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A flexible Union?

Introduction

Over the past fifteen years, the debate about flexible integration within the European Union has never been far from the surface, emerging and reemerging in varied forms. Two factors above all have favoured this development, the repeated enlargement of the European Union and differing views among the member states about the appropriate pace and extent of the political and economic integration which the Union should be seeking. Enlargement called into question the consensual model of decision-making on fundamental questions such as revision of the founding Treaties, which had been possible in the original European Community of six member states. The reluctance of Britain in the early 1990's to participate in such fundamental European projects as the single currency caused many to ask whether the homogeneous and unified template of European integration envisaged in the Treaty of Rome was anyway still achievable.

The Treaty of Amsterdam in 1997 was the first systematic attempt to address these problems. It envisaged an arrangement, known as 'closer co-operation', which would allow a sub-group of EU member states to pursue deeper integration among themselves, using the European institutions. The Treaty contained demanding rules and requirements to be met for the setting up of 'closer co-operation': at least a majority of members states had to take part and each member state could veto the process, even if not intending to take part. The Treaty of Nice in 2000 revised these provisions, introducing the concept of 'enhanced co-operation', which softened the strict rules for 'closer co-operation' under the Amsterdam Treaty and potentially made easier the setting up of sub-groups. The new Constitutional Treaty takes the process a little further, giving any sub-groups set up the opportunity, albeit constrained by the framework of the institutions, to adopt their own decision-making processes. It also creates a structure to deepen the integration of a sub-group for the specific area of defence ('structured co-operation'), an innovation to allow flexible integration in a policy area which would otherwise have remained excluded from the arrangements for 'enhanced co-operation'.

Significantly, none of these possible tools for further integration by a sub-group of member states has been used in practice. The practical examples of different levels of integration which have existed in the EU - Economic and Monetary Union, the Schengen area and the Social Chapter - were not implemented using these procedures. All of them indeed pre-date the inclusion of formal tools for flexible integration within the European Treaties. It will say much about the future trajectory of European integration whether and to what extent use is made of these latter tools within the European Union over the coming decade. A number of theoretical models already exist for the development of flexible integration, a body of intellectual analysis well in advance of what has hitherto been the reality. This Policy Brief will briefly describe and review these models, and seek to identify the degree of effective support they might enjoy.

The models

Multi-speed Europe

This concept is closest to the original goal set out in the Treaty of Rome of an 'ever closer union' between the peoples of Europe. The element of flexibility relates only to the period of time in which all member states achieve agreed goals. In a 'multi-speed' Europe sub-groups of member states typically decide to integrate more deeply in individual policy areas, while other member states do not yet choose to join them. Such deeper integration could well occur simultaneously in more than one policy area, with varying membership of the different sub-groups. Equally, within the sub-groups themselves, some individual members might well find themselves further advanced towards the shared goal than others.

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EDITOR'S NOTE

This is the ninth in a series of regular *European Policy Briefs* produced by the Federal Trust. The aim of the series is to describe and analyse major controversies in the current British debate about the European Union. Other Policy Briefs are available on the Federal Trust's website www.fedtrust.co.uk/policybriefs

This Policy Brief forms part of the Trust's ongoing project on 'Flexibility and the Future of the Union'. Further details are available at www.fedtrust.co.uk/flexibility

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Crucial to this model of flexible integration is the understanding that no member state will be excluded, or exclude itself from new or developing policy areas. There is not merely a continuing option eventually to join the relevant policy areas, but an expectation that all temporarily excluded member states will strive to do so. An interesting illustration of this point was provided by the British opt-in/opt-out from the European single currency at the time of the Maastricht Treaty. At the time, it was possible to regard this arrangement as an example of a 'multi-speed Europe', with Britain tacitly accepting that it would in the foreseeable future join the Euro. Later events, however, have contradicted this analysis. Not merely is there little prospect of Britain joining the European single currency in any foreseeable future. The British government clearly feels no desire, let alone obligation, to work towards this outcome.

European vanguard

A particular and exceptional case of a multi-speed Europe would be a 'vanguard' or 'avant-garde group'. This sub-group of member states, which would pursue their integration over a range of policy areas, would be more unified and coherent than standardly envisaged by the 'multi-speed Europe' concept. The need for unity and coherence would probably initially limit the number of member states able and willing to join the 'vanguard'. The member states involved would need to recognise a high measure of shared strategic and tactical interest. Their advanced degree of integration between themselves would not simply be occasional and opportunistic, but a fundamental and long-term policy choice at which they had consciously arrived.

The natural role of this 'avant-garde' would be to shape and set the agenda for the future direction of the European Union as a whole. Although in the short term the existence of a 'vanguard' might exacerbate the contrast between member states at different levels of integration, its clear underlying goal would be to accelerate the final realisation of shared integrative objectives. The philosophy of the 'avant-garde' is to some extent reflected in the provisions of the Amsterdam Treaty for 'closer co-operation'. The Nice Treaty, with its acceptance of smaller sub-groups of member states for 'enhanced co-operation', marks a further step along this road.

Core Europe

An extreme case of the European 'vanguard' would be that of a 'core Europe' or 'European hard core'. The terms are used

to describe an 'avant-garde' of highly restricted membership, membership of which is not necessarily open to all member states of the European Union. The European 'hard core' would have made the unambiguous decision to pursue among themselves a far-reaching agenda of integration, ideally within the present structures of the European Union, but if necessary without. They would hope and expect that other member states of the Union might follow them in their integrative path. They would work as a highly co-ordinated group within the European Union to pursue its and their further integration. But it is at the heart of the 'core Europe' concept that its members cannot allow themselves to be constrained by the hesitations of others. They will be a 'vanguard' which may or may not be followed by others.

Leading members of this potential 'hard core' would be France and Germany, and indeed some critics regard the concept as simply a rationale for Franco-German attempts to shape the European Union in their own image. A broader-based 'core' might include all the original six founding members of the European Union, traditionally regarded as those most profoundly committed to the underlying goal of European political and economic integration. The new government in Spain, however, would probably wish its country to form part of a European 'core'. The present Italian government, moreover, is a less enthusiastic advocate than its predecessors of the centrality for Italy of its European vocation.

Variable geometry

At the end of the spectrum which envisages more permanent levels of variation within European integration lies the model of a Europe of 'variable geometry'. This option takes as its starting-point that there will inevitably be substantial differences between the integrative capacities and desires of twenty-five and more member states. It would be surprising if even in the long term these capacities and desires could fully converge. 'Variable geometry' therefore envisages a series of different policy areas for the European Union, all of which (apart from the single European market) would have varying membership. This would allow the varying approaches of the EU's member states to such delicate subjects as monetary policy, foreign policy, defence and tax harmonisation to be fully reflected in the policy areas they wished to join. While no country would be excluded from any policy area, it would be fully

understood that some countries might never decide to share particular parts of their sovereignty. 'Variable geometry' would allow them that option, without inhibiting those who took a different view.

As a concept, 'variable geometry' is capable of a number of different expressions. One extreme would be the case in which most member states participated in all European policy areas and only a few opted out of one or other policy area for specific national, historic or cultural reasons. The opposite extreme would be that in which almost no member state participated in all policy areas and many member states had opted out of a wide range of policy areas. The first extreme is not very different from the original unified concept of the Treaty of Rome. The latter would be very near to the blueprint of 'Europe a la carte', which is a denial of, not a model for further European integration, flexible or otherwise.

The political context

Attention has already been drawn to the mismatch between rhetoric and reality in the continuing debate on the future institutional development of the European Union. If any of the above concepts is to evolve into the reality of the European Union over the coming decade, it will be as a result of decisions taken by the Union's member states. These decisions will primarily emerge from the national debates on the future of the European Union which vary so strikingly throughout the continent. A number of member states and groups of member states will play a particularly important role in this context.

France and Germany

Historically, France and Germany have effectively practised between themselves a form of 'enhanced co-operation'. The single European market, Economic and Monetary Union and the Schengen area would all have been impossible without systematic co-ordination of policy between these two countries. It is generally accepted that if flexible integration is over the coming years to play a significant role in the evolution of the European Union, France and Germany will need to be at its heart. There have been over the last decade influential French and German advocates of a European 'core', including Giscard d'Estaing, Joschka Fischer and the authors of the celebrated Schäuble-Lamers paper in 1994. Jacques Chirac has also spoken of the desirability of a European 'pioneer group', an idea with definite echoes of proposals for a European 'vanguard'. The united opposition of France and Germany

to American military action in Iraq in 2003 led some observers to conclude that a decisive step had been taken towards the creation of 'core Europe' on the world stage.

When the process of ratification for the European Constitution (whether successful or otherwise) is completed, it will probably be easier to form a reliable judgement on the real commitment of France and Germany to accelerating the process of European integration. There are a number of indications that the willingness of the French and German leaders to exercise collaborative leadership may be more apparent than real. Despite the high level of (bilateral) co-operation and integration between the two countries, the most striking Franco-German successes in recent years have been defensive and reactive rather than those of setting the European agenda. The ability to force the European Commission into a substantial revision of the European Directive on the Provision of Services is a good recent example of this phenomenon.

In Germany moreover interest in the idea of a core Europe no longer enjoys the salience it once had. Joschka Fischer himself suggested in 2004 that the time for this concept had passed. For historical reasons, Germany has traditionally had a more inclusive perspective towards other EU member states than France. In particular, there is a greater desire in Germany to include the UK, if at all possible, in any substantial project of flexible integration, in order to give the project greater political legitimacy and diplomatic standing. Germany today would undoubtedly prefer to be part of a 'vanguard' rather than a 'core'. But there cannot yet be any definite assessment of how solid this preference may be. Unfolding circumstances may either reinforce or contradict this present German analysis.

Nor should it be assumed uncritically that French public or elite opinion is genuinely committed to a 'core' or 'vanguard' role for France and Germany in the evolving European Union. There is a distinct sense in France that a combination of European enlargement and increasing self-assertiveness by Germany have destroyed for ever the familiar and attractive workings of the European Union, workings to which France made a decisive and frequently constructive contribution. No clear alternative has yet commended itself to French opinion, an uncertainty which may well find some reflection in a negative vote on the European Constitution at the end of May. While in France there are certainly outspoken advocates of a 'core' Europe led

by a Franco-German dyarchy (Jacques Delors is one) many commentators have questioned whether the current French political system is capable of generating the political will and determination necessary to resurrect the tradition of French and German leadership within the European Union. Sceptics further doubt whether there exists a sufficient range of untapped policy areas in which France and Germany could convincingly demonstrate their role as a European 'vanguard'. The most tempting candidate for such a policy area, namely defence, is one which it would be extremely difficult plausibly to develop without the participation of the United Kingdom.

In the past, the United Kingdom has frequently underestimated the resilience of Franco-German collaboration. The attitudes of both countries towards the future development of the European Union are clearly in a period of transition, the outcome of which it would be rash to predict with any great confidence. France and Germany have in common a definite dissatisfaction with the way in which they see the European Union as developing. They have not yet found an effective response to this dissatisfaction and they are not entirely sure what role their partnership should play in the elaboration of this response.

The other founding members

The other signatories of the Treaty of Rome – Belgium, Italy, Luxembourg and the Netherlands – have in the past generally supported the agenda of deeper integration favoured by France and Germany. Occasional irritation at Franco-German leadership did not prevent these four countries from wishing to participate in all projects leading to further integration. Today, this description of their attitudes needs qualification.

The Benelux countries

The pro-integrationist outlook is still firmly in place in Belgium and Luxembourg. They can be seen as natural potential allies of France and Germany in a vanguard group, or even a core Europe. A glimpse of this could be seen in April 2003, when both countries were part of the 'Chocolate Summit' on defence with France and Germany, which was held during the height of tensions over the Iraq war. The two countries also broadly share France and Germany's desire to defend and entrench the European 'social model'.

In the Netherlands however, a more critical attitude towards the European Union has developed over recent years, deriving mainly

from disquiet at the Dutch position as a major net contributor to the EU. While the majority in Dutch political circles is far removed from Euro-sceptic ideas, these ideas have some resonance with public opinion and certain minority parties. The result of the referendum on the Constitutional Treaty, for example, is by no means a foregone conclusion. Another important element in the Dutch equation is the traditional Atlanticism of the Netherlands, reflecting itself in Dutch refusal to participate in the April 2003 defence summit. The Dutch government would probably be a follower rather than an initiator of any substantial moves towards a European vanguard group.

Italy (and Spain)

Another founding member, Italy has a long pro-European tradition. The Berlusconi government, however, has taken Italy's EU policy in a more nationalistic and more Atlanticist direction. While in the past Italy would have been seen as a natural member of a vanguard or core group, no such presumption can exist under today's government. In contrast to the Netherlands, Italian public opinion maintains its traditional enthusiastic approach to the European Union. A new government would find it relatively easy to reestablish Italy's historic integration-minded policy within the EU. If Mr. Berlusconi's government falls at the next election, due in 2006, his probable successor will be the former President of the European Commission, Romano Prodi.

A substantial change in its European policy has recently taken place in Spain. Since its accession to the European Union Spain had been a strong supporter of further European integration, with a very high level of public approval for the European project. This was recently manifested again in the clear majority achieved in the referendum on the EU Constitution. More recently, however, under the conservative government of José Aznar, a new and less positive note entered into Spain's European policy and rhetoric. This was shown particularly clearly in Spain's truculent position during the negotiations in the IGC on the European Constitution, where the Aznar government refused to give up the disproportionately high number of votes in the Council accorded to Spain by the Nice Treaty. The new Socialist government of José Luis Zapatero, when elected in March 2004, reversed this refusal, further distancing itself from its predecessor by withdrawing Spanish troops from Iraq. On a number of occasions over the past year, Spain has very publicly aligned its position with that of France and Germany. Spain, as a medium-

sized member state which is already part of both the Schengen area and the Euro, might well be in the short term a potential substitute for Italy in any European vanguard group.

The UK

British attitudes towards the possibility of flexible integration well exemplify Britain's defensive and ambiguous attitude towards the European Union. The present British government often proclaims itself as being favourable to a more 'flexible' European Union. But it would regard with considerable unease any flexible development of the European Union which led to the establishment of a vigorous 'core Europe' from which Britain might be excluded.

An interesting recent development in the British political debate has been the evolution of Conservative policy towards the European Union. The only European Union in which today's Conservative leadership could see a tolerable role for the United Kingdom would be an 'à la carte Europe' in which the United Kingdom could opt out not merely of future European policies, but also out of European policies which have already been established, such as the Common Fisheries Policy. Hand in hand with this demand for a renegotiation of Britain's existing terms of membership in the EU goes, however, a willing acceptance that other countries may wish to form among themselves much closer integrative arrangements, from which Britain would almost certainly wish to remain aloof. Mr. Blair's government desires a European Union which is flexible enough to accommodate Britain's particular interests, but not so flexible as to provoke an effective refounding of the Union around an 'inner core'. Contemporary Conservative policy is indifferent to the latter possibility.

Ironically, there is one policy area where the UK might well be a prime candidate to function as an influential member of a vanguard group, namely defence policy. The neutral status of some EU member states and the differing military alliances of which they are members have long made defence policy within the EU a highly plausible area for the application of institutional flexibility. Any such project would be much reduced in its credibility without the UK. The UK has shown itself relatively open to the possibility of European initiatives in the defence field. This has at least partly been a conscious 'counter-balancing' by the British government of its otherwise firmly Atlanticist stance. The knowledge that any European avant-garde in the field of

defence policy would almost certainly be arranged along intergovernmentalist lines is also a distinctly reassuring prospect for Mr. Blair's government, which fully shares the traditional British distrust of the European institutions.

The new member states

As the first anniversary of the EU's most recent enlargement approaches, it becomes ever clearer that it is misleading to regard the Union's new members as a single bloc. Some plausibility had been given to this analysis by the support given in 2003 to American action in Iraq by a number of East European countries which joined the European Union in 2004. Many European commentators assumed at the time that there was more than a grain of truth in Donald Rumsfeld's sneering division of the EU's member states into 'old' and 'new' Europe.

In fact, of the ten new member states, there are only two where the continuing process of European integration is regarded with anything other than enthusiasm, namely Poland and the Czech Republic. Polish public and political opinion is notably volatile, with public opinion in recent months having undergone a marked shift in a more pro-European direction. On a political level, the suspicions remain and focus particularly on the supposed desire of France and Germany to seek the same dominance in an enlarged European Union as they often exercised before enlargement. In the Czech Republic public and political opinion is divided, with widespread suspicion of the Franco-German 'axis' and a pronounced Atlanticism which understandably derives from the past seventy years of Czech history.

All new EU member states are obliged under the terms of their accession to become members of the Euro and the Schengen area. Many of them will therefore participate in the foreseeable future more fully than the United Kingdom in the major projects of European integration. There is little sympathy, however, in Eastern Europe for current proposals envisaging tax harmonisation at a relatively high level within the Euro area. Since tax harmonisation within the Euro area has often been cited as a plausible arena for flexible future European integration, this could well develop into one topic of genuine controversy between 'old' and 'new' Europe.

Neutral member states

The traditionally neutral member states form a distinct and important sub-category within the European Union. Their particular significance lies in the fact that among their number are to be found a group of states

(notably Austria, Finland and Ireland) which are generally enthusiastic participants in projects for further European integration, but which would find it difficult or impossible to join in collaborative defence arrangements with other EU members. Since many of the theoretical discussions about the possibility of a European 'core' or 'vanguard' have seen defence co-operation as a highly promising vehicle for accelerated European integration, the reluctance of a number of otherwise integrationist-minded countries to join in such co-operation marks a considerable potential barrier to the realisation of any systematic integration within a restricted European grouping.

Conclusion

From the above discussion it becomes clear that there is no obvious 'favourite' model of flexible integration in the EU that is overwhelmingly likely to emerge. It is the interaction of a number of factors which will determine whether European integration will in the future take a more flexible form, and if so what this form will be. One of these factors, the appropriate institutional framework enshrined in the treaties, already exists for member states to pursue deeper integration among a sub-group. So far it has not been used in practice. As always, the national choices and preferences of member states, both institutionally and politically, will be decisive. As a precondition for any systematic development of European institutional flexibility, there will need to be a critical mass of member states which have an unambiguous desire to integrate more closely with each other. This underlying institutional choice of member states, that deeper integration would be generally desirable for them, will then need to interact favourably with their political choices in specific policy areas. A substantial overlap between the institutional and political choices of a worthwhile number of member states is therefore probably a prerequisite for flexible European integration to occur on anything other than an entirely occasional and ad hoc basis. Whether such an overlap will occur, and what conclusions are drawn by those countries at the heart of this overlap, remain the as yet unresolved central questions of the European Union's institutional future.