could be argued that the menu which had made sense in the early 1950s tasted stale. Dahrendorf sought to suggest that as context and interests changed over time so the policy menu should change, discarding tired dishes and adding new ones as different ingredients became available. As originally stated it offered a serious challenge to the traditional European integration model. Those who disliked the concept and its heterodoxy rather successfully shifted its translation into an easily castigated notion of 'pick and choose' with little if any common elements. As practised in the Scandinavian smörresbröd cuisine it was elided with the then Scandinavian preference for a rather voluntarist approach to European cooperation.

7.5 **Differentiated Europe**

The elaboration of differentiation as a term to describe acceptable Community practice belongs to the legislators and lawyers who accepted that Community policies needed to be modulated to take account of objective differences between the member states. The term was taken into the Single European Act, much under the influence of Claus Dieter Ehlerman, specifically to respond to the pressure of

³⁷ Ralf Dahrendorf, *A Third Europe*, Jean Monnet Lecture, European University Institute, Florence, 1979; Dahrendorf, ed., *La Crise en Europe*, Paris: Fayard, 1982.

Iberian enlargement. It was always the case that the treaties and Community legislation in many areas acknowledged such differences. One has only to look at the protocols attached to the treaties, to individual prudential clauses and to a sample of laws, especially directives to find instances of distinctions in the formulation and application of legislation. The issue was not whether differentiation was possible - it always was - but when it was acceptable. Essentially the definitions of acceptability have hung on the establishment of more or less *objective* factors, such as differences of geography or climate or very well established and physically verifiable distinctions³⁸. Also the extent of differentiation permitted has been constrained, mostly by transitional periods for adaptation rather than permanent exemptions.

It was this principle that was formalised rather unostentatiously and after a delicate but rather hidden discussion in Article 8c of the SEA.

When drawing up its proposals with a view to achieving the objectives set out in Article 8a, the Commission shall take into account the extent of the effort that certain economies showing differences in development will have to sustain during the period of establishment of the internal market and it may propose appropriate provisions. If these provisions take the form of derogations, they must be of a temporary nature and must cause the least possible disturbance to the functioning of the common market.

This clause should also be read alongside Article 100a.4:

If, after the adoption of a harmonisation measure by a qualified majority, a Member State deems it necessary to apply national measures on the grounds of major needs referred to in Article 36 [viz. public policy etc.] or relating to the environment or the working environment, it shall notify the Commission of these provisions. The Commission shall confirm these provisions after having verified that they are not a means of arbitrary discrimination or a disguised restriction on trade between member States....

38

Ehlerman op. cit.

Article 130t also refers to scope for some member states to adopt or retain more stringent environmental controls.

The permissible margins of variation have gradually been extended. The embedding of the new approach to harmonisation of legislation through the principle of mutual recognition has added a 'live and let live' character to areas where the earlier presumption had been that harmonisation required virtual uniformity of rules. This was taken still further at the Edinburgh European Council of December 1992 when, as the Presidency conclusions make clear, still more room for manoeuvre was given to Denmark in the fields of environmental and social policies to retain distinct and higher standards. Although the decision was firmly tagged as applicable only to Denmark, under the pressure of a second referendum on the Maastricht Treaty, it seems unreasonable that similar latitude should not be made available to other member states that can make a similar case. Indeed in the negotiations over the accession of the EFTA candidates the EU reached the surprising decision that in the environmental field there would be breathing space of four years not for the candidates to align to existing EU standards but for the enlarged EU to look again at its legislation. I.e. the EU has precommitted itself to review the *acquis*. How this works out in practice will depend on interpretation of this carefully crafted negotiators' compromise; it will have to withstand the tests of legislation and jurisprudence, particularly given that normally a provision under Article 100a is deemed subject to competition criteria, while under Article 130t it might not be.

7.6 Abgestufte Integration

The phrase, developed in a volume edited by Eberhard Grabitz, is in essence a combination of common sense variation of legislation through differentiation with 'graduations' of policy³⁹. This latter, the metaphor is from steps or terraces, implies an agreement by all member states on particular policy objectives, but accompanied by agreement on different timetables or stages of adaptation by

³⁹ Eberhard Grabitz, *Abgestufte Integration: eine Alternative zum herkömmlichen Integrationskonzept*, Kehl: N.P. Engel, 1984.

individual member states. It is important to note that this universalises the policy commitments but varies their implementation. In this sense it is stricter than multi-speed and demands the rigour of legal parameters for delayed implementation of some agreements in some countries. It is also intended to rest on a basis of solidarity in that those able to implement more quickly undertake to support measures to facilitate the adaptation by those who need more time. The authors of the study were thus seeking to prevent pejorative distinctions between first class and second class countries. Hence they wanted to develop institutional mechanisms that would safeguard the legitimate interests of member states that were not full participants in each policy, i.e. so that they would not simply become 'defectors' but retain an association with the relevant policy goals. But the authors also were at pains to insist that graduation should not be an option in those 'core' policy areas that lay at the heart of the integration process. At the time they took these to be the four freedoms, the customs union and, probably, the CAP.

7.7 Subsidiarity

Subsidiarity is not a novel invention. It has long been associated with christian social theory and federal theory and always hovered in the background of the debate over the European constitution, as it did within some individual countries⁴⁰. It emerged lightly in the 1970s around the Tindemans Report on European Union and more firmly in the discussions of treaty reform, first in the European Parliament's draft treaty and then in the SEA, where it was written into the environmental provisions (Article 130r). Its original formulation in the EU context was as a basis for determining in which policy areas it would be more appropriate, more efficient or in the common interest to collectivise policy power through the European level of governance. The concept rests on the assumption that sharp particularism or diversity (objective or subjective) would militate against the collectivisation of policy powers, though its advocates were always prepared to

⁴⁰ See Chantal Millon, *La Subsidiarité, Que sais-je?*, Paris, 1993.

argue that even in areas where the patterns were centrifugal there might be a strong public policy case for collective competence.

In the negotiations over Maastricht the terminology of subsidiarity was articulated for different reasons, namely as a reason not only for not extending common policy powers in some areas but also as a reason for devolving back down some policy powers. In some European countries the argument was focused on regional levels of governance, as in Germany. In other cases the argument was focused on devolving or even 'repatriating' policy powers to the member states, the argument made by the British government, or by the Danes with their equivalent term of 'nearness'⁴¹.

Since Maastricht numerous and lengthy discussions have taken place about what would be implied by a more attentive concern with subsidiarity. Some of this has to do with objective diversity and quite a lot has to do with political resistance to the extension of public policy powers at the European level. The issues are rendered more complex by the fact that there is a retraction of public policy powers under way within countries as well as around the European arena. Thus the liberalisation, privatisation and contracting out of previously governmental authority reduces the space occupied by governments at whatever level, thus picking up the other dimension of subsidiarity which is about where and how to draw the boundary between public and private space.

In the current debate we should therefore note that subsidiarity is being made to serve several different goals. One is to do with how to take the EU to task when its institutions abuse their powers and act *ultra vires*. Another relates to the need to recognise the consequences of embedded diversity and differences of preference as reasons for not seeking uniformity of policy or policy implementation. A third is to do with how large a range of responsibility can be exercised appropriately or efficiently at any particular level of governance. Thus, for example, where the EU

⁴¹ Special arrangements, in principle only for Denmark, were agreed in Edinburgh in December 1992.

depends on agencies within the member states to implement policies and programmes they might be allowed a degree of discretion to take account of local circumstances - the problem is always to determine how much discretion without the overall policy goals being undermined. The preoccupation with subsidiarity certainly reflects a serious and apparently widely held view that the EU is overstretched, over intrusive and underperforming as the architect or executor of policies across the diverse economic and political territory of the EU.

7.8 Concentric circles

Christopher Tugendhat first coined the phrase 'concentric circles' in 1984 as a softer version of variable geometry⁴². He argued that the inner circle should consist of the 'conventional Community' (the common market, CAP, competition and trade policies, underpinned by some commonly financed programmes), with other policies and forms of cooperation radiating out. Some of the latter might be developed on the basis of voluntary consortia. Thus there would be an acceptance of variegated involvement and flexibility of engagement around the common core. Nonetheless he argued, the influence of those who were the most involved in the most circles of cooperation would be greater than that of those who were more sporadically engaged.

More recently the phrase has been transposed, including by Jacques Delors⁴³, to the context of post cold war Europe. Concentric circles have been envisaged as starting with the inner circle of EU members surrounded by wider circles of countries engaged in various forms of supplementary and complementary cooperation. The European Economic Area (EEA), as originally envisaged, would be a larger and looser circle and the Europe Associates another, while the whole of Europe plus Russia (or CIS) might have been a third, if Jacques Attali's suggestion

⁴² Christopher Tugendhat, 'How to get Europe moving again,' *International Affairs* 61:4, 1985, pp. 421-429.

⁴³ See the interview with Jaques Delors on France 2, reported in *Agence Europe*, 17 November 1994.

for a wider European free trade area, even customs zone, had been accepted. The currently proposed Mediterranean free trade area might be another. This version of concentric circles more or less takes the inner EU circle as read, though the harder definition of an inner core group might be a more tightly drawn circle. The model would then permit degrees of common policy formation and common rule application for much larger groups of European countries, without making everything stand or fall on the ability of individual countries to incorporate the full disciplines of the *acquis communautaire*. It also releases the inner circle from the obligations - and expenditure - that would be needed to accommodate the outer circles. It follows that more decision-making power would inevitably be exercised by those in the tightest inner circle and that in some senses those further out would be subject to much extra-territorial application of EU rules, i.e. in a position of structural dependency. More recent versions of concentric circles, as for example argued by Edouard Balladur imply the possibility of a more tightly drawn inner circle or circles.

7.9 Magnetic fields

A variant on this is the concept of magnetic fields⁴⁴. It has long been argued that the EC/EU exercises magnetic attraction on other countries within its economic and political fields. Indeed the recurrent power of attraction is illustrated by enlargement and the queue of applicants for either full membership or forms of association and partnership. Magnetic power consists partly of economic dynamism and market power and partly of political influence or a political model. Electromagnets can be very powerful and their magnetic power increased by a stronger electrical charge. Through the power of attraction susceptible neighbours may themselves be magnetised and the overall size of the inner magnet increased. Neighbours with 'soft' properties may be easy to attract, but difficult to magnetise. Neighbours with 'harder' properties may be less easy to attract, but once attracted become magnets themselves. The concept is benign in that it presupposes that the

⁴⁴ This language has been suggested by Michael Emerson, currently the Delegate of the European Commission in Moscow.

magnetism is functional. It has to be added that the extent of the magnetism does depend on the strength of the magnet itself - if it weakens neighbours may cease to be pulled towards it or indeed pulled away by other magnetic fields. Also much depends on the polarity and the position of the magnet, since depending on the direction of the magnetic force neighbours may be repelled rather than attracted. Or magnetic effects may be prevented by interposed shields that protect the neighbour from feeling the magnetic force.

How far this can be stretched as a useful analogy in the European context is another matter. It is helpful that the effects depend on the properties of both the initial magnets and the potential objects of attraction. It is a cautionary point to recall that other magnets may compete with the EU as a force of attraction.

7.10 Hub and spoke Europe

The hub and spoke analogy comes from the political economy of interdependence and dependence. It presumes that the EU economy, or at least part of it, lies at the heart of the European economy, with other parts of the European economy tied to the hub like the spokes of the wheel. The mechanical metaphor is somewhat static, since so much depends on the hub. Some have argued that the real hub is in any case the German economy, in that Germany is a, often the, major economic partner of every other European country. The logic of the analogy is to strengthen the spokes and to keep the hub well functioning. Within the existing membership of the EU the analogy is pertinent to the EMU debate, in which almost everyone takes the Deutschmark to be the hub. Those countries whose economies are thoroughly dependent spokes attached to the Deutschmark hub have an interest in maximising their influence on the hub. The EMU proposal may be seen by some as going further, namely as a means of becoming an integral part of an enlarged hub.

However, the hubs and spokes may not be the only possible pattern and indeed may exist only or mainly because of the impact of public policy and its influence on economic transactions. Thus Richard Baldwin argues that the EC/EU has

deliberately practised a policy of 'hub and spoke bilateralism', by making individual agreements with other European countries⁴⁵. These, he argues, trap the associated non-members, his particular concern being the impact on the reform democracies, into policy commitments that strengthen the individual spokes to the EU hub and which actually make it harder for those countries to develop worthwhile economic links with other European countries. His proposal for an Association of Agreements was designed to get away from hub and spoke bilateralism, especially if eastern enlargement will remain a distant prospect.

7.11 Flexible Europe

'Flexibility' has become the favoured term of British ministers and was first floated during the 1994 European election campaign. It was the key word in John Major's speech in Leiden⁴⁶ in autumn 1994 as a riposte to the Lamers/Schaüble paper from the German Christian Democrats⁴⁷ and other proposals for the strengthening of the inner core. It was also a riposte to domestic critics of the British policy in Europe as being too vulnerable to pressures for more integration. A firmer British policy was needed, it was argued, to make clear that there was an alternative to more integration and that a clear limit should be set to any such ambitions. Thus flexibility was advocated by John Major, apparently implying three related propositions. The first was that the traditional integration model had served its original purpose and was now in many ways obsolete or redundant. Current times require a more flexible approach to European cooperation (the term 'integration' is hardly to be found in the British government's discourse). Secondly, the British government has been keen to reaffirm the virtues of 'opt-out/opt-in' formulae for participation in collective policies, as achieved in varying ways in the special positions secured in the Maastricht text for the British in relation to both

⁴⁵ We owe the phrase to Per Wijkman, formerly of the Efta Secretariat. It is extensively debated in Richard Baldwin, *Towards an integrated Europe*, CEPR, 1994.

⁴⁶ John Major, 'Europe: a future that works', William and Mary Lecture, Leiden, 7 September 1994 (London: FCO Press Department).

⁴⁷ Op. cit.

EMU and the social dimension. Logically the British should then favour similar permissiveness for other member states. Thirdly, it is frequently suggested that flexibility and a strong role for the Commission are mutually exclusive, since, it is argued, the Commission is instinctively against flexibility and in favour of homogenisation. Hence a more flexible formula requires a less independent role for the Commission and the Council to be the clearly (pre)dominant institution, since in the Council negotiations among governments can, with the appropriate decision rules, ensure that common sense flexibility is achieved. Sometimes the discourse also embraces the ECJ as the criticised author of excessive rigour in the application of European law.

Thus, unlike some of the other proposals for more variegated and differentiated policies, the British term of flexibility says little about the basic foundation stones or the common core, beyond the standard references to the single market and competition policy. There is little advocated by way of addition to this core and it is in Britain that the most widespread calls are heard for the repatriation of policies or the more differentiated application of others⁴⁸. However, we should not underestimate the range of potential bids for repatriation of policies or for lighter application of Community regimes - the French are often tempted in this direction too, as have been the Germans, vide the recent arguments over banana imports and the television directive, both of which have been the subject of precautionary rulings from the *Bundesverfassungsgericht* in Karlsruhe.

7.12 Exclusion of the uncooperative

Here we should simply recall that one recurrent element in the EC/EU debate has been irritation at the refusal of a single member state to be cooperative or at the repeated incapacity of some member governments to fulfil agreed commitments. One traditional response has been to try to deny membership to 'difficult' countries - Britain in the 1960s, Turkey in the 1990s. This strategy failed to muster support

⁴⁸ This is a recurrent demand from British 'Eurosceptics'.

vis-à-vis Greece, Spain and Portugal or the EFTA applicants, but it hovers around the question of eastern enlargement and recurrently the Turkish application. The preoccupation is with preventing excessive diversity by deeming it to be incompatible with membership. Once countries have joined, alternative strategies have to be found, unless membership can be retracted. Claude Cheysson did propose in the early 1980s that Britain be relegated to the status of associate member only. More frequently the response of an irritated majority has been to find ways of disarming the difficult member state by some mixture of apparent incentives to cooperate and distancing from influence. Thus the special decisions to facilitate Danish ratification of Maastricht gave Denmark special privileges but sought to reduce their impact on the rest of the EU. Similarly the 'opt-out' for Britain on social policy was a means both of accommodating the British and of limiting the damage to the rest of the EU. No comparable formula has yet been produced in the case of Greece and the formal pretext has not yet presented itself, but there would be much instinctive support elsewhere in the EU for opportunities to make a Greek veto worth less than a veto from other member states. The German discussions of EMU and Italy could tend in the same direction. An accumulation of special arrangements for the same member state or states could be tantamount to making them in effect 'country members' of the club, while preserving the apparent homogeneity of the overall EU framework. If current suggestions gain force for decisions on the basis of 'consensus minus one', we could see a more structured development towards the exclusion of a repeatedly deviant member state.

7.13 Reinvigorating the 'core'

The obverse is the language about defining a core membership, a *noyau dur* or *Kern Europas*, terms that are not coincidentally most often heard in French or German. Again this has been a recurrent theme since the early 1970s, especially propelled by French and German politicians and especially in periods when the French and German governments have seemed to be particularly close in their views of European policy. This last point needs to be stressed, since it is by no

means automatic that the two agree on key issues. What has repeatedly prevented the notion of the core group in the driving seat has been the fear that the core would turn out not to be a self-selecting group but one defined by the French and Germans in particular, with the *directoire*, the senior management group, as a possible institutional expression of this. In the past not only the Benelux governments but also the Italian government resisted such a development.

The argument has, however, changed in at least three important respects. First, the prospect of a much larger number of member states has increased worries about degeneration of decision-making and thus weakened some of the objections to a form of *directoire*. Secondly, fears of drift within the EU because of the polarisation of negotiations rather than sheer numbers have increased interest in defining an inner group of countries that retain support for strengthening integration. Thirdly, there is the concern of the 'large' countries about their vulnerability to the excessive voting power of small countries. Hence proposals are being developed on recalculated voting powers in the Council, on the need for Council presidencies to be differently structured to give more weight to some of the 'more important' countries, and to divide small countries into 'regional groups' for certain purposes, such as the choice of Commissioners.

The first and second arguments would imply that the core consisted of the 'really committed' and integrationist member states, i.e. the founder six, but possibly without Italy, and those other member states that are signed up for an active role in the inner group. The third argument would more simply privilege the larger member states, at the expense of the smaller.

8. THE MYTH OF UNIFORMITY, REALITY OF DIVERSITY

The Community inheritance is one in which the initial aim in any given case has generally been to seek to establish policy regimes and policy rules that are universally applicable across the membership. This has been the predominant approach in the traditional 'core' policy areas, namely agricultural guarantee, single market and competition policies. However, policy-makers have come to accept elsewhere selective or differentiated policy application or selective memberships of particular policy regimes, either when more or less objective factors pushed in this direction or when the only option for proceeding turned out to be a smaller group than the whole. This has been accompanied by the occasional turning of a blind eye, as, for example, in European Political Cooperation to accommodate the neutrality policy of the Irish. In addition, of course, the various spending programmes (other than agricultural price guarantees) have discriminated in their application.

Another important point must be stressed. European policies serve different purposes for different member states. The latter turn to the EU to solve a variety of different needs, depending what the gaps or inadequacies or blockages are in national policy provision. Such differentiated policy needs may be reflected in European policy that for good reason is intentionally not identical for each member state.

Recent experience has been to proliferate examples of diversity in policy regimes. Much of this has been by introducing forms of diversity that are ad hoc, impromptu and based on sometimes arbitrary criteria either to accommodate problem countries or to develop scope for forms of selective *exclusion* or *inclusion*. Some of these have been contained within the Community treaties, the case with EMS, and others through parallel procedures, as with the Schengen agreement. Even though some such selective regimes are rather well established, the imagery of practice has been more of homogeneity than of heterogeneity.

Key examples have been:

- *WEU*: Until the mid-1980s WEU membership was confined to France, Germany, Italy, the Benelux countries and the UK. This maintained the idea that there was a core group of 'serious' or 'committed west European countries in the defence arena and that there were benefits in selective membership. It is only a decade since the discussion of WEU enlargement was opened up, with the original seven setting out in their 1986 *Declaration on WEU Objectives* some clear conditions for Spanish and Portuguese accession. This was followed in the 1991 IGC by the acceptance of a potential correlation between EC/EU membership and WEU membership, as the last minute Greek insistence on full WEU membership opened the door for others. Originally the existing members of WEU had the clear opportunity to decide whether or not membership was extendable. Though formally this remains so, the link made at Maastricht to the third pillar of European Union gave non-WEU members more leverage over the definition of membership, albeit qualified by the variations of associate membership and observer status.
- *EMS*: in the late 1970s an initial attempt was made to establish EMS among all the then EC members. Once it became clear that the British either could not or would not join EMS (or at least not the exchange rate mechanism) the advocates of EMS decided to devise a formula for proceeding without them. Crucially important for the development was the decision by the British not to attempt to veto EMS, but permissively to endorse its creation without their (full) participation, thus leaving open the possibility for later British involvement. It is something of a moot point whether the others actually wanted Britain and sterling to be included at the outset. It was perhaps convenient that sterling was left outside. At the same time Italy and Ireland, the other two 'less prosperous' member states, were given help to support their participation, both through wider bands of exchange-rate fluctuation and by access to special loan facilities. Subsequently other member states joined EMS, though the formal provision for the association of currencies from non-member countries

turned out to be hard to activate. This did not rule out the voluntary alignment to EMS of non-EC currencies, but it did make it hard for their policy-makers to be involved in collective decision-making on monetary policy coordination.

- *Schengen* is a very different case. Its origins were narrowly Franco-German and an exercise in solving what threatened to become an acute bilateral conflict. The three Benelux governments determinedly forced the link with their own existing agreement for managing border arrangements. Thus the Moselle Treaty became the Schengen Agreement and the membership was then deliberately frozen by the five, while they decided on the content of their agreement, intentionally deferring the option of membership for others until the basic rules were set (the exclusion of Italy was considered essential at this stage). At the time it was argued that there were factors of both congruence of circumstances and commonality of interests that justified the exclusive approach. It was only later, as the debate on the content of Schengen was widened by the new preoccupations with migration and potentially explosive immigration, that the issue of the enlargement and the 'communitarisation' of Schengen came to the fore. The third pillar of the EU, for Justice and Home Affairs, was thus prompted and shaped by Schengen, even though it took on some different characteristics from its association with the rest of the EU. Paradoxically, however, it has proved in practice much harder to consolidate Schengen than its early architects had envisaged, partly because of the sensitivity of the issues, and partly because of the change of government in France. The third pillar has also proved slow to take life, its initial efforts caught between the habits of Schengen and the different starting points of non-Schengen countries and with a continuing imprint of pre-Maastricht consultative modes of slow discussion.

What features do these three examples have in common? All are in areas of 'high politics', areas where national sovereignty or insistence on national room for manoeuvre has been a powerful fact of dissuasion against involvement for some

EC/EU members. All are areas where the traditional Community model, with ECJ enforcement, strong Commission engagement and European Parliament intrusion, has been resisted and resistible for particular reasons. In each case there have been deeply established policy differences between countries that made it hard to require that participation be coterminous with EC/EU membership. For none does the need for a 'level playing field' seem sufficiently compelling fully to justify a Community-based policy model or, at least, the argument would have to rest on some other form of definition of a 'common interest' that is shared by and is distinctive to all EC/EU members. This is what was intended for EMU, where the Maastricht text imposed a form of Community method, but left open the door to partial membership.

For all of these reasons it is hard to generalise the experiences of WEU, EMS and Schengen to the full range of EC/EU policy territory. These different cases of selective groupings coexisted with the EC, as it was before Maastricht, without apparently undermining the traditional Community model. Within the Community framework *stricto sensu* diversity was dealt with by bounded differentiation. Nonetheless we should observe that: some countries are engaged in each of these groupings - the Benelux countries, France and Germany; some countries are repeated absentees - Britain, Denmark, Greece and Ireland; and others hover on the edge of each group, seeking as far as possible to be inside rather than outside - Italy, Portugal and Spain.

9. PRESSURES ON THE INHERITED COMMUNITY MODEL

There is an accumulation of pressures on the inherited Community model, faced with an array of forms of diversity. The underlying question is whether they imply merely modifications or rather radical challenges to the model. We present the inherited model in somewhat stylised form for the sake of clarity. It rests on the view that a defined group of countries can be members of the same organisation on more or less the same basis, undertaking the same mutual obligations and following the same rules, thus that a country is either a full member or on the outside, i.e. that Community membership is indivisible. Much of the strength of the model rests on the active role of the European Court of Justice and the system of European law that it interprets and enforces. The development of the model has been revealed in the accumulated *acquis communautaire*, the entrenched array of shared commitments, obligations and club privileges which by repeated extension has raised the threshold that any new member has to cross. The *acquis* is in principle not to be subjected to radical restriction or change, since that might destabilise the whole delicate edifice. Moreover it tends to be argued that those with the biggest stake in the *acquis* are those who have for longest contributed to and benefited from its creation, thus implying that the founder members have most at stake and should or might work hardest to conserve the essence of this inherited model. We should, however, bear in mind that the *acquis* may itself be part of the problem, in that it freezes policies and the interests that they serve in terms of particular constituencies and as a function of the time and context in which the policies were framed.

Three particular kinds of diversity affect how the model might develop and whether it can support more intense integration among the whole group or rather requires distinctions between the more and the less convergent:

1. the varying socio-economic characters of the member states and the consequential issue of how far they are at least congruent, at best convergent;

2. the political engagement of elites and electorates which differs between the member states and thus throws into question which will sustain commitments to trans- or supranational integration; and
3. dissensus on the scope and scale of governance at both national and European levels, making it harder to define what policy tasks can or should be managed collectively in order to respond effectively to public policy demands.

Divergences among European countries have led to a debate on whether or not the inherited integration model is sustainable either for all current or likely additional member states, and, if not, what alternatives might be found to meet the new circumstances. On the general issue of the sustainability of the model we should make an important distinction in how the question presents itself between (a) integration essentially confined to west European countries and (b) integration extended eastward. As we shall argue below, the sustainability of the model in western Europe is probably more a function of *subjective* choice by the current members. The extendability of the model eastward raises more *objective* factors as regards the reform democracies, as well as some *subjective* judgements for their elites and electorates; it raises mainly *subjective* choices for the current west European members.

10. MAASTRICHT - A TURNING POINT?

The Maastricht negotiations on both EMU and political union marked a turning point in several important respects. Hitherto the main policy powers and institutional procedures had been built around a combination of market integration and socio-economic modernisation, that is to say around issues where there could be a presumed universalism and even-handedness of application, relevance and acceptability of common regimes. Compensation measures to bridge the gaps (at least up to a point) between the more and less capable could be seen as the *quid pro quo* for universalism, a necessary trade-off either to ensure a kind of reciprocity or to induce forms of solidarity.

The new issues discussed in the IGC and eventually decided at Maastricht were different in that they drew in precisely the policy issues in which there was a history of selective involvement and of contestation over whether the traditional Community model was acceptable. EMU, CFSP and Justice and Home Affairs could not but be influenced by the separate histories of EMS, WEU and Schengen. Inevitably each arena raised the question of which member states were willing and able to take part and of what precise institutional formula should be adopted for their management. The outcome in each arena was to admit the possibility of regimes that might not be universal.

10.1 Economic and Monetary Union

The new provisions on EMU specifically cater for *objective* differences in economic performance to be examined collectively. As ratified the provisions also are qualified by the explicit opportunity, at least in some member states - including Germany, to defer the decision on actual involvement to a *subjective* and individual political judgement at the appropriate moment. Contingency plans had also been made for an EMU framework to be established in parallel to the EC by only some of the member states. It is a debatable point how far the new Cohesion Fund was seen as a reciprocity or solidarity-inducing measure relevant to EMU over the

medium term, as distinct from a short-term expediency to induce immediate agreement to the new treaty, especially given the specified link to transport and the environment.

10.2 Common foreign and security policy

The CFSP provisions echo earlier debates in having provoked a new vocabulary of 'pillars' of the Union with special institutional arrangements, as distinct from the 'communitarisation' of commitments. Article J recognises the likelihood of some persisting differences between the member states by virtue of selective membership of other relevant organisations, especially WEU and Nato. On the other hand the members of WEU did agree to enlarge the membership by inviting other EU countries as observers and European members of Nato but outside the EU to be associates. Thus the options for the future remain open. We might see a closer and closer correspondence of membership and alignment of common interests that would strengthen CFSP and draw WEU even more directly within the orbit of the EU, perhaps as a fourth pillar and maybe with all, (or at least most) EU member states engaged. Or we might see a smaller group of 'really committed' steering some form of common defence policy, in which bilateral links might be rather important - the new efforts in Franco-British cooperation agreed in Chartres in late 1994 are pertinent here ⁴⁹. Or we could see the CFSP pillar being among the earlier areas for engagement of (some of) the reform democracies in EU policy-making. We should note too the extension of an 'associate partner' status in WEU for the Europe Associates, thus moving towards a closer parallelism of membership between the EU and the WEU, even though countries that are less than full members of WEU are still some way off being covered by the military intervention guarantee of Article 5. This eastern opening has been part of what was intended by a 'European Political Area' (see further below), now echoed in the EU language of

⁴⁹ Details of the Chartres discussion are extensively reported by the press services of the British and French foreign offices.

'structured partnership' in the pronouncements from the Copenhagen and Essen European Councils ⁵⁰.

10.3 Justice and Home Affairs

The third pillar for cooperation in Justice and Home Affairs rests its existence on the denomination of various policy areas as of 'common interest'. All of these, as spelled out in Article K, had been under discussion already as areas of rather loose cooperation and coordination on a more informal basis. Article K recognises implicitly the Schengen arrangements, and also adds a *passerelle* clause which leaves open the possibility of associating the area more closely with EU institutions. In so far as the implementation of common approaches remains so intergovernmental in character it would in theory be possible to associate non-EU member states with some activities and to give them the possibility of joining in conventions under international rather than European law. This would not be a radical innovation in that in the past conventions have been led by the EC with EFTA signatories as well, especially for forms of judicial cooperation outside the areas of EC competence. Two further questions impinge here. We can see some Schengen members, notably the Dutch and in prospect the Italians filling Schengen's parliamentary deficit by introducing national parliamentary controls. These may diminish the pressures for adding a stronger parliamentary dimension at the EU level. On the other hand dissatisfaction with the workings of the third pillar seem sufficiently intense for proposals for a fuller 'communitarisation' of Justice and Home Affairs to be actively canvassed at the next IGC.

10.4 Social Policy and the Protocol

Social policy has already been explicitly flagged as an arena in which not all member states will necessarily proceed on the same basis and under the same rules. The decision taken at Maastricht to develop certain social provisions on the basis

⁵⁰ See the Presidency conclusions from Copenhagen, June 1992, and Essen, December 1994.

of 11 member states participating, but not the UK, perhaps signalled a recognition of legalised differentiation. Yet this is too straightforward an interpretation. The protocol was not carefully prepared in advance, but the result of ad hoc nocturnal bargaining and thus lacking the fine tuning that ought to have been associated with so large a deviation from normal procedures. The boundary between regular treaty provisions and the protocol is by no means clearly drawn. As has already become clear, the pressures on multinational UK companies to follow protocol provisions are very strong. In this sense if no other the protocol is a poor precedent for wider application.

A second problem with the protocol is that an arrangement for a deviant member state was agreed to satisfy a government with a distinctive doctrinal stance that did not command full support within the UK. In this sense the other governments were by default endorsing the position of a government and thus its partisan preferences. This puts the EU into a very exposed position in relation to domestic politics at the national level and goes way outside the definition of an accepted 'difference of taste'. The main comparable situation was during the period in the mid-sixties of confrontation between Gaullist policy (contested at the time in France) and the rest of the then EC6.

It is tempting to see this as simply a problem that distinguishes the UK from all other member states and certainly the arrangement reflects a doctrinal sharpness to the definition of social, especially labour market, policy in the UK under a neo-liberal regime. This is at variance with the continuing habits and discourse of social partnership which have characterised the discussion of the social dimension to the EU. But even among the 11, now 14 with enlargement, there is scope for variation of practice or approach and for polarisation of debate, as there is under those social provisions which would not be subject to the new 'opt-out' formula. Indeed the social arena is among those in which it has been hardest to establish a common regime across the Community. As the weight of analysis reveals, west European countries may exhibit a shared commitment to a form of welfare state, but they

have pursued this in different ways⁵¹. Of the four freedoms established by the Treaty of Rome freedom of movement for labour is the one that has been least achieved. As Stephan Leibfried points out, it is not a common market and perhaps barely a 'free trade area'⁵². National practices and idiosyncrasies persist that relate to differences in political, social and economic traditions and cultures. Though economic interdependence impacts on labour markets and social provisions, it is an arena in which national politicians believe that they retain an autonomy of action. It is also an arena in which doctrinal differences continue to be relevant in shaping policies. The pressures of interdependence might just as well lead to a reduction and 'denationalization' of social welfare as to a mounting case for transnational policy. Even where the case for cross-border action can be sustained it may be focused on regulatory mechanisms, as Giandomenico Majone has pointed out, rather than on distributive provision⁵³.

Thus we can expect differentiation to persist, with claims being made for either 'opt-outs' or the application of subsidiarity, a point made long ago in the MacDougall Report⁵⁴. Previous enlargements of the EC already pushed in this direction by accentuating the range of socio-economic divergence. The arrival of three EFTA countries, with rather advanced levels of social provision could tip the balance of the argument for a more extensive social role for the EU - a qualified majority in its favour should be easier to obtain. On the other hand these are three new member states that will strive to retain their high social standards. We may see increased 'competition among rules or systems' in this field rather than convergence, a development which would make British conservative policy rather rational. Eastern enlargement would be likely to accentuate divergence and militate

⁵¹ See Stephan Leibfried and Paul Pierson, *EC Social Policy in Comparative Perspective*, The Brookings Institution, 1995.

⁵² Stephan Leibfried, 'The social dimension of European Union: en route to positively joint sovereignty?', *Journal of European Social Policy*, 1994, 4,4, pp. 239-262.

⁵³ See for example Giandomenico Majone, The European Community between social policy and social regulation, *Journal of Common Market Studies*, 31,2, June 1993, pp. 153-170.

⁵⁴ MacDougal Report, *op. cit.*

against convergence in so far as the latter becomes thinkable only if a huge and expensive effort can be mounted to raise social standards and labour costs in the reform democracies. In any case to go soon for social convergence would be to put a huge obstacle in the way of the competitiveness of products from the reform democracies, since low labour costs are their great and for the moment main competitive advantage.

The choice thus facing European policy-makers is whether to accept a permissive and differentiated approach or to make a large political investment in mobilising the case and resources for a common policy. The difficulty of the former course is that it decouples the European level of governance from the project in social modernisation and of the latter course that the EU may find itself losing credibility in this area by its stated ambitions repeatedly eluding transposition into practice.

11. MATCHING POLICIES TO MEMBERS

We mention here two examples - there are many more - of policy areas in which there are real and important differences of interest or approach among groups of member states of a kind that cause big obstacles to agreement on a single policy that would make sense for all EU members. We cite them as instances of structural diversity that do not weaken the case for an EU role but suggest that sometimes the EU role may sensibly be to adopt variegated policy.

11.1 Migration issues

Here we note briefly that the patterns of migration in and out of different EU member states have been very different historically and that the new profiles of migration impact significantly differently. The move to reduce the impact of intra-EU borders on the movement of individuals (as French ministers explicitly acknowledge, Schengen lightens, but does not abolish border checks) of course makes logical some elements of collective policy. It does not, however, easily yield a single policy approach that would cover the needs of Germany, France and Britain, let alone other member states. Indeed the current institutionalised fora appear to put France and Germany into one Schengen box (driven by their shared land frontier), while the UK remains at a distance. Yet it can be argued that the British and French predicaments are essentially similar and their public policies are much closer to each other than either are with that of Germany.

11.2 Environmental policy

The environmental arena perhaps most vividly illustrates the mix of factors that renders problematic the assignation of public policy powers to different levels of governance. Objective facts of climate and geography make some environmental phenomena genuinely common: winds and water flows do not respect political boundaries. Yet extremes of climate mean that environmental issues are quite different in the Arctic north from the mediterranean south. Increased

understanding of ecological damage and resource depletion make some environmental problems shared. Yet variations in levels of wealth make some forms of environmental protection more affordable in richer than poorer countries. Some polities facilitate the promotion of environmental concerns, while in others these are marginal to the domestic debate. Local interests and capabilities vary within as well as between countries.

The SEA recognised all of these tensions. It empowered the EC to develop environmental legislation; it introduced subsidiarity for the first time explicitly in the treaties as a prudential criterion; and it also acknowledged the case for 'differentiated' legislation or rule application to take account of objective socio-economic or geographic features. Nonetheless, as we have subsequently seen, the application of EU rules can be problematic. In many member states, including the Netherlands⁵⁵, alignment to common rules can cause difficulties. The British government has found itself several times arraigned before the ECJ for failure to comply with EC directives and British ministers have made no secret of their opposition to European legislation to which they had themselves agreed. Whether described as wiser second thoughts or renegeing, the result is a problem for the EU of policy divergence.

A different version of the problem has been tabled by the arrival of three new EFTA member states with more 'advanced' environmental rules than those of the EC. Here the EU acknowledged in the accession treaty the need to look again at the relevant *acquis* with a view to developing higher standards. Yet to take this course would be to put perhaps undue pressure on some existing southern EU members, as well as to move the legislative goalposts for the Europe Associates. In common sense realisation of this a move is being made to decouple the internal market rules, in the strict sense, from the environmental corollaries, leaving the latter to follow as economic improvements begin to deliver scope for higher

⁵⁵ Michael Faure and Jürgen Lefevre, 'Some public interest and private interest aspects of environmental standard setting in the EC', Metro, Maastricht 1994, and Stephen Kux, *Subsidiarity and the Environment: implementing international agreements*, Europa Institut, Basel, 1994.

environmental standards. Thus a distinction is being drawn between products and the processes through which they are produced.

12. THE DIVERSITY OF NATIONAL CIRCUMSTANCES

Nostalgia for the EC6 is an evident factor in the current debate. Historical references to 'Carolingian Europe' have recurred in Germany and France, providing the seductive illusion that European Union at the end of the twentieth century can be built upon the foundations of European Union twelve hundred years earlier. But Lombardy has been excluded from the revived Holy Roman Empire in this analogy. The position of Italy in any developed model of core Europe or variable geometry Europe has become as uncertain as the position of Britain.

Germany

There was an active debate within Germany during 1994 on the structure and balance of a wider EU, which overlapped with concerns about whether the institutions and political balance of the EU-12 or EU-15 any longer served German interests. There was a widespread consensus that the Federal Republic must be within the core of any multi-level Europe, and should also be a full participant in all of the different groups of an eccentric ellipse or variable geometry model. The CDU Fraktion Paper of August 1994 notes that Germany's 'geographical location, its size and its history' make its government's own interest in stability 'essentially identical with that of Europe'; and goes on to argue that 'Germany and France form the core of the hard core' of any moves towards deeper integration⁵⁶. In this study and elsewhere commitment to maintaining the Franco-German link, as the hub around which European integration revolves, is justified partly as a means of preventing a recurrence of the historical divide between northern (Protestant) and southern (Catholic) groups, the first looking to the North Sea and the Baltic and the second to the Mediterranean.

The task of the hard core is, by giving the Union a strong centre, to counteract the centrifugal forces generated by constant enlargement and, thereby, to prevent a South-West grouping, more inclined to protectionism and headed in a certain sense

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Lamers op. cit.

by France, drifting apart from a North-West grouping, more in favour of free world trade and headed in a certain sense by Germany.

The ambiguities of German policy stemmed from the tension between its government's apparently firm commitment to eastern enlargement, in order to provide political stability, and at the same time to deepening in order to maintain strategic direction. These ambiguities were sharpened by widespread reluctance to contemplate the extension of long-term financial transfers to the CEECs, in the light of the hard experience of integrating the Länder of the former DDR into the German economy, and by a parallel reluctance to accept that an extension of security guarantees to the CEECs would involve some radical reconsideration of the principles of German defence policy. The weakness of public support for early enlargement to eastern Europe on generous terms suggested that Chancellor Kohl's rhetorical references to Germany's 'historic responsibility' to eastern Europe aroused little support among the German public. There was an underlying preference to hold to the greater certainties of a smaller Community both within political circles in Bonn and within the public at large. Popular resistance to higher taxes in general, and to higher financial transfers to other regions and countries in particular, had pushed for the exclusion of Italy from any core constructed around monetary union; if necessary, German taxpayers might reluctantly underwrite accumulated Belgian debt in order to gain greater monetary stability, but not still-accumulating Italian debt. The political debate in Germany thus contains an unresolved tension between commitment to eastern enlargement and reluctance both to shoulder the political or financial burdens enlargement would impose and to accept the changes in the established *acquis* which that would necessitate: a contradiction most easily resolved by moving towards a multi-tier Europe in which the privileged position of those at the core would not be extended to those outside.

Christian Deubner's elaboration of the CDU paper into a more institutionalized inner core, bringing together the Franco-German tandem with the Benelux group, provided an attractive model for simultaneously widening and narrowing, in which accession for east European states would be balanced by the development of a

more tightly-integrated directing group⁵⁷. The conventional wisdom within Germany was that this inner core must be constructed upon clear federal principles. The rhetoric of Christian Democratic proposals indicated that the inner core would be built around shared commitments by the same countries to monetary union, common foreign and defence policies, and common rules on immigration and internal security. But continuing hesitations within the SPD, and within German public opinion as a whole, about Germany moving towards an active conception of security and defence policy suggested that German governments would continue to be constrained by domestic factors in the field of common foreign, security and defence policy.

Thus necessarily Germany must be part of any leading group. The question is rather how much of a role of leadership Germans might want to assume. German opinion seems agnostic as regards Britain, that is to say German ministers still make efforts to include the British in on discussions, but do not any longer regard British participation as necessary for 'deeper' integration to proceed. Where the Germans remain to be tested is on what form of intermediate regime they might contemplate for central and east Europeans short of full membership, perhaps not surprising in that for the moment German policy is officially committed to eastern enlargement as such.

France

Within France there has been almost as lively a debate, and as strong a consensus that France must form part of the 'core of the core'. But there was a sharp divergence from German thinking on how such a core might be constructed, as well as considerable differences of opinion among French opinion-leaders themselves about priorities. Defenders of national sovereignty shared positions with those who feared German domination within a federally-constructed core to promote an intergovernmental core-model, within which France could attempt to maintain a position of formal parity with an otherwise predominant Germany. If, as Giscard

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Christian Deubner, *Vertiefung der Europäischen Union: wie dringend, wie weit, und mit wem?* Nomos, Baden Baden, 1995.

d'Estaing argued in *Le Figaro* in January 1995, the objective of France's European strategy was to maximise French influence, then the closest possible links to Germany within the smallest possible group provided the most effective way to achieve this⁵⁸. Concern to maintain links with Italy and Spain in Mediterranean diplomacy, and with Britain in defence, led Prime Minister Balladur and others to emphasize a more inclusive and variable inner grouping than that which the CDU appeared to be proposing⁵⁹. Jacques Chirac was also at pains to suggest that his European policy would be much in the same vein. French elite opinion may be summarised as favouring monetary union with Germany and the Benelux countries, military cooperation with Britain, foreign policy cooperation also with other Mediterranean states, and political union with no-one.

French political leaders across the political spectrum were deeply resistant to the geopolitical and economic implications of eastern enlargement in 1991-2. Fears that accession of the Visegrad states would tip the balance of the EU north and east, leaving Germany as its focal power and France as a less central player, were compounded by appreciation that it would be impossible to maintain the common agricultural policy - still a symbolic issue, as well as a real economic interest, in French approaches to European integration - in its present form with Poland and Hungary as full members. The prospect of widening thus also raises arguments for narrowing, in order to maintain established positions; though French interests and perceptions suggest a core group more open to the south than that prevailing in Germany.

Attachment to the *acquis communautaire* remains fierce in official French policy, hardly surprising in that the concept owes so much to earlier French policy vis-à-vis first the British and then the Spanish and more recently the Eftans. One can thus expect French policy to continue in this sense to take a rather orthodox view about the Community pillar, while advocating more flexible inner circles for the second

⁵⁸ Giscard d'Estaing, *Le Figaro*, 10/11 January 1995.

⁵⁹ Edouard Balladur, interview in *Le Monde*, 30 November 1994; Alain Lamassoure, *Le Figaro*, 29 November 1994.

and third pillars, as well as for a range of defence groupings. The one obvious exception in the first pillar is EMU where the case for a tight knit and, if necessary, exclusive grouping is widely accepted.

The Benelux countries

Elite and mass opinion in Belgium, the Netherlands and Luxembourg has long recognized the unavoidability of close and dependent relations with Germany and France, as well as the desirability of containing that dependence within an institutional framework which might both give greater weight to their interests and provide a counterweight to Germany. It was partly for this reason that there was such a well of sympathy for Britain as a welcome balancing partner. Hence the disappointment with Britain as so reluctant an integrator is now severe. Despite this shared perspective each of the Benelux countries has a distinct profile on European issues and the current debate about institutional and policy reforms differs within each of the three. It is for this reason that care should be taken by people from elsewhere not to assume that Benelux is a natural political grouping which could necessarily easily be 'represented' by a single member of the college of Commissioners or a joint presidency.

Belgium both suffers and benefits from housing so many EU institutions in Brussels. It suffers the criticisms of 'Brussels centralisation' and 'Brussels bureaucracy', and the exaggerated sense of the weight of Belgian influences on EU policies. One should also beware of oversimplifying Belgium's relations with its immediate neighbours, given the complications of linguistic politics in the country. The Belgian government, distracted by the complexities of Flemish/Walloon coalition politics and by the political intractability of reducing Belgium's fiscal deficit and accumulated debt, has been increasingly conscious of its dependence on German support for its currency in the absence of monetary union. Significantly Karl Lamers and others in Germany have glossed over Belgium's problems with the EMU convergence criteria, concentrating their attention on Italy's problems. The unspoken assumption is that Belgium would somehow or other be helped into the first EMU group. A Belgian government could be expected to cling to its position

of relative advantage against the onslaughts of those who seek to rebalance voting weights, helped by the fact that eastern enlargement is not a high enough priority to demand a sacrifice of national position. In some ways the Mediterranean dimension weighs more heavily, given the historical links with the region and the significant Moroccan population in Belgium.

For the *Netherlands* a key issue is whether to 'legitimize' Franco-German leadership by providing it with the multilateral 'cover' of a five-state core group, or to press for a more inclusive and flexible pattern. The dilemma is sharp now that the traditional pattern of external balancing through the close relationships with both the US and with Britain has been broken. American policy since 1989 has lacked the old intimacy with individual European countries and the British have from a Dutch perspective become irredeemably preoccupied with their internal debates on Europe. This leaves the Dutch much more exposed than hitherto and facing a real challenge about intensified partnerships with both the French and the Germans, neither being straightforward. The Dutch-German relationship is permeated by a troubled historical legacy and the Dutch and French are too used to being on different sides of the argument on European integration issues. Nonetheless the tradition in Dutch policy of carefully timed and focused interventions in the European integration debate is important, early exemplified by the impact of the Beyen plan in the 1950s. This weight of voice was historically reflected in the formal decision rules of the old EC and its writing overrepresentation of the smaller and more vulnerable neighbours of Germany. Hardly surprisingly the Dutch are arguing hard that Netherlands is a 'medium-sized', not a small country. It should also be noted that as the old solidarities of the original EC begin to dissipate so the tone of the Dutch debate has altered, most audibly in the new and intense preoccupation with being a net contributor to the EU budget after decades of being cushioned from the costs of their integration policy.

Luxembourg likewise faces some uncertainty as the intimate EC in which the country had a special and buttressed position gives way to a larger and more diverse grouping. The opportunity and incentive for attaching to any central core

are clear, and the assumption of Luxembourg's immediate neighbours and partners is that this is what will happen. Nonetheless the openness of the country to citizens from elsewhere, especially Portugal, has produced some frissons about national identity. The current fashion for talking of reduced influence for small member states and especially the 'micro' member states is not aimed at Luxembourg (Malta is the favoured early target), but the implications for Luxembourg exceptionalism are considerable.

The United Kingdom

The British debate has been too absorbed in domestic controversies, centred around the defence of sovereignty and around arguments over the role of the state in economic and social regulation to focus in detail on the costs and benefits of a more sharply differentiated EU and on Britain's place within it. There has been little active debate on how best to combine enlargement with efficient Community decision-making. Conservative ministers took heart in the winter of 1994-5 from the changes of attitude they perceived in France, with the prospect of a Gaullist victory in the presidential elections, and in Italy under the Berlusconi government; concluding that monetary union was unlikely within the foreseeable future, that the 1996 IGC would maintain the predominantly state-centred character of the EU, and that defence integration would be developed further within a fourth, intergovernmental, pillar of the EU⁶⁰. The Labour opposition deliberately avoided taking any definite position on these issues.

There had been no sustained investment in building close relationships with specific continental countries, nor in coalition-building on specific issues - though the evolution of a Franco-British defence dialogue in 1993-4, publicly announced in the autumn of 1994, was seen by some ministers as the basis for a wider bilateral partnership⁶¹. British preferences, as set out in Prime Minister Major's response

⁶⁰ See *Memorandum on the UK's approach to the treatment of European defence issues at the 1996 IGC*, February 1995.

⁶¹ Françoise de La Serre, Jacques Leruez and Helen Wallace, eds., *French and British Foreign Policies in Transition*, Oxford: Berg, 1990.

to the CDU paper in his Leiden speech, on 7 September 1994, were for greater 'flexibility' within a wider and more diverse European Union ⁶².

We have the prospect of a Union...in which difference in size, shape, economic and industrial profile, philosophy, history and culture will make variable geometry a fact, whatever decisions we take about our institutions.

It seems to me perfectly healthy for all Member states to agree that some should integrate more closely or quickly in certain areas. There's nothing novel in this. It is the principle we agreed on economic and monetary union at Maastricht. It may also happen on defence. But the corollary is that no Member state should be excluded from an area of policy in which it wants and is qualified to participate.

The British commitment to 'flexibility' appeared to be moving towards a preference for an eccentric ellipse Europe: determined to form part of any developing defence inner grouping, uncertain over how to react to moves towards monetary union among other states, with a settled preference for as little further institutional or policy integration as possible, and with virtually no public discussion of the dilemmas involved in eastern enlargement. The Conservative Government had already taken some steps towards its preferred model of a more flexible EU in negotiating the Social Protocol to the Maastricht Treaty.

Italy

The CDU Fraktion paper was aimed at the problem of Italy as much as of Britain. Long-term domestic political weakness has prevented Italian governments from containing the growth of state expenditure and government debt, with recurrent inflationary spirals. The structures of the Italian state and economy, with high levels of state ownership counterbalanced by a substantial 'black' economy, have made for particular difficulties in implementing Community rules and in controlling the disbursement of Community funds. Radical changes in the domestic political system in recent years, with the rise of the Lega Nord, Forza Italia and the Nationalists, have shaken the previous commitment to closer integration. Italian reactions to the

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John Major, William and Mary Lecture, Leiden, 7 September 1994.

CDU paper were of alarm at the prospect of their country being relegated to a second tier, without defined strategies for avoiding such an outcome.

Italy is not capable of forming part of a monetary inner core. Its relatively low levels of defence commitment and expenditure also suggest that it would not be a strong candidate for a defence inner circle. Yet Italy is a 'front line state' with regard to several of the potential security problems the EU may face in the next ten years; it has already provided forward air bases for NATO aircraft operating over Bosnia, and support for NATO and WEU naval operations in the Adriatic. In the past ten years it has, furthermore, become a country of net immigration from the South, as population pressures and poverty push across the Mediterranean towards the rich north. To exclude Italy from closer defence integration and from the development of common policies towards immigration would risk undermining the effectiveness of the common policies which any inner groups of states might wish to pursue.

Spain

Spanish policy provides a revealing contrast with those of Britain and Italy, or at least so far. Its government under Felipe Gonzalez has pursued an active policy of commitment to closer integration, joining WEU in 1987 and aligning its economic and monetary policies towards preferred EU criteria, as far as possible. The aim of policy has been to establish a position at the heart of Europe and to extract rewards for being a positive player. Indeed the Spanish in effect demolished the argument in the mid-eighties that widening and deepening were incompatible, helping to establish that the EC12 could be more productive and active than the smaller grouping of previous years. The economic constraints that have prevented Spain from 'catching up' make it difficult for any Spanish government to sanction with equanimity any notion of a core leading group, since their position would be on the margins of that group. Nonetheless the German CDU was forced to retract the implication of the Lamers paper that it was an intention to set Spain aside, a restatement that is clearly important for the Spanish presidency of the Council and its key role in convening the Westendorp Group to prepare the IGC. How far this

strategy will survive a change of government is not clear. There are some signs of less integrating policy from the right. In any case a difficult balance has to be drawn, since the Spanish also have to argue the case for differentiated Community policies and for positive redistribution through the cohesion mechanisms, in recognition of their weak socio-economic situation.

The history of Spanish integration (or re-integration) into institutionalized western Europe since the death of Franco has been happy, both for Spain and for the EU. The Spanish political system was stabilized, its economy sustained rapid growth, and its governments supported further integration - while benefiting in return from the cohesion measures which the EC provided. Relegation to a second tier would reverse this process, as would a cutback in cohesion measures in response to pressures from potential east European members. Thus while the Spanish have accepted the goal of further enlargement they have been at pains to maintain their position, which explains the tactical alliance with Britain over what became the Ioannina compromise - the concern being partly to make it absolutely clear that Spain was ensconced as a larger and more weighty member and partly to protect the cohesion coalition. These nuances of policy were set out in the Spanish paper produced in February 1995 and partially reported in *El Pais* on 10 February. This reflects also the compelling concern, shared with the other southern EU members, about the relationship with Mediterranean non-members and the importance of developing a much closer partnership which would or could involve the extension of some EU policy regimes to countries that would never be members.

Spain, like Italy, is a front-line state in terms of political instability and demographic pressures from the South. Spanish forces have contributed to a number of recent peacekeeping operations, including a significant contingent in Bosnia. Spanish insistence on guarantees on future cohesion measures in the EFTA accession agreements, as well as on improved access for its fisheries to other Community waters, left some within other governments with the impression that Spain was becoming an eccentric member pursuing a particularist agenda. But Spanish interests are legitimately different from those of Germany or the

Netherlands. Debate within Spain on variable geometry has so far been limited; but the political consensus remains that Spain has now earned its position as a key player in European institutions.

Portugal

Portugal has in some ways been even more of a mutual success story: a country which scarcely fitted either the minimum economic or political criteria for accession less than 20 years ago and which has been drawn back into the European system through membership of the EC. Portugal's experience, indeed, provides a classic case of convergence through inclusion, which offers lessons for the approach to be taken towards the applications from east-central Europe: half-membership for Portugal might well have left it in a permanently subordinate economic and political category.

Greece

Greece has been the EU's south-eastern 'outlier' for the past 14 years. Its distinctive political and social culture, the undercurrent of tensions with its neighbours and the problems of the Greek economy have put the country repeatedly out of kilter with the rest of the EU. It is a member state seen by its partners as both perverse and diverse. It would be among the first candidates for consignment to an outer circle. Yet support for integration in Greece is high. It was the first member state to ratify Maastricht and its geopolitical situation places it in the most exposed border of the EU to political instability. Thus the choice about how far to include or to exclude Greece in the development of EU integration is a false or dangerous choice. The issue is perhaps better seen as a test of the capacity of the integration process to accommodate a member with idiosyncratic concerns.

Ireland

Ireland was conducting a relatively open debate on options for the 1996 IGC, in the Spring of 1995, centred around a series of seminars coordinated by the Ministry of Foreign Affairs. The general consensus appeared to be that Ireland must attempt to be included in the core group if possible. On a monetary core, Irish interests are

divided. Much international debt is denominated in Deutschmarks; the small number of major Irish companies depend both on German and British markets, though the much larger number of small businesses are heavily dependent on the British market and would suffer if exchange rates moved against them. The question of inclusion within a defence core has not yet been openly addressed. Ireland became an observer member of WEU on ratification of the Treaty on European Union, but full membership is not on the national agenda. Hints have been dropped by successive prime ministers and foreign ministers that within a full political union Ireland would be willing to contribute to the common defence. Whether that would extend to acceptance of WEU membership, let alone full NATO membership, has not yet been considered.

The evolution of social policy and social attitudes suggests that as sensitive and divisive an issue as abortion is unlikely to recur. Irish benefits from agriculture, and from financial transfers and the structural funds, will however pose some awkward dilemmas as enlargement to eastern Europe moves forward, with the threat of a significant loss of benefits from EU programmes and with the consequent temptation to prefer an inner grouping which would exclude these future new members from the full benefits of membership.

Denmark

Denmark's position has been in some ways not dissimilar to the British - though here willingness to contemplate joining an inner grouping on monetary union was far higher than for any parallel grouping on defence, in spite of the Danish reservation in the Treaty on European Union. The legacy of the post-Maastricht referendum has been a settled reluctance to engage in further domestic debate; leaving a widening gap between what ministers and officials were prepared to discuss confidentially within Community meetings and what it was possible to admit to domestic opinion. Danish politicians have a preference to be within most of any inner groups which might emerge, while also preferring - for domestic political reasons - to minimise the extension of integration.

Denmark had already been granted special arrangements in a number of areas, most significantly in imposing higher environmental and social standards than provided for in Community-wide regulation. The 'Edinburgh Agreement' (the Declaration of the European Council of December 1992) has attained the status of a national compact to which politicians of most parties clung through and after the second Maastricht referendum: agreeing that the country must stay within the EU while resisting further integration. Denmark is an observer member of WEU, with strong resistance from several left-of-centre political parties to any moves towards full membership. The attractions of 'variable geometry' were thus being argued in Parliament and the Press in the autumn of 1994:

We must keep up the principle of unanimity when it comes to altering the Treaty. We must keep a foot on the brake... We do not want an EU with a dominating inner circle and dominated outer circles. We do however want an EU with a variable geometry, different rooms in the same house'... ⁶³.

Danish economic and monetary policy indicated an acceptance - on the part of the government at least - that national interests required as close a link with German preferences as possible. If public opinion would allow, it therefore seemed likely that Denmark would wish to become part of a monetary core while remaining outside closer integration in defence.

New members

It is early days to speculate on the attitudes of the new members to variegation of commitments and institutions within the EU. The strength of public misgivings about EU entry which was evident in the referenda campaigns on EU accession however suggests that governments will be sharply constrained in their response to further integration by their assessment of what public opinion will be willing to accept.

Accession agreements have added to the diversity of EU rules in a number of fields; including the survival of their higher environmental standards, the Alpine

⁶³ Gert Petersen MP, chairman of the Socialistisk Folkparti, *Politiken*, 11 September 1994.

transit agreement and the designation of 'arctic agriculture' under a special regime, as well as special arrangements for snuff, alcohol and second homes. These nuances of policy all reflect an acceptance of modulated EU arrangements to deal with both objective differences on the ground and differences of taste in the countries. All three successful candidates raised the issue of neutral or 'militarily non-aligned' countries inside an EU engaged simultaneously in developing CFSP and the elements of a common defence policy. One might therefore expect some reticences about further reform, whether as a general brake or in the form of preferences for distinctive arrangements.

Finland

The Finns may bring a surprising paradox within the EU. It is a country with a very special history of being not quite a member of European organisations, for a long while an associate not full member of EFTA, though treated as in effect a full member, and a member of the Council of Europe only since the late eighties. It is a specialist thus in nuanced half-way houses to accommodate the harsh realities of geography and geo-politics. Yet Finnish perceptions of a potential Russian threat may well make that country a determined candidate for any closer defence grouping. When and whether it might be a candidate for EMU is too early to tell, having tried to align to EMS before accession and being caught in a process of painful economic adjustment. There will be a ready acceptance by most Finnish politicians of varied and differentiated patterns of integration, though also a ready tolerance of the desire of some EU members to proceed more intensively.

Sweden

Sweden is a very different kind of country with a different political culture and history as a stubbornly independent projector of its own special policy context. At the same time it is very multilateral in its experience, having, for example, been a heavyweight member of EFTA, as well as in the UN system. Swedish politicians are responsible for the epithet 'semi-small' and will fiercely resist the hegemony of the self-declared large member states. Of course there are too some hints of the Danish model of active engagement in integration, but only up to a point, with the

constraints that flow from a narrow referendum verdict on accession. The debate on EU reform comes too early for the Swedes in some ways, since EU membership is very different from the EEA transit lounge. Nonetheless it is to be assumed that the Swedes will be activists in the debate and that there will be a tussle between prudent recognition of differentiation as an umbrella for valued particularism and determination not to be left on the margins of the EU after all that effort to get on to the inside track.

Austria

Austria is the newcomer with the most chance of being in an inner core of EU countries, at least as far as EMU is concerned. The close dependence of the Austrian on the German economy pegs the two currencies together and makes it difficult to plot other than convergent macroeconomic trajectories. However, the 'flanking' policies that have traditionally operated in Austria have some significantly different characteristics, thus inducing forms of particularism in social, environment and transport policies. In this sense Austrian policy may well turn out to resemble that of the Dutch; or perhaps the Danes on the more political agenda of the EU. The question of full membership within WEU has been floated within the Austrian domestic debate, opening the prospect that a future Austrian government might wish to join an inner core defined in terms of both monetary union and common defence. However, the debate in Austria on neutrality has turned out to be rather more controversial than in the other EFTA new members. This might therefore push the Austrians into greater reluctance. How far Austria, Finland and Sweden will together try to produce a different definition of security policy for the EU, suggesting that WEU focus on 'soft' rather than 'hard' security issues remains to be seen.

The Europe Associates

Governments in the Europe associates states are anxious observers of the current debate, conscious that they will be excluded from the negotiating table at the 1996 IGC and that the negotiations for membership which will follow will be conditioned by its policy and institutional outcomes. It is for this reason that the Poles, for

example, have asked for observer status at the IGC. Their common concern is to avoid being relegated to a subordinate political and institutional tier, even though they have an interest in achieving substantial differentiation in the application of some Community rules for an extended transition period after membership, as well as whatever is agreed for the pre-accession period currently being debated. On the other hand full commitment on defence offers far more advantages than disadvantages for all of them. The question of early NATO membership, for Poland at least, ahead of EU accession is already under active discussion, without as yet any clear signal as to whether early membership of WEU would also be open to negotiation. The British proposal for the WEU chapter of the IGC would in effect point in this direction. It should be noted here that of the existing Associates Poland and Romania would clearly count as 'large' countries, with aspirations to serious influence, the other four being 'semi-small'. It is only as the Europe Agreement circle is extended - to include the Baltics and Slovenia - that very small countries start to become involved in the discussion.

13. THE PRESSURES OF EASTERN ENLARGEMENT

Prior enlargements have repeatedly put on to the table the issue of how to reconcile numbers and increased heterogeneity with effectiveness and intimacy. As the EFTA enlargement loomed the leaders of the EC12 purported to persuade themselves that somehow or other enlargement would be accommodated without the integration model having to change. But an eastern enlargement throws any such reassurance out of the window, or appears to. Moreover the IGC of 1996 is specifically tasked to look at the implications of further enlargement for the functioning of the EU. Three sets of issues are raised by the prospect of some as yet undefined group of central and east European associates joining within the medium term. First, the range of socio-economic divergence and attainment between Denmark and Romania puts into question whether the same *acquis* really can be absorbed by the potential newcomers. Secondly there is the issue of numbers *per se*, as the prospect of 25 or so members looms in principle, with many of the additional potential members smaller and thought to be a source of fragmentation and the larger considered as overwhelmingly expensive. Thirdly, the pressure of neighbours with such pressing security demands is a real challenge to the stumbling EU efforts to develop an effective outreach.

First as regards intrinsic diversity, the issue is whether membership is an acceptable formula for countries that may be many years from full acceptance of the *acquis communautaire*, even with rather long transition periods. If not then is the alternative to delay enlargement *sine die* or to make a distinction between the essential and the desirable in the *acquis*, thus putting enlargement into a much earlier timeframe? Our assumption is that such explicit delay as would be implied by the former is not on the cards (though delay could be the result of persistent equivocation on the EU side). It then follows that the issue of a partial *acquis* has to be addressed, perhaps with the transition partly before and partly after formal accession. But to follow this path can only be at best tricky and at worst controversial, since some current members have reservations about parts of the *acquis* also. Thus is very clean water essential or desirable? And can it be afforded

anyway? It would be all too tempting to engage in a rather sterile debate on this issue. For us the question is rather clear. Full acceptance of the *acquis* has never preceded accession - perhaps the Austrians have come closest - and does not always follow accession, whatever the rules formally state. In any case the other pressures of diversity and manageability suggest that there may well have to be some retraction from the *acquis* for other reasons. Thus a debate about a core *acquis* prompted by Europe associates in relation to their pre-accession might be functional anyway, especially given that the EU is under fire for being over intrusive and over extended.

Secondly, of course numbers are a problem and they are accentuated by the range of diversity among the potential candidates. But the extent of the problem depends on how far the participants in a yet larger EU are bound in to a collective process and whether in those areas where there are shared interests and shared policies. This suggests, first, that the policy scope should be feasible and pertinent, and, second, that the institutional and legal framework should be resilient and with enough independent vigour to claim respect, authority and effectiveness. In other words for enlargement eastward to be acceptable and successful requires an investment in institutional reinforcement and a concentration on a core policy programme, whatever additional circles of variable cooperation are loosely attached. In particular the basis for some financial redistribution will need to be reassessed in this context, but in our judgement this would have to follow and not precede that discussion of institutional reinforcement.

Third come the geopolitical considerations. The central and east European associates are either on the outside among the primary objects of EU foreign policy or partners on the inside in developing foreign and security policies. Either way the existing EU members have to address the same set of questions as to their goals vis-a-vis the rest of Europe. The continuing doubts about enlargement eastward are part and parcel of the persistent confusion about the elements of a CFSP for post-cold-war Europe.

Does everything depend on central and east Europeans becoming members fully or are there intermediate stages of 'half' membership? The shortly stated lesson of experience is that no stable halfway house formula has been developed in the past. The EEA was precisely not such a framework. Association as such has not been a satisfactory formula for the relationship with Turkey. In this sense the lessons of experience are not encouraging. Where the EEA proved very helpful, on the other hand, was as a learning process, more for the EFTA members than the EU perhaps, but nonetheless facilitating the eventual accession negotiations. An EEA-type of regime, understood as an exercise in the joint management of a pre-accession strategy, might have something to offer in the areas where joint regimes can be established for managing economic exchanges and consolidating legal and administrative delivery systems. But it could deal with only a limited part of the shared policy agenda and, unlike the EFTA case, not with many of the policies that for the Europe associates are very important.

So any form of EEA-analogy has to be seen in limited terms and other forms of intermediate partnership would still need to be built. We have suggested throughout this study that as long as the core policy regimes are well established in the EU and as long as there is a vigorous institutional and legal framework in place there will be scope for the EU to have soft boundaries for the inclusion of Europe Associates in an extending range of policy-developing fora. Defensiveness about inclusion in discussion and at the same table for some shared policy debates is based as much on insecurity within the EU as on the additional complication of the new associates to the east.

14. THE SEARCH FOR REMEDIES

If the issue is whether to maintain or to reappraise the inherited model the following choices are, at least in theory, possible:

1. to leave the model as it is for those countries whose elites and electorates prefer to stick with the familiar path, leaving doubters to disaffiliate explicitly or implicitly and leaving those ineligible for membership to remain somewhere in the magnetic field of the EU;
2. to build in deliberate formulae for variable participation in the integration process, recognising that the kinds of variation needed may be different for west European 'partial' or semi-detached members from those that would make sense for the reform democracies; or
3. to relax the model and loosen the constraints of membership for all members, thus simultaneously easing the problems of some current members and lowering the threshold for the accession of reform democracies as full members.

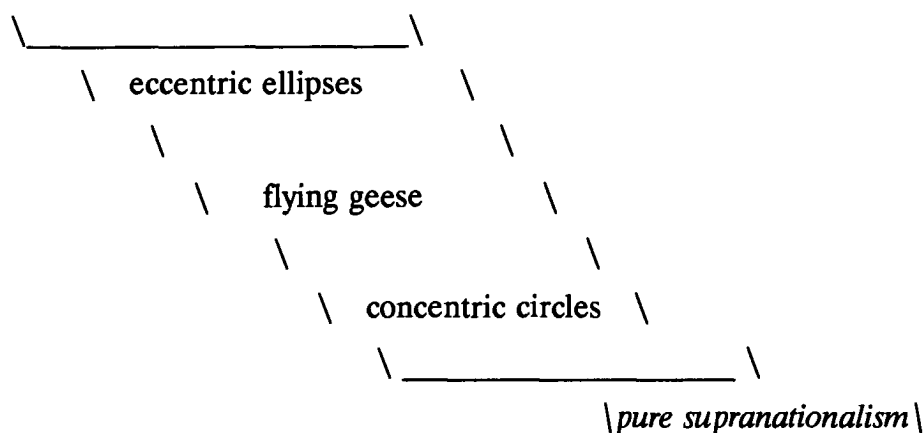
A spectrum of possible models exists for the future pattern of European cooperation. At one end of the spectrum is *pure supranationalism*, that is to say a model of tight-knit integration in which all participants sign up for the same policies on the same basis and within a framework of tough collective disciplines and institutions. This would be a form of federalism or supranational European governance. At the other end of the spectrum lies *optional cooperation*, that is to say voluntarism of engagement in and compliance with joint activities, depending on what governments and their publics judge beneficial at the moment of decision. This would rest on the persistence of the country level of political authority as predominant. In between these two extremes lie several 'mixed' models, that is to say variants of collective governance with varying degrees of strictness of rules and differing patterns of participation.

Neither extreme model seems likely to emerge in the short to medium term. The optional cooperation model would not be acceptable to at least a critically

important small group of countries, where the political leadership is heavily committed to some form of supranationalism. The costs of fragmentation are too high to be acceptable for some member states. *Pure supranationalism* might be acceptable to that same small group, but is clearly not acceptable to some current EU members and is almost certainly unrealistic as the basis for an eastern enlargement. Thus the costs of federalism are high enough for some countries to constitute a sizeable blocking group.

The relevant choices are therefore about what lies between these two extremes, i.e. something like the following:

optional cooperation



Concentric circles imply a single core group at the centre, in which case EMU is the presumed shared goal of the inner circle, leaving other countries in several surrounding circles and varying distances from the centre of decision. *Eccentric ellipses* presume more than one axis of policy integration, with different groups of participants which might and probably would to an extent overlap. *Flying geese* are a single configuration, but with different permutations of the members during flight.

Whether a single configuration of member states mostly flying together is possible depends on how far there are shared goals that demand repeated endeavours to achieve them. The goals that figure in the current debate as targets for collective effort include:

1. *economic union* - a pattern of political and economic integration, building on the single market and four freedoms, in which EMU is a central successor goal, both for its own sake and for the political solidarity that it would have to imply;
2. *socio-economic modernisation* - the pursuit of integration as a joint project in 'modernisation' (responding to both intra- and extra European factors), in which both electorates and elites would see value-added in cooperation on a systematic basis, with the single market as a shared enterprise, but with EMU as perhaps desirable but not essential subsequent goal;
3. *geo-political stabilisation* - a rationale for integration essentially as the means to handle the geo-politics of Europe and to provide broad stabilisation mechanisms (taking account of both the eastern and the southern 'near abroad' of the EU); and
4. *common security and defence* - the effort to develop a European successor to Nato, as an integrated defence community with integrated military capabilities.

Selective and flexible policy cooperation, would be a choice away from all of the four goals outlined above, that is transnational cooperation, rather than integration, as a means from time to time and from issue to issue to deal with public policy demands that go beyond the capabilities of individual countries.

We have deliberately not identified *political union* as a self-standing goal, since we have assumed that its function is as a corollary of other goals. Thus it seems hard to envisage EMU without political union, but thinkable to have regimes of socio-economic modernisation that would not necessarily require political union. A regime of provisional geo-political stabilisation would not entail political union, but an effort to develop a defence community demands a political union. A regime of selective policy cooperation deliberately excludes political union, not least by the insistence on voluntarism of commitments. Incidentally it should be noted that in a well-functioning political union there can be quite high tolerances for diversity

without threats of exit, whereas in a poorly performing political union diversity becomes a pretext for exit. Here the US and Canada provide contrasting examples.

A treaty-reforming process, as is in prospect for the next IGC, should be about establishing durable ground rules that could form the basis of integration over the longer term. An IGC should not be convened to resolve short-to-medium term frictions; indeed it is for this reason that some prefer specifically to describe IGCs as 'constitution-shaping' exercises. Hence the issues of core goals, core common interests and presumed eventual membership are crucially important and closely related.

We have argued throughout this study that the current debate about in-groups and out-groups or about which should be the next key priorities risks being divisive and that integrative and inclusive approaches are needed to see the EU through the next phase in its development. Self-exclusion is one thing, but forced exclusion is quite another and potentially destabilising for the system as a whole. Thus we hold to two essential propositions for the EU15. First, a shift of balance towards intergovernmental cooperation and more flexibility of commitments carries systemic costs, since it would weaken, rather than strengthen, the incentive structure for pre-commitment and subsequent compliance. Second, notions of formalised 'hard core groups' risk creating more problems than they solve, by freeing the advanced to cut adrift from the pack and by demotivating policy-makers in the less advanced countries.

If some member states, or their governments, find the level of commitment implied too demanding, then they may still in effect withdraw from some arenas of collective policy with a corollary loss of influence. In both the defence field and an eventual shift to EMU, such self-exclusion by some is highly probable in the future, as it has been in the past and it need not necessarily prevent others from reaching a tighter commitment. If some geese choose not to fly in the skein, the others can still fly on. If some choose to fly at the back then that too is possible.

It would then follow that the next IGC should be looking to produce reforms that reinvest in mechanisms of political cohesion. If this could be achieved then the chances would be improved of finding common sense solutions to the tensions of diversity - of economic capability, of taste and maybe even of levels of commitment. It is with this in mind that we suggested at the outset that institutional questions needed to focus on partnership formulae rather than polarising sub-groups or exacerbating inter-institutional tensions. Similarly mechanisms of economic cohesion remain important as signals of mutual political engagement.

In any case to focus the next IGC on issues of power, position and commitment within the existing membership of the EU would reduce not increase the chances of devising means to include central and east Europeans within the EU. Here the keyword is elasticity rather than flexibility. The EU approach to the threshold of membership to be set for the Europe Associates needs to be based on a willingness to stretch the framework of rules and of institutional involvement around a cluster of policy goals and interests shared between western Europe and the reform democracies. The goals that most readily admit of an inclusive approach are: market integration, socio-economic 'modernisation' and geo-political stabilisation. EMU seems much less relevant, though macro-economic stabilisation is vital. The provision of common defence largely depends on some countries maintaining and pooling serious military capabilities, treating Europe as a whole as a region that is best secured by shared defence.

Thus the important questions seem to be about how a much enlarged EU could function, i.e. whether the larger flock could sustain flight, and about whether the younger and less strong birds are to be helped on the journey. These challenges probably need efforts from a larger and not a smaller group willing to contribute to the provision of collective leadership and willing to share the responsibilities for moving forward.

The problem remains of dealing with persistent diversity. We hold hard to the need to accommodate objective diversity; common sense demands no less. We also tend

to favour a generous definition of the objective to include some differences of taste. That is to say those stubborn differences of taste that rest on ingrained customs, traditions and preferences that hardly damage the other members. Indeed the increasing stubbornness with which differences of taste are articulated and so easily turned into symbols of national identity suggests that the EU has overextended its policy reach. The EU risks losing major support in a surge of public irritation over efforts to harmonise or homogenise differences that are actually minor.

This suggests that the key issue is about core policy goals and policy tasks, rather than about core countries. The time has probably past for defending the whole *acquis* as essential for either existing or new members. Instead the emphasis should be on defining which is really the essential *acquis*, which elements may only be desirable and where the *acquis* is inadequate. A narrower view of the *acquis* would remove many of the tensions about diversity and could release more energy and attention for the more effective management of core tasks. This in turn might then remove, or at least reduce, some of the frictions which induce concerns lest the institutions continue to underperform.

The key new additions as core tasks since the Maastricht debate was launched relate to central and eastern Europe and to the Mediterranean basin. It would surely be a gross error to deny the opportunity to contribute effectively to embedding democracy or promoting prosperity in central Europe, or to fail to extend security eastward. Equally a responsible and engaged policy towards the southern Mediterranean countries seems a necessary priority. Both regions are important because of their dependence on the EU and the costs to the EU, as well as to the countries concerned, of weak and inconsistent policy. Indeed what is crucial about both of these neighbouring regions is that they impinge so directly on both the internal and the external policies of the EU and individual member states.

We would argue that the response of the institutions and of politicians to these tasks will be a good barometer of how far they are prepared to invest in having institutions that really work and policies that are effective. To be explicit we do not

see EMU as in this sense *the* core task but as one among several competing for political credibility and economic plausibility.

It follows that we resist the notion that the heart of the current debate is about core countries, rather than about core policy demands. The more important question is whether there will be a quorum of member states willing to invest in bringing these core tasks within reach and in taking recurrent responsibility for joint agenda-setting and for mobilising the political and economic resources to underpin shared policies. Thus the question is less about what any potential leading group might undertake merely for themselves and more about what responsibilities they shoulder for the larger group. It seems self-evident to us that this could only be achieved if the overall institutional framework rested on formulae of inclusion, albeit with tolerances for varied degrees of engagement in timing and vigour of applying policy regimes.

It is from this that our picture of a large flock of flying geese is derived. The difficulty is that the birds may not after all be geese, or at least that some of them may not be, but rather a mixed flock of eagles and sparrows as well. And some may be chickens who cannot fly.