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TWO-SPEED EUROPE

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## FOREWORD

This brief study was prepared at the request of the Liberal and Democratic Group of the European Parliament, which has kindly agreed to permit its publication in the Political Series of Research and Documentation Papers.

It is hoped that the study will serve to inform Members of the European Parliament and others who are concerned with the initiative taken by Parliament on European Union and with the inter-governmental conference convened by the Council on the amendment of the Treaties and on European Political Cooperation.

The study was prepared by Mr D. Millar, Head of the Political Division of the Directorate General. Any opinions expressed are not those of the European Parliament as an institution except where so stated.

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## TWO-SPEED EUROPE

### Introduction

1. The impact of the so-called 'Luxembourg Compromise' of 1966 had by the early 1970s rendered decision-making by the Council of Ministers extremely difficult and slow. This was the case even in sectors where Community activities were specifically prescribed by the EEC Treaty, such as the realisation of the internal market and the establishment of a common transport policy. The energy crisis of 1973 exacerbated this paralysis in decision-making, and caused political leaders in the Community to discuss means of resuming progress towards European integration.

### Definitions

2. There are four terms in use at present to describe a situation in which Member States of the Community, or some of them, may seek to vary, or even to by-pass, the rules set down in the Treaties, or to apply them on variable time-scales, in order to make progress to European integration. These terms require definition and are -

'two-speed Europe'

'two-tier Europe'

'Europe à la carte'

'variable geometry Europe'

3. For the purpose of this note, 'two-speed' and 'two tier' Europe may be defined by use of the following metaphor: Two passenger trains are standing side by side in the same station, waiting to depart for the same destination. The points of departure and of arrival are common to both and agreed by all the passengers - only the speed of travel differs. At certain previously agreed points, passengers may transfer from the slow to the fast train, but not normally from the fast to the slow one. An example of this type of European integration is the European Monetary System, which is based on two Council Regulations and a Decision and is thus a Community instrument, agreed to by all nine Member States in December 1978 and brought into force in March 1979. The United Kingdom is a member of the European Monetary System, but the

pound sterling does not participate in the exchange rate arrangements; provision is made for its delayed entry. Greece joined the EMS after its accession to the EEC, but not as a full Member.

4. 'Europe à la carte' and 'variable geometry Europe' are more difficult to define. According to the passage in the Tindemans Report which discusses this question in regard to economic and monetary policy,<sup>1</sup> 'Europe à la carte' implies that not all participating states agree as to the final objective to be achieved in common; but those which reach such an agreement may move forward towards it with the assent of those not participating. 'Variable geometry Europe' is sometimes also referred to as 'differentiated Europe'. These terms have been used to describe joint action by States which are nevertheless pursuing differing goals on differing time-scales. They have also been applied to the participation by non-Member States in projects tending to European integration, although the initiative for such projects has come from a Community Member State. The French cooperative research proposal, EUREKA, is an example of this type of project, in which certain states which are members of the European Free Trade Area (EFTA) have been invited to participate.

5. A recent example of proposals for a 'Europe à la carte' can be found in the decision by the seven Member States of Western European Union (WEU) to reactivate the security, defence and disarmament functions of the Union. A major part of the motivation for this reactivation, which was launched in 1984, was the emasculation of the draft Act on European Union, proposed by Mr Genscher and Mr Colombo in 1981, by the European Council at Stuttgart in June 1983. Seeing no possibility of discussing defence matters within the European Political Cooperation of the Ten, Mr Genscher proposed that WEU be reactivated in order that its seven members (also EEC Member States) could advance European integration in this field. Thus certain Community Member States which wish to discuss matters not covered by the Treaties, but which, they argue, are related to activities by the Ten in the fields of foreign affairs and security, are indulging in 'Europe à la carte', according to Mr Tindemans' definition.

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1 Report on European Union. Supplement 1/76 to Bulletin of EEC, Part III, A. 2 - see Annex.

### The Tindemans approach

6. Mr Willy Brandt was one of the first political leaders to discuss the concept of a 'two-speed Europe' in November 1974, although he subsequently denied that he favoured this concept. Mr Leo Tindemans, in his report to the European Council on European Union, made in December 1975, introduced the concept of varying time-scales for the achievement of objectives agreed to by all (see Annex) in regard to economic and monetary policy. He was in fact discussing how the machinery of the currency 'Snake' could be consolidated and extended, in a fashion which was eventually agreed by the Nine Member States in December 1978 in launching the European Monetary System.

7. Despite the careful drafting of this section of the Tindemans Report, the author was accused of proposing a 'two-speed Europe', an allegation which he categorically denied in February 1976. At that period the Congress of Europe, organised by the European Movement, declared itself opposed to 'two-speed Europe', as did the British and Dutch Governments and the Commission.

8. By the end of 1978 the nine Member States had agreed on the objectives and methods of functioning of the EMS; the British Government was nevertheless permitted to include the pound sterling in the System at a later date.

### The European Council of April 1980

9. The European Council, meeting in Luxembourg in May 1980, proved unable to agree on fundamental issues such as the Common Agricultural Policy and the British budgetary contribution. Its failure led to the Mandate of 30 May 1980 to the Commission to seek solutions to these and other major problems besetting the Community. In the wake of this failure, the French and German Governments were reported<sup>2</sup> to be considering fundamental changes in the working of the Community, including a 'two-speed Europe'.

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2 Le Monde, 11-12 May 1980

10. But it was Mr Jacques Delors, then Chairman of the Economic and Monetary Committee of the European Parliament who, speaking at a Socialist Colloquy in Rome on 5-6 May, put forward a proposal for a 'variable geometry Europe'. He stated:

'The attitude of the British stems from profound disagreements. I prefer to propose to them a variable geometry Europe rather than to see them deliberately moving away from the Continent of Europe'.<sup>3</sup>

11. A few weeks later, speaking at Trier on 20 June, Mr Raymond Barre, formerly Prime Minister of France, evoked the possibility of a multi-speed Europe. He said that the crisis of the Community gave rise to a fundamental question:-

'If we wish to have an organised Community, must all the Member States be obliged to do everything at the same time and in the same way? In the huge entity of a Community of Twelve, is it not conceivable that various functional groupings could exist, such as the EMS?'<sup>4</sup>

#### President Mitterrand's Speech

12. In an address to the last session of the first directly-elected Parliament, in May 1984, President Mitterrand, speaking as President of the European Council, made the following reference to a multi-speed Europe<sup>5</sup>

'Some people have talked about a Europe of different speeds or variable geometry. Such a step, which reflects a real situation, is one we must take. Care will be taken to ensure that it complements, rather than competes with, the central structure, the Community. Whenever problems of this kind have

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<sup>3</sup> Le Monde, 10 May 1980.

<sup>4</sup> Le Monde, 22-23 June 1980

<sup>5</sup> Official Journal, Annex No. 1-314, page 262 - Debates of the European Parliament, 24 May 1985.

arisen, Europe has created a new institution ... And here is the House encouraging us to go further along this path by proposing a draft Treaty on European Union.'

#### Western European Union

13. The reactivation of WEU offers, as seen above, an example of 'Europe à la carte' which in many ways highlights the constraints within which some Community Member States feel that they are working, on the one hand as regards the Treaties, and on the other hand as regards the operation of consensus in taking decisions on the scope of discussions within European Political Cooperation.

#### The Draft Treaty on European Union

14. The problem of a multi-speed or variable geometry Europe is posed in its most complex and its starkest form by Article 82 of the Draft Treaty on European Union, adopted by Parliament in February 1984, which reads as follows:-

##### 'Article 82

This Treaty shall be open for ratification by all the Member States of the European Communities.

Once this Treaty has been ratified by a majority of the Member States of the Communities whose population represents two-thirds of the total population of the Communities, the governments of the Member States which have ratified shall meet at once to decide by common accord on the procedures by and the date on which this Treaty shall enter into force.'

The Committee on Institutional Affairs has commissioned a text relating to Article 82 of the draft Treaty on European Union<sup>6</sup> (EU) which discusses five possible scenarios following ratification of the Treaty in terms of the provisions of Article 82:-

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<sup>6</sup> Analysis of literature on the draft Treaty establishing the European Union - Article 82, drawn up by the Directorate General for Research and Documentation, 13.5.85, PE 98.139.

- '1. All EC States accede to the EU, which thus takes the place of the EC (replacement);
2. Some EC States accede to the EU, the others remain in the EC (co-existence);
3. The EU takes on new functions in comparison with the EC (supplementation);
4. The EU also takes on functions of the EC (competition);
5. Some EC States accede to the EU, the others declare the EC dissolved by common accord (association).

The general opinion amongst authors is that, for practical reasons, the fifth of these scenarios would be the most likely to occur.'

15. The text goes on to analyse the fifth scenario (association) in the following terms:-

'Some EC States accede to the EU, the others declare the EC dissolved by common accord (association)

Preference is given mainly to this scenario by authors, since it is legally unproblematic and best meets the interests of all the States involved through the possibility of association.

In legal terms, the situation is exactly the same as in the first scenario, since there too the dissolution of the EEC is required before the founding of the EU. The general view is that this does not present problems (see above).

Authors draw attention in this context to the parallels with the founding of the OECD<sup>7</sup>. There too, only some Member States of the previous organisation, the OEEC, joined the OECD. (Note: This may misrepresent the course of events at the founding of OECD. Other sources indicate that members of OEEC become members of OECD.) However, there is a view that this process is not comparable with the creation of the EU, since the EU is not to

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7 JACQUE, June 1983, p. 9



become the full legal successor of the EEC in the way that the OECD did in relation to the OEEC under Article 15 of the OECD Treaty;

The general view amongst authors favours association as a means of further cooperation between the EU and States that have not acceded to it.<sup>8</sup>

The advantage for the States that do not wish to accede is that they are no longer subject to pressure towards integration, while the advantage for the EU States is that they are no longer hampered in their efforts to achieve union.<sup>9</sup> One view expressed on the substance of the association treaty is that it should as far as possible take account of the rights possessed by the States concerned during their membership of the EC.<sup>10</sup>

On the other hand, some authors see in the association scenario a serious danger for the Community patrimony.<sup>11</sup>

As regards the subsequent accession to the EU of former EC Member States, the view has been taken that a simple ratification procedure as provided for in Article 82 would not be possible for an unlimited period, even in respect of former EC States.

After a certain period, the distinction between a former EC State and the EU States could be so great (development in different directions of the initially identical substantive rules) that privileged treatment through Article 82 would no longer be justified. This would mean that former EC States, like any other third country, would have to conclude a treaty of accession pursuant to Article 2 of the draft Treaty.<sup>12,</sup>

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8 LODGE and Others, 'Some Problems', p. 17; CATALANO, June 1983, p. 5; JACQUE, June 1983, p. 9; ULB, p. 18; NICKEL/CORBETT, P. 17; to this effect, STADLMANN, p. 42; The Four Jurists, p. 5 on Art. 82.

9 LODGE and Others, 'Some Problems', p. 16.

10 JACQUE, June 1983, p. 9

11 WEILER/MODRALL, p. 36

12 SCHWARZE, p. 313

## Conclusion

16. The European Parliament has thus opted for what, in terms of the definitions in paras 1 - 3, should properly be defined as 'variable geometry Europe', as President Mitterrand did in May 1984. If, in default of a 'common accord' under Article 236 of the EEC Treaty on amendments to the latter, the inter-governmental conference leads eventually to some Member States signing and ratifying a new Treaty on European Union, the question of a 'variable geometry Europe' will be posed. In these circumstances, the states in the Union will have adopted different, wider objectives than those which opt to remain out of the Union. The Europe thus resulting could not accurately be described as 'two-speed' or 'multi-speed' but rather as a 'variable geometry Europe'. This definition would be even more appropriate if, in the meantime, states at present neither in the Community nor candidate states to it become active participants in projects such as EUREKA.

17. It is perhaps premature to try to anticipate further the course of events in this matter. What is important is that the European Parliament should, guided by its Institutional Committee, retain a clear picture of the options which exist in any given situation as discussions on European Union progress. Parliament should also, as it has already requested, obtain the agreement of the Council, which is responsible for organising the inter-governmental conference, to proper consultation of Parliament during the proceedings of the conference.

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EXTRACT FROM REPORT BY MR TINDEMANS**2. A new approach**

It is impossible at the present time to submit a credible programme of action if it is deemed absolutely necessary that in every case all stages should be reached by all the States at the same time. The divergence of their economic and financial situations is such that, were we to insist on this progress would be impossible and Europe would continue to crumble away. It must be possible to allow that:

— within the Community framework of an overall concept of European Union as defined in this report and accepted by the Nine,

— and on the basis of an action programme drawn up in a field decided upon by the common institutions, whose principles are accepted by all,  
(1) those States which are able to progress have a duty to forge ahead,

(2) those States which have reasons for not progressing which the Council, on a proposal from the Commission, acknowledges as valid do not do so,

— but will at the same time receive from the other States any aid and assistance that can be given them to enable them to catch the others up,

— and will take part, within the joint institutions, in assessing the results obtained in the field in question.

This does not mean Europe à la carte: each country will be bound by the agreement of all as to the final objective to be achieved in common; it is only the timescales for achievement which vary.

This system which accepts that there should temporarily be a greater degree of integration between certain members is not without analogy in the Community: Article 233 of the Treaty of Rome specifically provides for it in the case of the Benelux countries and the Belgium-Luxembourg Economic Union. The system could, as matters turn out, be of great assistance in enabling the process of development of the Union to regain its momentum, albeit imperfectly.

*I therefore propose that the European Council should adopt the following guidelines:*

— bearing in mind the objective difficulties of certain States, progress as regards economic and monetary policy may be sought initially between certain States in accordance with the Community practices and the limitations mentioned above;

— the 'Community Snake', nucleus of monetary stability, should be the starting point for this action. The Snake must be consolidated and then be modified in order to extend its action to fields which it does not cover today.