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"Differentiated Integration: a Likely and Acceptable Mechanism to Reconcile Widening and Deepening?"

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Differentiated Integration: a Likely and Acceptable Mechanism to Reconcile Widening and Deepening?

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1. Introduction

In its search for a better understanding of the interrelation between widening and deepening in the EU integration process, EU-CONSENT starts from the assumption that these two forces have long acted as mutually reinforcing dynamics (Faber, 2006; Faber/Wessels 2006). One of the key objectives of the network is to gain a better understanding of the impact of the 2004 enlargement on this trend. Could the unprecendented increase in diversity and heterogeneity that the EU is experiencing rupture the apparently symbiotic relationship between widening and deepening, or even turn them into 'two antagonistic poles' (Faber, 2006)?

The use of differentiated integration has frequently been proposed as a mechanism to diffuse any potential tensions between widening and deepening. This is not a new suggestion: all number of arrangements that could be labelled 'flexibility' or 'differentiation' had already been employed to manage internal diversity in the integration process prior to 2004. However, many scholars and politicians alike expected enlargement to lead to both the increasing use and to more extreme forms of differentiation. In the context of the EU-CONSENT research agenda, the core question to be addressed is whether an increasingly differentiated Europe is a/ likely and b/ desirable scenario for the future of the integration process.

In terms of *likelihood*, there is a strong consensus among students of the EU that a Union of 27 plus will inevitably have to embrace new forms of differentiated integration in order to survive. In line with this expectation, EU CONSENT's conceptual framework assumes that the increased use of differentiated integration is indeed one of the more probable strategies to be utilised in the future of the integration process. As far as the *acceptability* of such a scenario is concerned, the academic debate is far more divided. While many view differentiation as the panacea to maintaining efficiency and democracy in the context of diversity, others insist that this would lead to greater fragmentation, inequality and complexity. Now that almost four years have passed since the enlargement, is there any evidence emerging from recent developments in the integration process to support or refute these arguments?

With this question in mind, the aim of this paper is two-fold:

- **A/** to summarise the state of the art on the forms and consequences of differentiated integration; and

- **B/** to assess the expectations of these scholars and the EU-CONSENT network in light of actual developments in the EU since 2004.

The first half of the paper begins with a summary of the various forms and definitions of differentiated integration that have been identified in the literature. This is followed by an overview of the debate on the likelihood and the acceptability of these different forms of differentiated integration for the future of the integration process. The second half of the paper seeks to assess what light research carried out within the EU-CONSENT network since enlargement can shed on these questions. It focuses in particular on the implications of two key developments in the formal/legal dimension of integration on which research within WP II/III has concentrated; namely, the failure of the Constitutional Treaty and the agreement on the Lisbon Treaty. Finally, the paper will consider whether there is any empirical evidence emerging to support or negate WP II/III's hypothesis that enlargement will transform the EU into a 'Reinvented Union' (Faber/Wessels, 2006:9; Faber/Wessels, 2006a:14) or a 'Post-modern Europe' (Bonvicini, 2005, quoted in Faber/Wessels, 2006:3)

2. Definitions and Chronological Overview

While an EU of 27 may be infinitely more heterogeneous than the group of six founding states, the path of European integration has nonetheless always been characterised by the use of creative solutions to manage the challenge of diversity: 'Much of the history of the EU has been about efforts to find formulas, institutions and policy regimes which weave forms of unity out of diversity.'(Wallace, 2000:185). Without the kind of flexibility achieved through by techniques such as bargaining, issue-linkage, side payments and transition periods, which have characterised all periods of Treaty building, the process could not have moved forward as it has.

For the sake of clarity, it is helpful to begin by defining the concept of differentiated integration itself. Focusing directly on the underlying purpose of the concept, Stubb (1996:283) defines differentiation as 'the general mode of integration strategies which try to reconcile heterogeneity within the European Union'. The definition proposed by Gstohl (2000:42) is more specific about

what differentiation actually involves: '[Differentiated integration denotes] 'an overall notion of integration that does not comprise all member States' . However, this definition still does not alert the reader to the fact that multiple types of differentiation may be taking place at any one time. In this respect, Kölliker's definition is perhaps more precise 'Differentiation (or flexibility) allows different member states to have different rights and obligations with respect to specific policy areas' (Kölliker, 2001:2).

Early examples of differentiation include Article 7c of the EC Treaty, which provides temporary derogations for less developed economies, and Article 115, which permits temporary protective measures against products imported from third countries (Stubb, 1996). However, more significant (and more durable) forms of differentiated integration began to emerge in response to the more ambitious objectives of the Treaty on European Union (TEU). Here, it becomes clear that the concept of differentiation as defined by any of the authors above, covers a range of different types of mechanisms. In particular, the TEU provides examples of two clearly different methods of managing diversity:

- **A/** opt-outs from common policies for the unwilling (eg. The UK from the Social Protocol and EMU and Denmark's from EMU and common defence), and

- **B/** a staged approach to certain policies, according to ability (eg as applied to those countries within EMU) .

A third method can be seen in the Schengen agreements. Initially designed as intergovernmental cooperation outside the Treaties, the agreements were subsequently integrated in the Amsterdam Treaty and have gradually expanded to constitute a new geographical space made up of most but not all EU Member States, as well as several EEA members.

It was not until the Amsterdam Treaty negotiations, when 'flexibility emerged with a vengeance' (Wallace, 2000:), that consideration was given to formalising arrangements for differentiation, and a debate ensued over which of the different types, if any, should be institutionalised. While the Maastricht arrangements could be seen as triggered by deepening, the institutionalisation of flexibility in Amsterdam was intended to prepare the Union for the predicted impact of widening. As Gstohl (2000:42) has noted, 'while the Maastricht Treaty showed that unwilling Member States cannot be forced to integrate, Amsterdam made clear that reluctant countries cannot keep others from further deepening'. Fearing that eastward enlargement would act as a brake

on deeper integration, more integration-minded countries sought to institutionalise a mechanism that would enable groups of countries to proceed with integration within the EU's structures.

Amsterdam spawned such a bewildering array of terms that Stubb (Stubb, 1996:283) diagnosed a case of 'semantic indigestion':

'Two-speed, multi-speed, step-by-step, strengthened solidarity, graduate integration, hard core, variable integration, concentric circles, two tier, multi-tier, multi-track, two track, 'swing wing', circles of solidarity, variable speed, imperial circles, pick and choose, overlapping circles, structural variability, opt in, opt out, opt down, bits and pieces, ad libitum integration, multilevel, two-level, restrained integration, flying geese, magnetic fields, hub and spoke and many circles..'

In an attempt to impose some clarity to the debate, Stubb groups the many terms under three broad categories: 'multi-speed', 'à la carte', and 'variable geometry'. A 'multi-speed Europe' refers to an arrangement whereby a group of member states (Jacques Chirac's 'pioneer group' or Jacques Delors' 'avant garde') agree to forge ahead with deeper integration in a particular area, while countries who are unwilling or unable to participate remain outside in the initial stages. The philosophy behind the concept is that the differentiation is temporary, and that the door will always remain open to countries to join at a later stage. For this reason, Stubb refers to multi-speed Europe as differentiation by time (Stubb, 1996). Common objectives and goals are set at community level and the only differentiation is the speed at which member states achieve them. The underlying function of the mechanism is to facilitate further deepening, while safeguarding the existing acquis.

The Europe 'à la carte' model, by contrast, was not conceived with further deepening in mind. Rather, it describes a minimalist vision of integration restricted to a core free trade area, whose members would be decide which additional areas of cooperation to join, if any. Stubb suggests, therefore, that integration 'à la carte' can be seen to refer to differentiation by matter, rather than by time. While a number of existing opt-in/opt out arrangements could be termed 'à la carte' integration, the wholesale application of this model would require a reworking of the entire European institutional and legal framework.

Sitting somewhere between these two poles is the third category of 'variable geometry', whereby groups of states with different interests or characteristics would join together to pursue functional cooperation in areas of mutual interest. As with 'Europe à la carte', proponents of variable geometry start from the assumption that the degree of cultural, historical and political diversity among member states is an irrevocable impediment to a form of deeper integration that is common to all members, and accept that some member states will never choose to integrate to the extent that others desire. However, while Europe 'à la carte' would operate on an ad hoc basis, 'variable geometry' envisages a more organised set of overlapping groups of countries which would cooperate on the basis of objectives set for that group alone. For this reason, Stubb describes the concept as a form of integration differentiated according to space rather than time or matter. There is an underlying assumption that the objectives set by each group would reflect different attitudes towards integration, with a core group pursuing deep integration and others engaging in cooperation with lesser degrees of intensity. Unlike 'multi-speed Europe', with 'variable geometry' there is no expectation that all countries will eventually end up at the same point.

Clearly, these different definitions encompass a multitude of co-existing and nuanced visions which defy easy categorisation. While Stubb's attempt to order the debate is helpful, it is therefore inevitably problematic and requires further qualification. Firstly, as many scholars have remarked, significant inconsistencies remain in the way in which these terms are employed by different authors (see for example Philippart and Edwards,1999). Secondly, each one these models would have totally different implications for the integration process depending on whether it was applied in its entirety, as an organisational principle for integration, or whether it was simply available as one of a range of possible tools to fix individual problems as an when they occur. If applied wholesale, these models would be mutually exclusive, yet it is evident that less extreme forms of each have already been used as problem solving tools and currently coexist without threatening the other.

Furthermore, the existing examples of differentiation demonstrate how the lines between the three models are less clear cut than they may appear, and depend on the eye of the beholder. To integration-minded optimists, for example, EMU may be seen as an example of multi-speed Europe, whereas British, Danish or Swedish opponents of the single currency are more likely to view it as an example of Europe à la carte. Likewise, the case of the British opt out of the Social

Protocol demonstrates that arrangements that appear at the outset to be Europe à la carte may later turn out to have been an example of multi-speed Europe.

A lack of clarity about the long term consequences of initiating a differentiated arrangement goes some way to explaining why both camps of supporters and opponents of deeper integration are divided in their opinions on the above models. Although Stubb tentatively associates multi-speed Europe with a federalist outlook and Europe à la carte with an intergovernmental approach, the Federal Trust observes that, 'support for the various models does not depend on a specific stance on integration in general' (2005:9). There are federalists who would prefer to leave behind awkward members in an à la carte arrangement, just as there are those who fear this would inevitably destabilise the system. Equally, Eurosceptics are divided into those who are happy to allow states to forge ahead in a multi-speed arrangment and others who believe this would leave them marginalised.

This controversy helps to explain why the final outcome of the Amsterdam debate, the 'closer cooperation mechanism', was governed by so many rules that to date it has never been used. While the decision to initiate closer cooperation in a particular area would be taken by qualified majority, a majority of member states were required to initiate the process, and any country could block the decision by quoting 'important and stated reasons of national policy'. Moreover, the principles surrounding the use of closer cooperation specified that the procedure could only be used if the existing acquis was unaffected, and only ever as a last resort. These restrictions reflected not only the concerns of 'reluctant' countries such as Britain, who feared that they could be marginalized by the mechanism, but also the fears of proponents of deeper integration regarding the potentially destabilising effect of its overuse.

Were these concerns about the consequences of different types of differentiated integration justified? Can integration theories provide any clarity on this matter? Is it possible to predict in which instances differentiation might lead to deepening and when it is likely to lead to fragmentation? It is this debate to which this paper now turns.

3. The debate on differentiated integration: a likely and desirable mechanism to reconcile widening and deepening?

A number of scholars interested in flexibility have expressed frustration with the shortcomings of traditional theories to explain the likelihood and acceptability of different forms of differentiation on the integration path (eg Gstohl, 2000, Kölliker, 2001). In short, Neofunctionalism would expect all Member States to proceed towards a uniform level of integration and fails to explain why some countries remain able but not willing to join particular areas of integration . At a push it can accommodate multi-speed processes, but does not provide any insights into other differentiated arrangements. Liberal Integovernmentalism is useful in explaining the history making decisions which institute differentiated integration in the first place, but cannot capture the dynamics of everyday politics by which these decisions are played out. Middle range theories such as Institutionalism provide a better understanding of how informal practices become embedded over time, but they are less powerful in explaining why Member States left outside one initially differentiated area of cooperation (eg the Social chapter) may eventually join the fold, while those outside another (eg EMU) remain excluded.

These limitations mean that a number of crucial questions remain unaddressed by traditional theories. What accounts for the eventual participation or non-participation of initially unwilling countries in differentiated arrangements they had objected to? And what are the issue areas in which differentiated integration is more likely to be most successful in terms of the eventual reestablishment of unity? In other words, in which cases would differentiated integration have centripetal effects, and in which would centrifugal effects be more likely?

In an attempt to address these dilemmas, Kölliker (2001) developed a specific theory of differentiation, which draws on collective action and public goods theories. The theory suggests that centripetal effects are most likely in areas where:

- **A/** unwilling countries do not stand to gain from the effects of the arrangement unless they participate; and

- **B/** the gains that participants stand to make are complementary rather than rival; ie. non-participants cannot easily free-ride.

Conversely, the strongest centrifugal effects will be found in areas where:

- **a/** non-participants cannot easily be excluded from the arrangement; and

- **b/** the benefits accruing to countries remaining outside the arrangement rival those accruing to countries inside.

On the basis of 15 case studies, Kölliker concludes that in areas such as social, environmental and fiscal harmonisation, where there are common resource pool problems (ie non-participants may benefit from the actions of participants without having to bear the costs), neither the threat nor the use of closer cooperation is likely to induce participation. In these cases, there is a risk that 'unity may be destroyed permanently through short-term differentiation, because the incentives for the eventual participation of initially unwilling Member States are absent' (Ibid:6). However, with this prospect in mind, Kölliker suggests that Member States are unlikely to initiate differentiated integration in these areas in any case.

By contrast, in areas such as Justice and Home affairs, where non-participants could suffer significant negative externalities, differentiated arrangements are much more likely to be applied. Furthermore, initially reluctant members are much more likely to join these arrangements at a later stage, and the centripetal effects will increase with the number of participants. Here, Kölliker suggests, differentiated integration 'may indeed be a shortcut towards a higher level of integration' (ibid, 2001:6).

Gstohl (2000) also attempts to fill the gap left by traditional theories in relation to differentiation. He advocates a multi-step approach which incorporates Liberal Intergovernmentalism and Institutionalised International Governance (IIG), in order to capture the interaction between grand bargains and daily political practice. While Liberal Intergovernmentalism is helpful in understanding the 'history-making' stage of the process (Peterson,1995), IIG brings in the impact of sub-national actors, norm development and institutional effects on the development of preferences. Gstohl argues that IIG is therefore an essential complement to Liberal Intergovernmentalism because it is able to explain how the institutional development of treaty making decisions over time feeds back into future grand bargains.

There are difficulties with this method, of course, in that Liberal Intergovernmentalism rejects the very notion of unintended consequences which Gstohl weaves into what he terms the 'LI+' approach. Nonetheless, his application of the approach to the Amsterdam Treaty negotiations and their subsequent implementation in daily practice demonstrates its relevance in the debate on the likelihood and desirability of differentiation. Gstohl's analysis leads him to conclude that

the inherent complexity and rigidity of the closer cooperation mechanism is likely to prevent its frequent application (Gstohl, 2000); a prediction voiced by a number of other scholars at around the time the Amsterdam Treaty came into force (eg Wallace, 2000; Philippart and Edwards, 1999), and which has of course been confirmed in practice (see section 5 below). However, Gstohl nonetheless maintains that differentiation is an obvious response to the diversity brought by enlargement, and contends that Member states may attempt to circumvent the restrictions of closer cooperation, 'by resorting to exit on the upper level in terms of integration outside the Union framework, where the choice of partners is free and no majority is needed.'

While the theories elaborated by Gstohl (2000) and Kolliker (2001) are more concerned with predicting and understanding the *likelihood* of different flexibility arrangements emerging, other scholars have paid closer attention to the impact and *desirability* of differentiation for the future of the EU. The debate is deeply divided in on this matter, as the different consequences that are foreseen follow on from different understandings of what kind of polity the EU is and should be.

From the perspective of Olsen's Neoinstitutional theory, differentiated integration in the form of flexible arrangements and opt outs is the key factor that will enable the union to maintain its integrative dynamic despite its diversity (Olsen, 2005). This stance stems from his vision of the EU as a dynamic process aiming at the management of diversity. Like Gstohl, Olsen emphasises the role of everyday practice in shaping the contours of the EU polity, but accords even greater importance to the impact of autonomous institutions and the way in which unity-diversity relations are shaped and re-shaped in institutional processes (ibid.).

Olsen holds that the uneven institutionalization resulting from differentiation has held centre-formation at bay and produced a 'heterogeneous, multi-level and multi-centred polity.' (Olsen, 2005: 17).   Since no consensus has been reached on how governance at supranational level should be configured and legitimised, the tensions at the heart of the system have been worked out pragmatically on a case-by case basis. Incremental steps have produced transformative change which has been progressively entrenched, constraining and influencing the behaviour of institutional actors over time (Armstrong and Bulmer, 1998). Ultimately, he concludes, in light of the deep ideological cleavages over the EU's nature, goal and purpose, an incremental, pragmatic approach to integration will be much more conducive to deepened integration than grand constitutional designs. Differentiation is not only likely, it is a fundamental and essential characteristic of the integration process.

Schmitter (1996) and Zielonka (2000) agree with Olsen's perspective on the desirability of differentiation for the future of the EU. These scholars stress that Europe's diversity should be seen as its chief advantage in the international system. Zielonka argues that flexible integration arrangements such as 'concentric circles and variable geometric patterns' make Europe better equipped to cope with the pressures of modernization and globalization than a more cohesive polity: 'Divergence is also a prerequisite of modernity (or, if one prefers, 'post-modernity'), in the sense that only highly diversified and pluralistic societies acting in a complex web of institutional arrangements are able to succeed in conditions of modern competition'(Zielonka, 2000:12). In a similar vein, Schmitter (1996:132, quoted in Zielonka, 2000) argues that the 'growing dissociation between authoritative allocations, territorial constituencies and functional competencies' is crucial to effective governance.

Bartolini (2005) takes a different view. While, like Olsen, he believes that the EU is a 'fluid and loosely bounded order', he maintains that the constructive ambiguity or conceptual openness that has always been at the heart of the integration project (see eg Faber (p. 13)) is fundamentally problematic as the EU deepens. Drawing on political system building theory of Stein Rokkan, he argues that 'some degree of coherence is necessary between cultural, economic, coercion and politico-administrative boundaries of any modern political formation' (ibid: 410). If a polity lacks closed boundaries and there are few barriers to exit, the likelihood of political structuring occurring are few. The functionally, territorially and temporally differentiated process of European integration which Olsen celebrates as the key to managing diversity concerns Bartolini, because it has disjoined nation state boundaries, but has not reconnected them at the EU level. The resulting 'differential boundary transcendence' has led to the fragmentation of sites of power and decision-making and precluded the creation of a stable authoritative centre which allows political agency to flourish.

Unlike scholars such as Hix, however, Bartolini does not see the imposition of majoritarian political structures onto the EU as a simple solution to this dilemma because the underlying conditions are not present. Bartolini therefore identifies a major dilemma at the heart of the EU edifice: the EU cannot legitimately pursue any further deepening without political structuring- but as long as the EU continues to develop in a piecemeal and differentiated manner then a stable political order cannot develop: 'The scattered elements of identities, interests and institutions need to be reconciled in some way into a new coherent order. If this reconstruction does not

occur at some level other than the nation state, then tensions, conflicts and problems are likely to emerge that could jeopardise the features specific to European civilisation' (ibid:411).

Furthermore, he sees the EU's ongoing openness to widening as one of the key barriers to political structuring. Not only does widening alter the EU's immediate borders, but this change in external borders necessitates all sorts of new arrangements with new neighbours which creates fuzzy boundaries and precludes territorialisation. For Bartolini, therefore, internal and external differentiation are the most likely scenario for the future, but it is a scenario which he believes is fundamentally problematic for the EU' s future.

A number of other scholars share Bartolini's concerns about the negative consequences of differentiation as a strategy for dealing with enlargement. Rigo, for example, (2005) argues that this restructuring of the EU's territory serves to internalise divisions that were formerly maintained by the EU's outer border, as 'borders are dragged into the core of Europe' (ibid: 14). As a result, a new system of differentiated memberships is being established above and beyond binary distinctions of 'included' and 'excluded', in which 'each differentiated status corresponds to a position in a hierarchical set of relations' (ibid.:13). Rigo therefore critiques what she terms the 'reified' debate on differentiated integraton, because it undermines the normative goal of inclusive post-national citizenship.

Voruba (2003), meanwhile, maintains that in light of the inherent heterogeneity of the EU, territorialisation is only a necessary condition, and not a sufficient condition to allow for political structuring. He agrees with other scholars cited above that differentiation is an inevitable response to enlargement, and he shares Rigo's concerns that it will result in inequalities of membership. However, he goes further in his conceptualisation of causation. Until now, Voruba argues, enlargement has been driven by the political and economic dynamics of welfare gaps, whereby the affluent centre seeks to protect itself by stabilising its outer periphery. The periphery always acts as a 'cordon sanitaire' to protect the inner core, until it eventually becomes integrated into the affluent centre. This in turn creates welfare gaps with the new outer circle whom the new members seek to integrate. However, as the EU's appetite for further widening slows, this 'expansionary logic' will be ruptured, because the 'cordon sanitaire' group can no longer expect to become tomorrow's members. He concludes, like Rigo, that in order to protect its affluent centre, the system of concentric circles will be reproduced within the EU's borders, so that poorer members who are unable or unwilling to participate in intensified integration will act

as a buffer zone for the richer centre.   Voruba therefore maintains that even if the EU achieves a kind of 'territorialisation', this is not likely to allow for political structuring, because an internal system of inequality will replace the outer system.

4. Differentiated integration in EU-CONSENT's sets of expectations

The theoretical debate outlined above on differentiation and its interrelation with widening and deepening feeds into the development of the EU-CONSENT network's methodological framework and sets of expectations, which are elaborated by Work Package II/III. The research framework interlinks guiding theoretical assumption/theses with scenarios and strategies for the EU's future that appear more likely and acceptable than others in terms of the input and output dimensions of democratic systems (cf. Faber/Wessels 2006; Wessels/Faber 2006). Four possible scenarios for the further development of the EU after enlargement are presented: 'status-quo', 'spill-over', 'spill-back' and 're-invented/transformed EU' (Faber/Wessels 2006:9 and 28; Wessels/Faber 2006:11ff.)

In line with the expectations of the scholars outlined above, differentiation is considered a likely strategy to be used in the future of the integration project in order to reconcile deepening and widening. However, the likely configurations of the various types of differentiation varies with each scenario envisaged (eg. 'spill back' may well include elements of 'Europe à la carte' or a 'directoire', while 'reinvented Union' could conceivably resemble a Europe based on variable geometry). In line with the network's guiding assumption that the 'EU is the full process of reinventing itself', the scenario of a 'reinvented Union', which envisages that 'all Member states will be transformed into new members in order to cope with a new, qualitatively different EU' (Umbach/Zuber, 2007:5), is considered more likely than others. Nonetheless, the project remains open to consideration of 'all conceivable sorts of effects and interactions between widening and deepening, ie. further integration as well as disintegration' (ibid: 6).

Over the course of the project, the initial scenarios are therefore being continually revisited and revised to reflect these observations. Faber (2006), for example, has elaborated six tentative hypotheses on the systematic effects and characteristics of enlargement, while Umbach and Zuber (2007) have contrasted the initial results of the various work packages against these hypotheses. As a further continuation of this work, the final section of this paper attempts to

contrast the initial expectations of the project in relation to differentiation against empirical research and developments in the integration process since 2004.

5. Interim findings: developments since 2004

Unsurprisingly, there is no academic consensus on the causes and the implications of the failure of the Constitutional Treaty ratification process. Indeed, in a recent paper, Team 1 has demonstrated how this development could be read through three different theoretical lenses to reach entirely contradictory predictions and prescriptions for the future of the integration project (Laffan/Sudbery, 2006).

However, most accounts agree that the ratification failure demonstrates the extraordinary difficulty, if not impossibility, of moving EU integration forward on the basis of a 'grand design' which sets out a universally agreed upon finalité politique. In formal terms at least, the projects of constitutionalisation and territoritalisation have reached a dead end. In many ways, this confirms Olsen's view that, in a situation of contested visions of the polity, major constitutional design and reform is likely to provoke crises (Olsen, 2005: 23).

There is of course a danger of over-analysing the implications of two no votes in a referendum process. However, empirical research focusing on how the institutions have coped with the so-called period of 'crisis' following the ratification failure also tends to confirm Olsen's assertion that 'the European Union has shown ability to live with an open ended process and enduring tensions and inconsistencies, not only in terms of policies but also institutional arrangements' (Olsen, 2005:18). While the rhetoric surrounding the Constitutional Treaty cast treaty reform as nothing short of indispensable, research carried out in WP IV on the European Parliament (Hix/Noury, 2006) and the Committee of the Regions (Brunazzo/Domorenok, 2007), for example, demonstrates that these institutions have managed to adapt to enlargement rather seamlessly, even without formal institutional reform. Likewise, procedures such as Comitology have been largely unaffected by enlargement, although it may have resulted in subtle shifts of power among the institutions that could have an impact over time (Piedrafita, 2007).   On the basis of research to date, Work Package IV's interim findings therefore suggest that *adaptation* characterises the impact of enlargement on the EU institutions rather better than *transformation*.

The agreement on the Lisbon Treaty also reflects this 'business as usual' scenario. In terms of both its substance and the process by which it was approved, the Lisbon Treaty epitomises the pragmatism and 'constructive ambiguity' at the heart of the Monnet method (cf. Wessels/Faber, 2006). The Treaty continues past practice of allowing significant forms of flexibility in terms of opt outs for unwilling states in order facilitate deepening in areas such as JHA and the adoption of the Charter of Fundamental Rights, while stopping short of institutionalising or formalising any new forms of differentiation. Flexibility is also evident in the strategy adopted of removing controversial symbols and re-wording objectives in order to make the Lisbon Treaty sufficiently different from the Constitutional Treaty whilst maintaining the necessary reforms to ensure efficient decision-making.

The Lisbon Treaty retains the Nice Treaty's legal provisions on enhanced cooperation with only minor adaptations. It is ironic to note, however, that while the unofficial forms of differentiation such as opt outs and footnotes continue to characterise the both the process and substance, the only official form of differentiation has still not been applied. There are obvious reasons for this, both of which are explored by Wessels/Tekin in their contribution an EU-CONSENT volume on the impact of the Lisbon Treaty (Wessels/Tekin, forthcoming). Firstly, the significance of enhanced cooperation lies in its potential to act as a nuclear deterrent, encouraging member states to reach compromises rather than face the prospect of internal division. The second, as discussed above, is its sheer complexity. It is somewhat paradoxical that provisions designed to allow 'flexibility' should be so rigid. The institutionalisation of differentiation may in fact have stripped it of its utility, which is to find pragmatic ways around problems that cannot be solved within the straightjacket of institutional rules. Meanwhile, adhoc forms of flexibility continue to be employed to bypass obstacles to change.

However, while on the surface this flexible, step-by-step approach to integration would appear to have once again facilitated change in the formal dimension of integration, developments since 2004 serve as a reminder that such an ad-hoc, informal usage of differentiation may come at the price of problems in another dimension of integration of interest to EU CONSENT: democracy, legitimacy and identities. The ratification failure of the Constitutional Treaty certainly adds weight to the view of Hix and Bartolini that the lack of democratic links between the people and the political system could lead to instability in the system as a whole. At the same time, it exemplifies Bartolini's insistence that the mere imposition of democratic channels usually deployed in nation

states (in this case referenda) provides no easy solution if the conditions for political structuring are absent.

Neither the substance of the Lisbon Treaty nor the process by which it was approved could be seen to foster greater transparency or to make the EU easier to understand for its citizens, both of which were stated objectives of the Constitutionalisation process. Faced with the failure to secure agreement on reforms through referenda, the Treaty makers reverted to tried and tested methods of negotiations behind closed doors. The opt outs secured through these negotiations may well have been the only way to push through the necessary reforms, but they nonetheless result in an increase in complexity and even more fuzziness over territorial and functional boundaries. In line with Bartolini, Team 12's research (2006) suggests that this fuzziness is an obstacle to the development of a European identity, which it views as 'an essential prerequisite for European integration'. Coupled with Team 10's basic assumption that citizens' opinions and objectives can exercise an impact on the processes of widening and deepening (2006), a hypothesis that is of course supported by the ratification failure, these observations demonstrate that deepening in one area of integration may conceal, or even exacerbate problems in another area.

6. Conclusions: Implications of recent developments for EU-CONSENT's theoretical and methodological framework

Despite the fact that, as with all previous treaties, aspects of the Lisbon Treaty could be seized upon to support either a federalist or an intergovernmentalist vision of the future of the EU, few would argue that developments since 2004 unambiguously confirm either the 'spillover' or the 'spillback' scenarios. Rather, multiple types of differentiation continue to coexist and to be applied as flexible options that can be tailored to each particular problem.

Taken as a whole, the evidence since 2004 would appear to suggest two observations with regard to differentiation:

- **a/** At the meso level (daily practice) and the meta level (treaty change) of decision-making, solutions have been found to avoid paralysis due to the increase in diversity brought by enlargement

- **b/** Differentiation has played a part in these solutions, although the diversity and unpredictability inherent in the integration process means that one particular form of differentiation, whether it be multi-speed, a la carte or variable geometry, has not come to characterise the process as a whole.

At first glance, this situation appears to confirm the expectations of the 'reinvented Union' scenario. The puzzle here is that the reinvented union scenario expects transformation to result from enlargement, while research carried out in the network overwhelmingly suggests that the 2004 enlargement has not represented a significant rupture in the EU's development path. Neither the balance of powers between the institutions nor the relationship between the EU and its Member States has been significantly altered (Federal Trust, 2005). Nonetheless, 'status quo' does not appear to be appropriate description of the current situation as it does not account for either the formal change represented by the Lisbon Treaty, or the informal change in the form of institutional adaptation demonstrated by WP IV.

It may be the case that the current situation resembles a 'status quo' scenario only because of the short time period that has elapsed since enlargement. EU-CONSENT's theoretical framework acknowledged from the outset that time will be a crucial variable in analysing the effects of enlargement, and this has been reflected in the work of WP II/III. Team 26 was established purely to undertake research on the temporal dimension of the integration process, while Team 1 has consistently noted that the cumulative effect of adaptation in day to day practice can have transformative effects in the long run (Faber/Wessels, 2006:27). However, the fact remains that since empirical studies thus far have overwhelmingly found evidence of adaptation rather than transformation, the transformative effects of the 2004 enlargement remain purely speculative at this juncture. In this light, it may necessary to revisit the core hypothesis of the 'reinvented union' scenario, stressing the importance of the time variable and incorporating Team IV's definitions of what constitutes 'adaptation' or 'transformation'.

An additional suggestion that has been proposed by Work Package II/III is to employ the term 'anarchic' differentiation" as a starting point for a debate on:

- **a/** the results that the EU-CONSENT project has generated until now; and

- **b/** the implications of these results for the future development of the integration process.

In political science, anarchy is most widely used in relation to neorealist theories of the relations between sovereign states in the international order on the basis of fixed national interests. However, literally, the term refers to an absence of a leader, while political anarchy is the condition of any polity that is lacking in formal institutions of government at the system level, that is highly decentralized with respect to the distribution of authority and power.

It may appear strange to apply the term in EU studies, given that the concept of anarchy appears to downplay or even deny the role of institutions. However, used in its adjectival form it effectively evokes the ad-hoc, unpredictable development of the polity as opposed to development on the basis of a tidy consitutional order. It is also close to conceptions that have been put forward of the EU as a 'post-modern polity' (Caporaso, 1996) or a 'neo-medieval empire' (Zielonka, 2000), both of which contrast the clear constitutional order of a nation state with the flexible and novel forms of governance that the EU has had to embrace to cope with diversity.

The concept of 'anarchic differentiation' clearly needs to be more carefully defined over the coming year by WP II/III, in particular in relation to the role of institutions and related concepts such as path dependency, which would appear to be at odds with the term 'anarchy'. That said, the concept usefully evokes the informal and unruly nature of differentiated integration that exemplifies one of the core contradictions at the heart of the EU; namely, that flexibility and ambiguity are both unavoidable and yet potentially destructive characteristics of the integration process. As such, the concept could serve as a useful focal point for research to further analyse WP II/III's hypotheses on the effects of enlargement on widening and deepening, (Cf Faber, 2006), while bringing in the central role of differentiated integration that this paper has explored.

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