Several Europes but which ones? A proposal to rationalise European integration

Jean-François JAMET

2012 witnessed the return of 'variable geometry' to the centre of the debate about the future of European integration.

Firstly, it appeared in discourse. François Hollande spoke of it clearly: "my approach is of a Europe that advances at varying speeds, with different circles[1]". The French President in fact mainly distinguishes the eurozone, the first circle that is to comprise the "core of a political union[2]", from the European Union, which he sees as multi-faceted Europe. German Chancellor Angela Merkel follows a similar, pragmatic line of thought: "We cannot just stop because one or the other doesn't want to join in yet[3]." British Prime Minister David Cameron is not against this strategy either: he dreams of a Europe 'à la carte'[4] in which the UK would be free not to follow the supporters of greater integration.

As a matter of fact, the crisis has led to a strengthening of the Economic and Monetary Union (EMU) via new rules that have also been adopted by some States outside of the eurozone, including the Euro Plus Pact[5] and the Fiscal Compact[6]. In addition the first enhanced cooperation agreements have or are about to emerge pertaining to international divorce, the European unitary patent and the tax on financial transactions.

Geometrically variable Europe is becoming a reality out of necessity: it is the only solution to situations in which unanimity leads to stalemate[7]. But it is not the answer to everything because it also leads to an increasingly complex map of Europe. This complexity fosters "constructive ambiguity" which European diplomats so love – it allows

1. Interview with François Hollande published in Le *Monde* and *The Guardian*, 17 October 2012.
2. Jacques Delors uses the term *creuset*. See J. Delors and A. Vittorino, « La zone euro, creuset de l'Union politique », *Le Figaro*, 27 November 2012.
3. Gerrit Wiesmann, 'Merkel insists on two-speed Europe', *Financial Times*, 7 June 2012
4. See P. Schnapper, "What future for the UK in the European Union?", European Issues – *Policy papers by the Robert Schuman Foundation*, n°254, 8 October 2012.
5. European Council, "Conclusions of the European Council of 24 and 25 March 2011", EUCO 10/1/11 REV 1.
6. European Council, Treaty on the Stability, Coordination and Governance within the Economic and Monetary Union signed on 2 March 2012.
7. T. Chopin and J.-F. Jamet, "How to unblock the EU's unanimity stalemate", *Europe's World*, Autumn 2008.

T. Chopin et al. (eds.), *Schuman Report on Europe*

every State to pretend that they have imposed their priorities in negotiations – but it may make the European project unclear and unstable. This has reached the point where there has been more or less founded speculation, for example about a possible exit by the UK from the EU or the exit of Greece from the eurozone.

Several Europes therefore, but which ones? Is it possible to rationalise the use of differentiation?

Two Europes: the EMU and the internal market

It is easy to see that at present there are two main levels of economic integration: participation in the internal market (first stage of integration) and participation in the Economic and Monetary Union. This situation in fact corresponds with one of the goals of differentiation: managing heterogeneity of the political preferences and economic situations of EU Member States.

Some Member States like the UK and the Czech Republic, as well as those Members States of the European Economic Area (EEA) that are not EU members (like Norway), believe that what Europe can bring them positively in economic terms is mainly limited to the internal market. They indeed believe that European integration is mainly about creating and benefiting from an area of free trade. Free trade does not necessarily involve the free movement of people however and the perimeter of the European Economic Area is thus different from that of the Schengen Area.

Other States have deemed it a good idea to share their currency and have adopted the euro. Their financial interdependence has led to greater integration of their economic policies. This integration needs to be articulated with the internal market and is creating more institutional complexity. For example the strengthening of the Economic and Monetary Union supposes the implementation of common tools for the prevention and management of banking crises. One of these is supranational banking supervision, which supposes the definition of common rules and the appointment of the institution responsible for their implementation. The definition of the rules is the responsibility of the European Banking Authority (EBA), a Union institution[8]. But supervision is to be granted to the ECB, whose prerogatives concern mainly the eurozone. Several States (UK, Czech Republic and Sweden) have refused the ECB's supervision of their banks. They also succeeded in setting a double majority requirement for the adoption of rules by the EBA (majority of the States covered by the ECB's supervision and the majority of the States having refused it).

The third category of Member States comprises the anti-chamber to the eurozone. Some of them (Latvia for example) want to join but must first fulfil the convergence criteria set for participation in the Economic and Monetary Union. The others are not sure of their choice: Denmark voted in June 1992 against participation in the euro but has not closed the door completely and has pegged its currency to the euro. These States, which are observers, are weighing up the pros and cons of participation in the single currency but take part in most of the mechanisms designed to strengthen the EMU like the Fiscal Compact and banking supervision.

Reforming the agreement on the European Economic Area to clarify the choice between the two Europes

Beyond the discourse on the advantages of a differentiated Europe the present situation satisfies none of the States involved in fact. Those States of the European Economic Area, which do not belong to the European Union, have to implement the rules of the

8. The EEA States which are not EU members have observer status within the EBA.

internal market but they do not take part in the votes to approve them (even if they give an opinion). Conversely a State like the UK wants to be part of the Union to take part in decisions affecting the internal market but is reluctant to finance the Common Agricultural Policy. The States which are planning to join the eurozone long term hope to have their say in the decision and in the implementation of the EMU rules in the knowledge that one day they may have to apply to them. Finally the eurozone Member States would like to be able to use the European institutions for the functioning of the Economic and Monetary Union but seek to avoid the interference of the States that do not belong to it.

With the aim of clarifying this situation an attempt must be made to realign the institutions with the various degrees of integration and with the various political choices made by the European States. To do this the simple solution would be to turn the European Economic Area into the pertinent institutional framework for the management of the internal market and ensure that the European Union corresponds to the countries that want to join the Economic and Monetary Union.

The agreement on the European Economic Area signed on 2nd May 1992 led to the enlargement of the Union's internal market to the Member States of the European Free Trade Agreement (EFTA), except for Switzerland, which did not ratify this agreement. It therefore includes the EU Member States plus Norway, Iceland and Liechtenstein. Whilst they do not belong to the Union these States enjoy the free movement of goods, people, services and capital. In exchange they have to apply the corresponding rules (the Community *acquis*) except for those which affect tax policy, agricultural policy and fisheries, as well as trade policy. They can also participate in some Union programmes in the area of research, education, environment and cohesion as long as they contribute towards the funding of these proportionally to their GDP[9].

A debate took place in the UK over the pertinence of the country leaving the Union[10] and yet remaining a member of the EEA, thereby achieving a similar status to Norway. However critics of this idea quite rightly stressed that the UK would then lose most of its power to influence the internal market rules since they would no longer be taking part in the vote to approve them.

The fact that the EEA States cannot take part in the vote affecting the internal market is in fact a democratic anomaly. This might be remedied by amending the seventh part of the EEA agreement devoted to institutional provisions. The EEA Council[11] would become the competent Council (instead of the Council of the European Union) in terms of co-decision on legislative proposals (directives and regulations) governing the internal market. Participation in co-decision might also be extended to the Union's programmes in which non-Union EEA States have chosen to participate (for example in the area of R&D). Likewise the mixed EEA Joint Parliamentary Committee might be transformed to include all of the Union's MEPs and a number of MPs elected by the non-Union EEA states. This "EEA Parliament" would meet within the European Parliament building in Brussels and would have the competence to participate in co-decision on an equal footing with the EEA Council.

Such modifications would be advantageous is several ways. The European States' choices would be clarified.

9. These contributions are additional to the EU budget and increase the resources of the latter.

10. The Lisbon Treaty introduced an exit clause from the European Union (article 50).

11. The EEA Council comprises the members of the EU Council, the relevant members of the governments of the EEA States that are not EU Members, as well as a representative from the European Commission. To adopt a similar functioning to that of the EU Council, only the ministers from the EEA Member States would hold seats and participate to votes of the EEA Council following the revision of the Agreement.

There would be clarification firstly for the States, which above all want to benefit from the internal market without participating in integration as a whole. It is likely that the UK would then decide to quit the Union whilst remaining in the EEA plus. This would enable it, for example, to end its funding of the Common Agricultural Policy and enjoy flexibility in terms of its participation in European programmes (including regarding foreign and defence policies in which it would likely prefer to remain involved). The UK would continue to participate in the internal market and be obliged to implement the corresponding rules, the definition of which it would continue to influence.

Then the other Member States would be able to use the Union's institutions for the management of the EMU, without having to resort to legal contortions. It would then become clear that all Union States should eventually join the EMU (as it is planned in the Maastricht Treaty). They would then have to take part in all of the EMU's economic governance rules in terms of supervision (macro-economic, banking and fiscal) but also the rules pertaining to the establishment of common fiscal instruments in the future to encourage structural reform and face asymmetrical shocks[12]. The European Union might then also be able to progress more easily towards political union[13] without necessarily having to create ad hoc structures for the eurozone.

Finally such a new structure could offer an intermediate solution for candidate countries since it would be possible to take part in the internal market and some European programmes without being Union members. This might facilitate the settlement of the case of Turkey. Indeed it would then be possible for it to take full part in the internal market without it being a Union member and if the EEA has been enhanced, this would be an acceptable alternative.

Via a simple modification to the EEA agreement it would therefore be possible to settle several of the European Union's present problems, and thereby provide a welcome clarification for both citizens, economic and financial players. Debate over the choice between the two Europes would be facilitated amongst national public opinion and some of the present disagreement within the Union (over the budget for example) might be settled more easily.

Differentiation as an instrument for convergence

On a number of issues it will still be necessary to have flexibility to facilitate convergence towards a common solution when this seems desirable, but some States are not immediately ready to implement it or have doubts.

The criteria conditioning entry into the eurozone are a first example of this differentiation. They aim to ensure adequate homogeneity in economic conditions within the EMU. Their main drawback is that their incentive loses effect as soon as the benefit associated to the respect of convergence criteria (entry into the eurozone) is acquired. The sanctions planned for in the event of the non-respect of these rules have illustrated their limits and the eurozone experienced far reaching internal divergence after it was launched. It is now necessary to find positive incentives for the convergence of the economies within the eurozone. The roadmap[14] put forward by the President of the European Council, Herman van Rompuy includes an intelligent proposal as far as this is concerned. It comprises making access to fiscal solidarity conditional to the respect of

12. See the recommendations in the Herman van Rompuy report written with Jose Manuel Barroso, Mario Draghi and Jean-Claude Juncker, *Towards a Genuine Economic and Monetary Union*, 5 December 2012.

13. see T. Chopin, J.-F. Jamet, F.-X. Priollaud, "A Political Union for Europe", *European Issue*, Robert Schuman Foundation, September 2012.

14. *Towards a Genuine Economic and Monetary Union*, *op. cit.*

the convergence rules. Solidarity would be provided as part of the newly created fiscal capacity which aims to encourage structural reform and to help eurozone Member States which are facing asymmetrical shocks. The same logic might be applied if common debt instruments were to be created. The emission of eurobills on the Member States' account might be conditioned by the respect of common economic, fiscal and financial standards.

The second kind of flexibility that it might be useful to continue implementing lies in enhanced cooperation agreements. Participation in such agreements might also be extended to those EEA Member States that are not EU members in the context of the revision of the EEA Agreement described above. Enhanced cooperation agreements allow for experimentation if some States have doubts about the benefits that they might gain from common legislation. Some States with greater conviction or which are ready to run the risk would then be able to pioneer the agreement. It is this mechanism that will enable the launch of the European unitary patent in 2014, whilst negotiations have been ongoing for many years without unanimity on the part of the Member States ever being achieved. Likewise the enhanced cooperation mechanism will allow the launch of a tax on financial transactions, which was initially rejected by several European States that doubt its effects on the competitiveness of their financial industries. Again some States, which are holding back for the time being (like the Netherlands), might choose to join the pioneers if the experiment proves successful.

The flexibility allowed by differentiation may prove useful in many fields such as energy, defence and the harmonisation of the corporate tax base[15]. On this last point divergence within the Union fosters tax optimisation by large companies and thereby their avoidance of corporate tax in several Member States[16]. Work is ongoing on a European level[17] but differentiation might accelerate developments or take harmonisation further. France and Germany have notably thought about this option[18].

***

The multiplication of the degrees of integration and institutional arrangements is making the European project increasingly difficult to interpret. By doing this it is reducing legal certainty, complicating democratic debate and limiting the effectiveness of European governance, which is frustrating for the Member States. We must now start rationalising, thereby re-aligning the institutions with the two main levels of integration: participation in the internal market and participation in the Economic and Monetary Union. Above all this work means modifying the Agreement on the European Economic Area, which will help re-align the EMU with the European Union, while at the same time offering an acceptable solution to the States which want to limit their participation in the internal market and some cooperation programmes. Many hurdles would thus be removed, and other forms of differentiation would allow the necessary degree of flexibility to enable convergence and experimentation.

15. Thierry Chopin and Jean-François Jamet, "Can differentiation help towards deepening Community integration ?" *European Issues -Policy papers by the Robert Schuman Foundation*, n°106 and 107, July 2008.

16. see "Amazon, Google et Starbucks payent-ils leurs impôts en Europe ?", *La Tribune*, 13 November 2012

17. Proposal for a Council directive on a Common Consolidated Corporate Tax Base (CCCTB) COM(2011) 121/4.

18. Nicolas Sarkozy et Angela Merkel, *Letter to the President of the European Council* 7 August 2011