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THE IMPACT AND EFFECTIVENESS OF THE SINGLE MARKET

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Appendix 1 : Sources of information for this review

THE IMPACT AND EFFECTIVENESS OF THE SINGLE MARKET: SUMMARY

1. Jobs and sustainable growth are at the top of the Union's agenda. The Commission's Confidence Pact, "Action for Employment in Europe", identified the Single Market as the launching pad for attaining higher levels of job creation and sustainable growth. The Commission now has solid evidence of the positive effects of the Single Market, based on a first exhaustive survey of its economic impact and effectiveness conducted over the past two years.¹
2. In terms of economic impact the news is encouraging. It is still too early for many Single Market measures to have taken full effect but there are clear signs of significant change in the European economy. We now have evidence of the following positive, albeit preliminary effects of the Single Market in triggering the expected reinforcement of integration, competition, economic performance and benefits for consumers:²
 - growing competition between companies in both manufacturing and services;
 - an accelerated pace of industrial restructuring, with the resultant benefits in terms of greater competitiveness;
 - a wider range of products and services available to public sector, industrial and domestic consumers at lower prices, particularly in newly liberalised service sectors such as transport, financial services, telecommunications and broadcasting;
 - faster and cheaper cross-frontier deliveries resulting from the absence of border controls on goods;
 - greater mobility between Member States for both workers and those not economically active (including students and retired people).
3. Calculations of the overall economic effects of these changes suggest that the SMP has resulted in:
 - between 300,000 and 900,000 more jobs than would have existed in the absence of the Single Market;
 - an extra increase in EU income of 1.1-1.5% over the period 1987-93;
 - inflation rates which are 1.0-1.5% lower than they would be in the absence of the SMP.
 - economic convergence and cohesion between different EU regions.
4. These benefits have been gained without any reduction in safety standards for consumers or workers. In many areas standards of protection for the citizen have in fact increased. Citizens of the Union also enjoy more personal freedom and have more choice than ever before. The Commission's survey confirms that Community legislation in the Single Market area has, taken as a whole, created the basic conditions for free movement and economic efficiency. The situation in today's Single Market is in sharp contrast to that of the mid-1980's when:
 - all goods were stopped and subject to checks at frontiers;

¹ A more detailed account of the Commission's findings can be obtained from the Office of Official Publications in the following documents:

- 38 background studies and 1 business survey (to be published Nov. 1996 - Jan. 1997);
- A (100 page) Working Document of the Commission Services summarising the main findings of the studies (Nov. 1996)

² A more detailed analysis of the economic impact will be published in "European Economy" (Dec. 1996)

- most products had to comply with different laws in each Member State;
 - services such as transport, telecommunications, banking and broadcasting were not subject to competition; and
 - citizens who were not employed could be subject to restrictions on residence and risk losing social security rights in another Member State.
5. It is up to economic operators to make the most of the Single Market. The role of public authorities at national and Community level is confined to creating appropriate economic and institutional conditions. In the context of a more favourable economic climate, operators will be better placed to exploit to the full the opportunities that are now available. This report shows that where these opportunities are taken the benefits are significant.
6. The Commission's analysis suggests that these opportunities would have been even greater if Member States had been more diligent in putting in place the Single Market measures already agreed and applying the principles of the Community law on which they are based. Delays in applying and enforcing Single Market rules at national level continue to limit the Single Market's positive contribution to growth, competitiveness and more employment.
7. The Community must build on its successes and iron out the remaining political and practical difficulties which inhibit the Single Market's full potential from being achieved. The Commission is putting forward clear policy recommendations for action at two levels:
- first and foremost, at the national level, where the main responsibility for applying Single Market rules lies. The Commission is urging that enforcement of Single Market legislation and Treaty rules be stepped up. In addition, the Commission calls for vigorous action to be taken to reduce excessive regulation at national level which inhibits both competition and competitiveness;
 - at the Community level, where further efforts must be made to complete the 1985 agenda in a few key areas (such as abolition of border controls on persons, taxation and company law), where further means have to be devoted to the control of implementation and to updating the legislation and where Community policies in related areas such as competition, consumer policy, information and the environment may need to be developed further in order to ensure the most effective use and development of the Single Market.

The introduction of a single currency in 1999 will also make the Single Market more effective, by eliminating the constraints which now result from exchange risks and by generally increasing transparency and competition.

8. In its conclusions to this report, the Commission calls for action to deliver a properly working Single Market. It spells out what is required in terms of a renewed commitment to the Single Market, not only at the highest political level - the European Council in Dublin - but also from all those who must contribute to making the Single Market a success - national authorities, the European Institutions and, above all, economic operators themselves.

1 THE ECONOMIC IMPACT OF THE SINGLE MARKET PROGRAMME

1.1 Introduction

The Single Market Programme (SMP), as set out in the Commission White Paper of 1985, constituted the most ambitious and comprehensive supply-side programme ever launched. It has begun to remove the market rigidities and barriers to mobility which in the mid-1980s gave rise to persistent economic under-performance, reflected in rising unemployment and poor competitiveness.

Implementation of Single Market liberalisation measures is proceeding well. Without a doubt, the elimination of frontier controls and delays, the free circulation of capital and the liberalisation of financial services have been widely and warmly welcomed by economic operators. However, implementation of a certain number of measures has encountered problems (technical barriers, public procurement). The evaluation exercise begun here seeks to identify and estimate the economic effects of measures taken to eliminate trade barriers only to the extent that they have actually been successfully carried out.

It is important to underline that the following assessment cannot be definitive and unqualified, because:

- first, it is difficult to isolate the effects which can be attributed exclusively to Single Market integration. The past decade saw the accession of five new Member States, German reunification, the economic transformation in Central and Eastern Europe, a substantial increase in the volume and effectiveness of Community Structural Fund assistance, a globalising world economy and the information technology revolution. These developments have affected the dynamics of the Single Market.
- second, the Single Market legislation is still to take full effect. Much of it did not come into force until 1994 or 1995; some will not be implemented until after the year 2000. Economic operators are still adapting to the new regulatory and commercial environment and have had little time to adjust to new freedoms; the recent recession may have made them reluctant to take advantage of new opportunities. There has been insufficient time for the effects of regulatory change to work through.

Given the nature of Single Market measures, their implementation has resulted in essentially microeconomic effects and modifications to the structure of production and trade inside the EU. As a consequence, the analysis focuses on identifying and measuring microeconomic phenomena. Nevertheless, an attempt is also made to evaluate the macroeconomic impact on income and employment.

Elimination of trade barriers has the following expected microeconomic consequences: lifting barriers will lead to improvements in the allocation of resources to take advantage of specialisation based on comparative advantage and economies of scale. There is a danger that the removal of barriers might be accompanied by a re-segmentation of national markets via anti-competitive behaviour (e.g. cartels, abuse of dominant position, state aids). Competition policy is an essential tool for preventing such behaviour and for translating efficiency gains into lower prices and better quality for consumers.

1.2. Trade and foreign direct investment.

The Single Market has led to an important increase in trade and in the EU's share of foreign direct investment at world level. However, the increase in trade amongst Member States has not been at the expense of trade with third countries. Furthermore, a relative convergence of Member States' production structures can be discerned as a result of specialising in the same sectors but different price-quality niches, a development which eases the process of Monetary Union.

The analysis carried out demonstrates that lifting trade barriers has increased trade volumes between Member States by 20-30% in manufacturing products. This growth has not been at the expense of exporters from outside the Community who have, in fact, also benefited from the creation of the Single Market. Fears expressed that the Single Market would be less open to foreign suppliers have turned out to be groundless. Extra-EU manufacturing imports have increased their share of consumption over the period 1980-93 from 12 to 14%.

As for trade inside the Community, a noticeable change in the nature of flows can be detected. The Single Market does not seem to have reinforced trends towards increased sectoral specialisation, with Member States concentrating on particular activities according to their respective comparative advantages; instead, Member States are increasingly specialising within industrial sectors in certain price-quality ranges. Consumers have benefited from the resulting increased range of products available for sale.

Member States are therefore active across the whole spectrum of economic activity, differentiating themselves from each other by the price-quality market niche that they strive to occupy. The result has been a convergence of Member States' industrial structures. This is particularly important in the context of Monetary Union.

Regarding foreign direct investment, one can see that the Single Market has made the EU more attractive as a location. As a result, the EU absorbed 44% of global foreign investment flows in the early 1990s, compared to 28% in the middle of the 1980s. The Single Market seems to have had a particularly strong impact on the financial services sector.

1.3 Market structures

The European economy has undergone profound restructuring characterised by an explosion in the number of mergers and acquisitions. Nevertheless, there has been an increase in competition on national markets, which has led to a greater convergence of prices for goods and services.

An important part of these foreign direct investment flows has been associated with mergers and acquisitions, which have themselves multiplied as the Single Market has been implemented. This applies, in particular, to cross-border mergers and acquisitions between Community firms. Between 1986 and 1995, the number of mergers and acquisitions has increased from 720 to 2296 in industry and from 783 to 2602 in services. However, 70% remain purely domestic operations between firms from the same Member State. This could reflect firms' desire to pursue, at least in the first instance, a defensive strategy nationally, leaving some European level restructuring to the future.

Restructuring which has already been carried out has led to increases in the level of concentration at the EU level considered as a whole. Taking manufacturing, between 1987 and 1993 the share of the four largest firms increased from 20.5% of the total, on average, of European turnover, to 22.8%. Nevertheless, there has also been a decline in concentration at national level, even though the average size of firms has been rather stable. This development, apparently paradoxical, has a two part explanation: on the one hand, declines in the market share of dominant firms on their home markets due to increased competition; on the other hand, increases in these dominant firms' share of the European market due to a strategy of pan-Europeanisation. In other words, Europe-wide, large firms' volume of activity has grown, but the geographic distribution of this activity has changed, with relative declines on home markets and increases on other Member State markets. This development is significantly less marked for service activities, especially those that remain heavily regulated, where increases in national concentration can actually be observed. These sectors may witness major pan-European restructuring in the future.

Intensification of competition has reduced the increase in firms' profit margins (of the order of 0.5 percentage points between 1987 and 1991), particularly in sectors where trade barriers used to be most significant. In some of these sectors this has led to price reductions, benefiting consumers. Furthermore, the opening-up of markets has encouraged the convergence of prices across Member States for various goods and services. This convergence is all the greater the larger the degree of liberalisation due to the Single Market. As a result, between 1985 and 1993 the coefficient of variation for prices (including taxes) between Member States for identical goods and services shrank: from 22.5% to 19.6% for consumer goods, and from 33.7% to 28.6% for services. Conversely, the coefficient of variation actually increased for energy products from 21.1% to 31.7%, and for construction from 22.1% to 27.4%. In other words, in sectors where national markets remain very fragmented, no convergence can be seen.

1.4 Income, employment and convergence

The Single Market has had a positive impact on income. It is also one of the forces contributing to a certain convergence on the part of outlying Member States. The level of employment would have been lower in its absence.

The combination of microeconomic processes described above has been used to try to estimate the macroeconomic impact of the Single Market Programme using various models. These estimates indicate that investment has been boosted by 1 to 3%, whilst inflation has been reduced by 1 to 1½% by comparison with what these variables would have been in the absence of the Single Market. As a result, Community income in 1994 is estimated to have been 1.1 to 1.5 percentage points higher due to the Single Market - an increase of 60 to 80 billion ECUs. Around half of these effects came from increases in competition and efficiency improvements, the rest from improvements in technical progress associated with the Single Market.

For several reasons, the recent EU's employment record has been poor. Economic analysis shows, however, that the SMP has produced a higher employment level than would have been achieved in its absence. The difference is estimated at between 300,000 and 900,000 jobs. However, this positive effect has been overshadowed by unfavourable economic conditions not connected with the SMP.

Furthermore, higher levels of Community-wide income have been accompanied by a certain convergence in favour of the majority of Member States on the Community's periphery with Ireland, Spain and Portugal experiencing growth above the Community average. This trend results from the joint effect of accession (in the case of Spain and Portugal), increasing support from structural and cohesion fund, and the Single Market. Economic analysis shows that the SMP has had a specific positive impact on convergence.

To conclude, the macroeconomic impact of the Single Market, as far as it can be detected so far, is clearly positive. Undoubtedly, these effects will continue to grow in the future, to the extent that the Single Market is properly implemented and economic operators actually readjust themselves to the new, more competitive environment created.

2. A SINGLE MARKET WORKING FOR ITS CITIZENS

The Single Market is much more than an economic enterprise. Together with other Community policies, it has contributed significantly to lower prices and more consumer choice, the extension of personal freedom and rights, higher living standards, better health and safety at work, product safety and reliability, and a safer environment.

2.1 Free movement of persons

The Single Market is essentially complete in this area, with the notable exception of the removal of border controls on people. Some clarification of legislation may be necessary, however and implementation at national and local level must be improved.

The freedom to move from one country to another to work, study and reside is one of the most tangible benefits of the Union for individuals. Free movement of workers has been a reality for the six founding members of the European Community since 1968 and now applies to all Member States and three of the EFTA countries (Norway, Iceland and Liechtenstein). Supporting measures, such as the mutual recognition of equivalent diplomas or the right to transfer social security entitlements, increase opportunities for individuals and their dependants to relocate anywhere in the EU.

Within the framework of the SMP, legislation also provided for aggregation and portability of workers' acquired pension and social security rights. Efforts have since focused on extending these freedoms to the unemployed, such as students and retired people, and on strengthening mutual recognition of equivalent educational and vocational qualifications so that employed and self-employed people are able to make use of their right to free movement without being penalised in the field of social security. The EURES network also provides services and information about EU job vacancies and living and working conditions.

Labour force surveys show a slow but steady increase in EU nationals working in other Member States. However, migration is confined to specific occupations such as managers, professionals or specialised technicians and contracted workers in the building sector, and is most prevalent in border areas where Intra-EC migration increased by 18% between 1987 and 1994.

In fact, there has been no large scale migration of labour within the Community. Increased trade between Member States as a consequence of the Single Market and the fact that capital has proved more mobile than labour have substituted for migration. Cultural and linguistic differences also continue to deter worker relocation.

The Single Market legislative framework is essentially complete in this area. Although significant progress has been made, there remains a need for further efforts at Union level, not least to ensure that the existing Community provisions are up-to-date, understood and applied. It is also clear, not least from the Commission's surveys of the functioning of the Single Market, that some real obstacles - both legal and practical - still confront European citizens seeking to exercise their rights to free movement and residence within the Union. The Commission has launched a number of initiatives such as the High Level Panel on Free Movement, and "Citizens First!" information action. In order to address these issues the Green Paper "Education, Training and Research : the obstacles to transnational mobility" also analyses remaining obstacles to mobility for students, trainees, the unemployed, researchers, voluntary workers (whether citizens of the EU or legal residents) and proposes some lines for action.

Community-wide agreement has not been reached on the removal of border controls on the movement of individuals. Progress between the majority of Member States has been on the basis of intergovernmental agreements only. The maintenance of border controls represents national preferences for carrying out identity checks against terrorism, drug trafficking and other public

order controls at frontiers, rather than internally. This failure is an impediment to full exploitation of the opportunities afforded by the Single Market.

2.2 The Single Market and social policy

The SMP has influenced the EU's social environment, while social policies, at national and Community level, have facilitated the smooth operation of the Single Market. Fears that investment would flow substantially to Member States with lower labour costs, or which have opted out of some elements of the common social policy appear largely unfounded.

Many social measures form an integral part of the Single Market framework. Social security provisions recognising periods of insurance in another Member State and the European Works Councils Directive and the Directive on the posting of workers are among the examples of measures which support the free movement of people and ensure that the Single Market prevents competition based on lowering levels of social protection.

Outright harmonisation of social policies is not a Community objective. However, the realisation of the Commission's 1989 Social Action Programme has led to the establishment of a framework of basic minimum standards, for example in the field of health and safety at work. These provide a bulwark against using low social standards as an instrument of unfair economic competition. The continuing aim should be to develop and improve standards for all the Member States of the Union.

The SMP has accelerated the internationalisation of companies. Multinationals use restructuring and reorganisation across the Community to sustain competitiveness. The expectation of a shift in economic activity towards Member States with low labour costs has also not been borne out. Competitive undercutting of pay and conditions by firms exploiting Member State differences in labour costs or regulations is rare. Most EU and non-EU multinationals admit that except for very specific functions and sectors, for example centralised management for airlines, other factors have been more important in location decisions. In the manufacturing sector, for example, transport facilities or logistics are determinant.

Adequate social security protection is a precondition for use of the right to move within the Union. Without such protection, disparities between the social security schemes of the different Member States would adversely affect people moving across frontiers. Measures co-ordinating the social security schemes of Member States, guarantee that rights to social security benefits acquired or in the process of being acquired under national legislation (for example pensions, health insurance, family benefits) will not be lost when people leave their country to work to look for a job, to reside or to stay elsewhere in the Union.

2.3 Consumer interests

The efficiency and smooth functioning of the Single Market depend also on consumers' action and influence. A proper functioning of the market implies that a fair share of benefits will accrue to consumers. An efficient Single Market needs strong consumer organisations with access to clear information and instruments to represent and enforce consumers' rights. The SMP has offered retailers and consumers wider access to cheaper and better products and services.

European consumers, as well as businesses, were meant to benefit from greater competition, lower prices, a wider variety of products and services and new distribution channels. The evidence already presented in Chapter 1 shows that this is beginning to happen. In accordance with Article 100a(3), high levels of consumer protection are embodied in harmonising legislation

Considerable progress has been made. There is evidence of a switch to EU-wide sourcing, particularly in products such as electrical household appliances, branded food and furniture. In manufacturing sectors, such as foodstuffs and textiles, evidence on price levels is inconclusive; in

service sectors, such as air transport and telecommunications, price reductions may not be exclusively linked to the SMP. However, the acceleration of price convergence, particularly in consumer goods where quality variation is limited, is due to the SMP. Lower prices and greater price convergence have been inhibited by price controls (particularly for medical and pharmaceuticals products) or consumer preferences for national, regional or local products (particularly for foodstuffs, where only branded products benefited from improved market access).

Consumers have had access to a wider range of products and services, particularly for telecommunications equipment, financial services, and more inter-city flights in air transport.

The benefits of more choice and keener prices have generally not compromised the safety or welfare of consumers. The SMP put consumer safety before the free circulation of goods and services. Open markets might have led to additional risks, for example as a result of variations in standards and of free circulation of imported goods and services. So the SMP was accompanied by the convergence of conformity assessment systems, tougher penalties against producers of defective products and early warning and withdrawal systems for use in emergencies.

The promotion of consumers' interests depends on the availability of clear and correct information on which rational and transparent choices should be based. This is a precondition for the proper functioning of the single market. In this respect, denomination and labelling information should be an effective and proportionate means of informing consumers without being used by Member States to fragment the market and to protect national producers.

Community actions such as those intended to improve access to justice and cross-border applicability of guarantees are critical if consumers are to exploit Single Market opportunities. But because the amounts involved are often small, cross-border law-suits are rarely feasible. The Commission has already proposed some innovative solutions to meet the needs of consumers with genuine grievances so that cross-border shopping can earn consumers' confidence. More generally, consumer policy needs to be integrated into other single market action (such as liberalisation, information, or financial services where consumers still face difficulties in protecting their interests) in order to better take into account and promote consumers' interests.

2.4 Environmental protection

Environmental policy and the Single Market are complementary. It is still too early to make a definitive assessment of the environmental impact of the SMP. Better coordinated arrangements for environmental protection and fewer differences between Member States' legislation are essential to avoid new technical trade barriers while ensuring that environmental policy objectives are met.

Article 2 of the EC Treaty provides that the Community shall have as its task, by establishing a common market, to promote, inter alia "a sustainable and non-inflationary growth respecting the environment". Both policies must strive for a more efficient use of resources, including environmental resources, the cost of which must be properly taken into account. The link between these policies recognised in the Treaty is complemented by a widespread recognition among businesses of the need for environmental legislation. For some sectors, environmental requirements have been an incentive for businesses to invest in new environmentally-friendly technologies which have also increased competitiveness.

Prior to the implementation of the Single Market, expectations about the potential environmental impact of the Single Market were quite pessimistic. It is too early to make a definitive assessment and to quantify the environmental impact of the SMP in order to validate or disqualify those fears. However, the studies undertaken for this review estimate important medium-term gains for the environment when Single Market measures in some sectors such as energy are fully

implemented. Thus a single energy market is likely to increase gas consumption, far less polluting than other fuels, and decrease CO₂ emissions by 105 million tonnes p.a..

As regards transport, it is difficult to assess the contribution which the Single Market has made to traffic growth in the first half of this decade. However, growth in road freight transport in EU-15 has been around 15% between 1990 and 1994, and average annual growth rates in road freight traffic were slightly higher between 1990 and 1994 than during the 1980s. The environmental concern associated with those trends, in the absence of major improvements in vehicle fuel economy, is the increase in both particulates and CO₂ emissions which makes it difficult for the Community to achieve *inter-alia* its CO₂ stabilisation and reduction objectives. In addition, increasing traffic puts additional pressures on the environment in transit regions (e.g. the Alps). At the same time, technological improvements made to vehicles under Community legislation, e.g., in harmonised technical specifications introducing stricter emission standards, will at least in the future lead to reductions in air polluting emissions from road transport. Early estimations foresee considerable emission reductions in the field of regional transport of goods. It is also hoped that progress on fair and efficient pricing in transport as well as the proposed revision of the current fiscal framework for heavy goods vehicles (COM/96/331) will result in an additional substantial reduction in emissions. Finally, it is expected that the strategy to revitalise the Community's railways will, in the longer term, strengthen the competitive position of this environmentally more benign form of transport.

Measures to provide for free circulation within the SMP, such as technical specifications, have embodied high levels of protection for the environment, in accordance with Article 100a(3). In 'new approach' legislation, environmental protection and energy-efficiency are often enshrined as 'essential requirements'

However, as in other areas where there is a growing awareness of the need for an adequate regulatory framework to meet the concerns of today's citizens, there is a risk that Member States may adopt diverging legislation in the environmental field which may result in the fragmentation of the single market. A Community framework may in many cases be the best guarantee that actions taken have their full impact and strike an appropriate balance between single market and environmental objectives.

Examples of areas of national regulation which require scrutiny in this context include:

- emissions and hazards which, although partially regulated at EU level (e.g., use of titanium dioxide), is mostly covered by national legislation (emissions of solvents);
- national eco-label schemes, which are currently proliferating in spite of progress with the development of the Community eco-label may lead to market distortions and confusion among consumers;
- waste management regulations, where insufficient enforcement or inadequate implementation have resulted in different requirements for producers at national level.

The Commission considers that the proper integration of single market and environmental policy to ensure the best possible progress towards the achievement of Treaty objectives is a key issue for the Community. Further reflection is needed among European Institutions about how to achieve this balance. The Commission therefore intends to initiate a political debate on this subject on the course of 1997.

3. THE EFFECTIVENESS OF THE SINGLE MARKET PROGRAMME

The SMP has transformed the conditions under which cross-border business is carried out. Most of the principal obstacles to integration of product, service and capital markets have been removed. Internal political boundaries are no longer strategically important for business.

The process of removal of barriers is more advanced and the legislative framework is more mature for product markets than for services. Distortions of investment decisions and cross-border transactions in some service markets are still widespread. This is partly explained by structural and behavioural impediments, but regulatory or administrative obstacles still apply in some sectors.

In several areas, Single Market rules have yet to be completely implemented. But even here, the necessary structures have been put in place to eradicate remaining barriers and prevent their replacement. These make the recent gains in completing the Single Market irreversible.

The removal of trade barriers and wider commercial horizons have helped to increase options for European businesses. The barriers are coming down and companies can win new market share if they grasp the emerging opportunities. Whether the Single Market will deliver on its promise now depends primarily on the responsiveness of companies to new market openings.

3.1 The scale of the challenge

Competition in the European economy was severely limited in the mid 1980s by barriers to trade and investment between the Member States. Cross-border shipments required voluminous paperwork and faced interminable delays at frontiers. Manufacturers had to re-engineer products for each national market. Public procurement markets were shielded from cross-border and local competition; contracts were usually awarded to local suppliers. Service providers were either prohibited from providing cross border services and operating in other Member States or faced insurmountable barriers. Businesses anxious to reorganise on a pan-European footing were confronted with legal and fiscal complications. Exchange controls and other obstacles hindered cross-border financial transactions. The victim of this protectionism was the consumer, who paid too much and had less choice.

The SMP aimed to remove these obstacles to free circulation of goods, services, capital and persons. However, the positive impact of single market legislation may be countered by national regulations which are not inconsistent with internal market rules or by anti-competitive business practices. These may stand in the way of the development of efficient product, services and labour markets that can adjust easily and quickly to increased outside competition. Although Member States are responsible for most of the features of the business environment, it is also the role of Community competition and state aids policies to ensure that firms do not engage in anti-competitive behaviour, that the operation of providers of services of general economic interest is consistent with the competition provisions of the Treaty, and that state aids do not distort competition.

This chapter assesses whether legislation to remove obstacles to the free circulation of goods, services, capital and for opening up of procurement markets has been effective, i.e., to what extent obstacles to free movement have been overcome.

3.2 Survey results

The economic evidence that the Single Market is working is backed up by the perceptions of European business, which clearly sees the SMP as having removed a series of obstacles to cross-border transactions and as having increased market opportunities. Two major surveys, one involving organisation representing 50% of EU industrial production and 48% of jobs, the other

using replies from 13,000 European businesses, confirm this positive perception by industry. The approval rating, however, is higher among manufacturing firms than services (31 to 51% for manufacturing and 15 to 37% for services). The proportion of companies seeing the Single Market as effective is even higher in sectors where non-tariff barriers were most prevalent and onerous (i.e. electrical machinery, food, chemicals, transport). These findings represent business across the spectrum, since the survey was not confined to sectors most directly affected by the SMP.

Larger companies are particularly outspoken in their positive assessment of Single Market integration; 47% of large companies with more than 1000 employees consider that the SMP has successfully eliminated obstacles to EU trade in their sector, as opposed to 38% of firms with 20 to 49 employees. Intervening sizes of firm hold intermediate positions. This pattern is repeated for views on specific measures. Lower levels of enthusiasm on the part of SMEs may reflect their generally more national or local scope. Many sectors most sensitive to the SMP are dominated by higher than average sized firms (telecommunications equipment, electrical machinery, chemicals and man-made-fibres, pharmaceuticals, motor vehicles and machine tools).

Compliance costs are a big problem for most SMEs. Large companies can redeploy staff to deal with the associated paperwork. Smaller companies say that this imposed fixed cost represents a higher proportion of their turnover than that of a larger company. Nevertheless, SMEs in some sectors have expressed positive views about the impact of the Single Market on their activity. For example, in the detergent and cosmetics sector, SMEs have had better access to European markets, and in the construction machinery sector, 29% of SMEs as opposed to 7% of large firms feel that the Single Market has encouraged them to sell abroad.

Within this broadly positive picture SMP effectiveness varies. The Commission's findings are summarised under the headings of products, services, capital and public procurement liberalisation.

3.3 Products

Single Market legislation has assured the free movement of most products and the new regulatory system is generally welcomed. Border controls have been successfully abolished. Implementation of the remaining Directives will enable full exploitation of the benefits. The principle of mutual recognition is difficult to apply in practice but the problem is being addressed. More European standards are needed to eliminate non-regulatory obstacles to market access. On the whole, producers can now confidently work to product specifications for a Single Market.

It is above all in the market for manufactured products that, in contrast to the situation that prevailed a decade ago, the dimensions and the characteristics of the Single Market can be seen emerging. The two outstanding contributions to this change situation are the abolition of customs and fiscal formalities and the elimination of technical barriers to trade.

Abolition of customs and fiscal formalities:

Changes in customs and fiscal procedures have reduced by two-thirds the supplementary cost of cross-border shipments, eliminated 60 million customs forms and allowed for an 85% decrease in the number of Community transit movements. These savings amount to about 0.7% of the value of intra-EU trade, or 5 billion ECU per annum. Traders now regard the change as generally beneficial, although adjustment costs and current arrangements for fiscal declarations on cross-border transactions are seen as cumbersome. In general, traders welcome the abolition of physical stoppages at internal frontiers. However, two-thirds of respondents to a special survey regard the present VAT payments system as transitional and want an origin-based system.

Abolition of technical trade barriers:

The greater part of Community trade in products is subject to legally binding specifications or tests with which they must comply before being placed in the market. In the past, these mandatory requirements (over 100,000 of them existed in 1985) were defined at national level, excluding partner country products from the market unless they were re-engineered or tested to local specifications, possibly at considerable cost. There are now signs that business believes that technical harmonisation and mutual recognition, introduced to remove the barriers, have been effective. In key product sectors (chemicals, mechanical engineering, office equipment, foodstuffs, motor vehicles), 35 to 50% of respondents to the Eurostat survey regard the technical harmonisation and mutual recognition measures as effectively overcoming technical barriers.

The measures introduced have been based on a number of distinct elements. It is useful to consider them separately. Most have had considerable success, but they have also had their difficulties.

- Detailed harmonising legislation cover products accounting for some 30% of industrial output. Endorsement of efforts to remove barriers in these sectors, including chemicals, pharmaceuticals, and motor vehicles has been particularly marked.
- New approach Directives cover at least a further 17% of output. Where the measures have been in force for some time, as with the Pressure Vessels Directive, they have been favourably received. The new approach is distinctive because of the choices it offers to the producer as to the technical solution chosen and as to the choice of any test or certification body. It is therefore perhaps unsurprising that anxieties seem to focus around the early days of operation of the Directives and how this flexibility is to be interpreted in practice.
- Harmonised European Standards offer optional fast track compliance with new approach Directives. Some problems have been experienced due to delays in the delivery of the standards. This reflects the time-consuming nature of standards writing - on average it takes 5 years for the private sector standards bodies to draft and obtain consensus on a European Standard. Notwithstanding notable shortfalls in areas such as construction products, the standards bodies have made rapid strides in adapting to the surge in demand. It is expected that the bulk of the standards required for the operation of the new approach legislation will be in place within two years. 80% of standardisation now takes place at European or international level, as compared to 80% at national level only 10 years ago. The onus will be on European industry, if it wants the harmonised standards, to provide sufficient resources to finish the job.
- The SMP offers producers increased flexibility to choose bodies for test and certification. There has been a shortage of choice of such bodies in some sectors and in some Member States. Much depends on the diligence of the Member States, both in expediting the notification of suitable bodies and in ensuring that a uniformly high standard of performance is met.
- Un-harmonised national requirements affects some 25% of output. Market access for these products depends on mutual recognition and this is proving difficult to enforce in a way which guarantees access to all Member State markets. The entry into force in 1997 of a new notification procedure for national measures restricting market access should reduce uncertainty about the application of mutual recognition.

Despite these caveats, the surveys make clear that the Community has succeeded in establishing ground-rules and an institutional infrastructure which is capable of delivering a technical barrier-free Single Market.

Further, this progress has been based on high levels of health, safety, environmental and consumer protection. Only rarely have national authorities contested these as being insufficient. Fears expressed in the early days of the SMP have proved groundless; improvements in free circulation have been achieved without putting these overriding requirements at risk. The Commission's use of independent scientific advice when preparing harmonisation measures intended to protect public

health has certainly made a big contribution to this. Its independent scientific committees have been particularly useful. Recourse to such advice in the management of Community rules will help to prevent problems and to provide rapid and effective responses to those problems which do emerge.

Even where regulatory problems have been resolved, some producers have experienced difficulties in persuading economic operators to accept the results of conformity assessment from bodies which they do not know, or the adequacy of voluntary national standards and marking requirements with which they are unfamiliar. The Commission encourages market-led initiatives to remove obstacles to mutual recognition and inter-changeability of marks or to develop common European standards and marks. But this is not a regulatory problem. Only a change of customer attitudes can overcome this non-regulatory technical barrier.

Yet this shows how far consumer confidence is crucial to the operation of the Single Market. For the market to work well, customers need to be sure that products do indeed meet the requirements for placing on the market. This is especially so for those with which they are unfamiliar. This confidence could be undermined, in the Single Market, by a suspicion that products could be placed on the market in another Member State and then circulate freely without being in conformity, either because the common technical specifications had not been implemented there, or because the lack of an adequate mechanism for detecting and punishing false declarations of conformity, inadequate controls at external frontiers, or inadequate supervision of test procedures. The achievement of free movement has reinforced the need for agreed inspection and surveillance procedures to prevent such concerns from arising. More attention to this area is needed in the future management of the Single Market.

3.4 Services

The Community has established a basic legal framework in many service markets. The most obvious restrictions have been removed. But legislative measures have only been coming on stream since 1993. Delays in transposing the new rules into national law have impeded progress (e.g. insurance). Further measures may be needed, particularly for financial services.

More effort has been needed to integrate service markets than products. The measures aimed to eliminate deep-seated unchallenged obstacles to cross-border provision of services and establishment in partner countries. Prior to the SMP, national markets were segregated through quantitative restrictions on trade, by means of outright prohibitions on competition from non-domestic suppliers (road freight transport) or privileged treatment for them (air transport). Other requirements in national regulations increased the cost of entry or establishment (financial services) or deterred cross-border provision of services (insurance).

The SMP aimed to separate decisions on market access from technical rules on supervision, market stability, safety and consumer protection by setting minimum EU licensing requirements for operation (subject to 'home country control'). In other sectors, where services could be offered across borders, harmonisation of general interest provisions was necessary to allow for the home country control principle to be applied. In professional or regulated services, where the right to practice is often conditional on holding specified qualifications, the approach of the "mutual recognition" of equivalent qualifications was pursued.

Services targeted by the SMP account for over 50% of jobs and added-value in service sectors, including sectors with high growth and job creation potential. Other service sectors have been indirectly but significantly affected. The physical organisation of distribution and shipment networks has been transformed to meet the needs of an integrated market. These market services contribute to other sectors: every 100 ECU of industrial output embodies 20 ECU of service inputs.

Table 1 shows the effectiveness of EU measures for services sectors as perceived by economic operators. The SMP has successfully removed most of the targeted restrictions. In road freight, air transport and telecommunications liberalised services, operators can now freely provide services across borders. Removal of the restrictions has fundamentally changed operator capacity to win custom in partner countries. Between 1990 and 1995, there has been a 300% increase in the volume of road transport services delivered by partner country hauliers within the territory of individual Member States. This has allowed for more efficient provision of pre-existing volumes of haulage services. In air transport, new alliances and new market entrants are removing rigid structures, to the benefit of consumers. In banking services, the introduction of the 'single banking licence' has substantially reduced the cost of establishment in partner countries; cross-border branches have increased by 58% in the 2 years since the legislation entered into force.

In telecommunications, the liberalisation of telecommunications equipment, data and value-added telecoms services, satellite services and, from 1996, mobile communications and the use of utility-owned networks and cable TV networks has removed barriers to investment and led to lower prices and better service. In isolated instances, however, such as insurance, the measures have not yet succeeded in opening up national markets. The approximation of legislation undertaken to date still contains some loopholes which are used to hamper cross-border provision of services or establishment (such as national rules on protection of the "general good" in financial services).

These problems, discussed further in Chapter 4, require case-by-case examination and further measures may have to be taken to remove remaining restrictions. Furthermore, the Commission is concluding consultations on the 'freedom to provide services' and 'general good' provisions of the Second Banking Directive and a Green Paper consultation on Consumers and Financial Services. More general initiatives may be needed, especially in the area of new Information Society services.

3.5 Capital

Almost all impediments to free movement of capital have been removed. Remaining national restrictions derive from taxation law or prudential controls in the financial services field and are not a serious impediment, except for continuing restrictions on investments by pension funds; However, the lack of a harmonised approach to taxation of income from capital remains a major distortion of the market.

Capital restrictions on long-term investment flows and commercial transactions have long been abolished. Directive 88/361 introduced complete liberalisation of capital movements in the EU from 1990 (all derogations have now expired). In 1993, controls on exchange and financial transactions were removed. The adoption of new Treaty provisions prohibited all restrictions on capital movements and payments between Member States.

These freedoms are qualified by Member States' right to restrict capital transfers where permitted by their fiscal law or to ensure application of national prudential controls in the area of financial services. These rights are used by some Member States for different financial markets; ten Member States have entered reservations within OECD against freedom of establishment and operation of branches of foreign insurers, banks and other financial institutions.

The most significant restrictions affect investment undertaken by pensions funds. six Member States currently restrict a range of pension fund investments. Where restrictions go beyond prudential necessity, they amount to breaches of the Treaty and prevent the maximisation of returns for both the fund's members and the employer. Technological advances and the global freedom of capital movements make a single capital market crucial to EU competitiveness, growth and jobs.

Flows of capital are also distorted by national differences in the tax treatment of income on savings and the tax deductibility of life insurance premiums and mortgage interest payments. It should be

Table 1: Effectiveness of Single Market measures in removing barriers to the free provision of services (as perceived by economic operators)

Barriers						
	Cross-border service restrictions	Restrictions on Establishment	Restrictions on Factor flows	Regulatory/technical barriers ³	Fiscal issues	Others
Banking	<ul style="list-style-type: none"> ✓✓ Discriminatory conditions for cross-border sale of services ✓ Restrictions on marketing and service content 	<ul style="list-style-type: none"> ✓✓ Discriminatory conditions for licences 	<ul style="list-style-type: none"> ✓✓ Capital controls 	<ul style="list-style-type: none"> ✓✓ Prudential requirements ✓ Conditions for sales 	<ul style="list-style-type: none"> ⊗ Tax on savings ⊗ Investment income tax ⊗ Death duties 	-
Insurance	<ul style="list-style-type: none"> ✓✓ Discriminatory conditions for cross-border sale of services ✓ Restrictions on marketing and service content 	<ul style="list-style-type: none"> ✓✓ Discriminatory conditions for licences 	<ul style="list-style-type: none"> ✓ Capital controls 	<ul style="list-style-type: none"> ✓ Consumer protection Conditions for sales 	<ul style="list-style-type: none"> ⊗ Taxation of reserves ⊗ Taxation of premiums 	<ul style="list-style-type: none"> ⊗ Contract law
Road freight transport	<ul style="list-style-type: none"> ✓✓ Bilateral quota restrictions on the access to other EC markets ✓✓ Price restrictions 	<ul style="list-style-type: none"> ✓✓ Discriminatory licensing conditions 	<ul style="list-style-type: none"> ✓ Cabotage restrictions ✓ Recognition of diplomas 	<ul style="list-style-type: none"> ✓✓ Weights and dimensions ✓ Road safety rules ✓ Speed limiters ✓ Resting hours 	<ul style="list-style-type: none"> ✓✓ Excise duties 	<ul style="list-style-type: none"> ✓✓ Border formalities for goods
Air transport	<ul style="list-style-type: none"> ✓✓ Bilateral restrictions on free access to other EC markets ✓✓ Price restrictions ⊗ Slots allocation 	<ul style="list-style-type: none"> ✓✓ Exclusive rights for licensing of air carriers ⊗ Ownership rules in third country bilaterals 	<ul style="list-style-type: none"> ✓ Cabotage restrictions ✓ Designation and capacity restrictions 	<ul style="list-style-type: none"> ✓✓ Conditions for sales ✓ Security and safety rules ⊗ Airport charges 	<ul style="list-style-type: none"> ✓ VAT 	<ul style="list-style-type: none"> ✓ Border formalities for passengers ✓✓ Access to computer reservation systems ✓ State aids, unfair practices ⊗ Fair access to networks
Telecoms liberalised services	<ul style="list-style-type: none"> ✓ Discriminatory conditions for access to network 	<ul style="list-style-type: none"> ✓✓ Exclusive rights on mobile, data and satellite services 	<ul style="list-style-type: none"> ✓ Exclusive rights to sell equipment 	<ul style="list-style-type: none"> ✓ Technical conditions for use of networks 	-	-
TV Broadcasting services	<ul style="list-style-type: none"> ✓ Restrictions on cross-frontier broadcasting ✓ Rental and leasing rights ✓ Term of copyright protection ✓ Copyright applicable to satellite and cable 	<ul style="list-style-type: none"> ⊗ National licensing rules for broadcasters ⊗ Media ownership restrictions 	-	<ul style="list-style-type: none"> ✓ Technical conditions for use of networks 	-	-
Distribution (fast moving consumer goods)	<ul style="list-style-type: none"> No restrictions 	No restrictions	<ul style="list-style-type: none"> ✓✓ Restrictions on free movement of goods 	-	<ul style="list-style-type: none"> ✓ VAT 	<ul style="list-style-type: none"> ✓✓ Border formalities for goods ✓ Technical barriers on products
Advertising	<ul style="list-style-type: none"> ⊗ Types of products and media ⊗ Comparative advertising 	No restrictions	<ul style="list-style-type: none"> ✓ Restrictions on media 	<ul style="list-style-type: none"> ✓ Misleading advertising Content restrictions 	-	-

✓✓ Barrier effectively removed; ✓ Barrier partially removed; ⊗ Remaining barrier; - Not relevant

³ These type of barriers tend to increase the cost of supplying services internationally and could be considered equivalent to technical barriers in manufacturing

recalled that Directive 88/361 also referred to the need for fiscal harmonisation, the absence of which may give rise to distortions in capital flows that are likely to be accentuated by a single currency.

Despite these constraints, almost all formal impediments to free circulation have now been eliminated. The outstanding OECD 'reservations' are limited to certain financial instruments and geographical areas and, except for pension fund restrictions, do not apply to a large volume of capital market transactions. Between 1984 and 1994 the volume of foreign assets and liabilities held by investors or owed by borrowers in other Member States doubled. In the UK, for instance, outward portfolio investment stocks rose from 6 to 60% of GDP between 1979 and 1993, whilst the inward stock rose from 6 to 42% of GDP over the same period. In countries such as France, Italy and Spain, where capital restrictions were previously significant, the Single Market has led to the removal of liquidity constraints. Demand for borrowing by investors can now be more easily met by capital inflows from partner countries and returns on capital investment across the EU are steadily converging. In addition, capital market liberalisation has reinforced the pressure on national authorities to comply with fiscal and monetary disciplines.

3.6 Public procurement

For the full benefits of procurement liberalisation to be achieved, more effort is needed both from national public authorities to implement the Directives and from purchasing entities to apply them to their procurement procedures. It is also necessary to improve access for suppliers. Where public purchasers and firms seeking to do business with public entities have applied the liberalised framework of Community rules, they have in some cases brought economies to public budgets and new business to dynamic enterprises.

Open competition in public procurement is the key to a vigorous enterprise economy and successful Single Market. Public procurement accounted for 11.5% of EU GDP in 1994, or ECU 721 billion (the combined size of the Belgian, Danish and Spanish economies or ECU 2,000 per citizen). About 110,000 of EU public authorities are estimated to be required to follow public procurement procedures.

Even though the overall figure of 10% import penetration of procurement markets is disappointing, 15% to 25% of products like office machinery, medical equipment, telecoms equipment and motor vehicles are now procured from suppliers in other Member States.

On the supply side, a Commission survey of 1,600 procurement active suppliers showed high response rates to new market openings (of 90% and 70% to domestic and cross-border opportunities respectively). Tenders for new cross-border opportunities led to 44% winning new business and 31% selling to authorities in other Member States; 36% reported increased domestic competition. This reflects the increase in transparency in the market: the number of tender notices published in the Official Journal of the European Communities increased from 12,000 in 1987 to 95,000 in 1995.

But these results still fall far short of the total potential benefits. 85% of public authorities, many of which are very small and engaged in limited volumes of procurement, are not publishing tenders.

One of the reasons for this under-achievement is of course the substantial delay in incorporating the 11 procurement Directives into national legislation and enforcing them effectively. Only 72% of the national implementing measures required have been taken. There are 39 procedures currently in motion for lack of implementation, or unsatisfactory implementation of the Directives. Overall, only 3 Member States have completely and correctly transposed all the Directives. The European Council in Florence singled out the procurement sector as requiring an acceleration of national transpositions efforts. Market surveillance and enforcement remain a serious issue.

For its part, the Commission is considering such issues as effective application and enforcement of the legislation; how market access can be improved by information, training and electronic procurement; how the application of public procurement law can also take account of other policies on Trans-European Networks (TENs), SMEs, the Cohesion and Structural Funds; and access to third countries' procurement markets.

4. REMAINING OBSTACLES TO FREE MOVEMENT

If the Union's efforts to complete a Single Market have largely been effective, there are no grounds for complacency. It is inevitable in a project as complex as the SMP that problems will be encountered in the definition and implementation of the new ground-rules. This chapter looks in more detail at the obstacles to the functioning of the Single Market, as background to setting the priorities for further action in Chapter 5.

4.1 Ineffective implementation, enforcement and redress

Agreed Community rules must be put into law in every Member State and applied effectively and fairly. Regrettably this is not always the case. Member States have not yet fully delivered on their commitments.

The Commission has been actively pursuing these shortcomings, in particular by opening formal infringement procedures against Member States which do not fulfil their obligations, but the real remedy is more determined action at the national level. This review also confirms the diagnosis of the Commission's Strategic Programme for the Internal Market (1993) that the lack of consistency between legal systems in the individual Member States affects the exercise of Single Market rights.

• Transposition

Although the transposition rate for Single Market measures is steadily improving, with an average rate of 90.% for EU-15, inadequate transposition is still a concern. 56% of the 1985 White Paper measures have been transposed in every Member State. Substantial delays have occurred and poor quality transposition is also preventing business from fully exploiting the potential of the Single Market.

Member States may also use different transposition techniques, which can result in legislation which, after transposition, leads to legal uncertainties and problems of interpretation. The result is that interested parties may have to cope with different requirements, according to the Member States in which they operate, which leads to high compliance costs. Typical examples are public procurement and recognition of diplomas. But the costs do not only fall on businesses and citizens; recent Court judgements have shown that Member States can under certain circumstances expose themselves to substantial claims for damages by inadequate transposition.

• Enforcement

Uneven enforcement of EU legislation is often regarded as the most persistent barrier to trade or fair competition within the Single Market because overcoming it entails close scrutiny of national, regional, or even local practices. What is needed, above all, is mutual confidence between the Member States. Yet enforcement methods are far from harmonised across Member States, leading to two major concerns :

- the risk of exploitation of inadequate enforcement by some producers or service providers, which will undermine the high level of protection which the legislation aims to uphold; and
- distortion of competition between producers as a result of differences in the way that enforcement is carried out. Business is complaining about the uneven and sometimes allegedly discriminatory application of controls, both between and within Member States.

The lack of familiarity with, and consequent incorrect application of, Community law by national civil servants is a frequent cause of complaint from both businesses and individuals trying to exercise their rights in the Single Market.

There is a pressing need to ensure effective and equivalent enforcement in every Member State, if necessary by adopting new rules, for certain aspects of harmonised product legislation. In the area of harmonised product legislation, particularly where the producer alone is responsible for assuring

that his product conforms to the law, effective market surveillance is required to deal with such subjects such as mutual assistance between control authorities, information exchange, common control programmes, audits, training and data-bases.

Another kind of enforcement problem may arise in areas where market opening relies on the 'mutual recognition' principle. Inspectors in one Member State may have difficulty in identifying the requirements with which products or service providers must comply or in assessing the conformity of the product or service provider to those requirements. There is a need for more exchange of information about national regulations and related conformity assessment procedures.

- **Redress**

The absence of effective remedies may hinder the correct enforcement of Community legislation. The provision of effective remedies requires a chain of mechanisms, from the capacity to identify a defective product to the willingness and ability to take measures to remove it from the market and, if appropriate, impose sanctions.

Redress can be sought by private parties through the courts but here, too, there are barriers. The absence of effective judicial remedies to enforce Community legislation may hinder redress. Common measures to guarantee proper enforcement of harmonised law by the courts have sometimes been introduced (e.g. for the Community Trade Mark), but elsewhere the enforcement of the liability of the State by private parties in civil actions may be limited. In some cases, it is unrealistic to expect individuals with limited resources to take action before national courts. Even when such action is taken, the degree of awareness of Community law among legal practitioners is sometimes very low.

4.2 Gaps in the legislative framework

Eleven years after the 1985 White Paper programme was agreed, a 'hard core' of its proposals still remains to be adopted, and market liberalisation in sectors which were not covered by that programme has not been completed. Some adjustment of existing measures is also needed to clarify and, in some cases, simplify Community rules.

(a) Non-adoption of White Paper measures

The main stumbling blocks are in key areas affecting business management, such as company law, and corporate taxation, financial services and the liberalisation of the transport and energy markets. In particular, the failure of the European Union to put in place a consistent and simplified taxation system at EU level or to remove discriminatory provisions which create distortions between Member States' tax regimes has prevented companies from conducting operations as a single, integrated Union-wide business. This, in turn has inhibited their contribution to higher employment. The importance of these problems is consistently confirmed in submissions from business organisations.

The areas in which the original Single Market agenda has not been delivered are :

- **Company taxation**

A more coherent approach to the tax treatment of company income within the Single Market is long overdue. There is still no policy framework for eliminating all forms of double taxation on, and other possible obstacles to, cross-border income flows within the Single Market. Such a framework would also prevent tax losses as a result of cross-border arbitrage, avoidance or evasion. Problems often referred to by business, which are only partly covered by current Commission proposals, include the absence of a common system for EU-wide consolidation of losses within groups, the tax treatment of permanent establishments compared to domestic companies, the persistence of withholding taxes on interest and royalty payments within groups of

companies as well as for inter-company dividends, and the uncompleted network of “bilateral conventions”.

- **Approximation of taxation treatment of investment income**

The current co-existence of different national systems of taxation for investment income and the current distortions between residents and non-residents which prevail in some countries lead to distortions in capital movements.

- **An origin-based VAT system**

Many of the concerns voiced today do not in fact stem from the transitional regime but rather from difficulties with the Community VAT legislation. The present system is based on physical monitoring of the movement of goods and as such is no longer suited to modern business practices. In addition, special arrangements, options and powers allowed by Directives, together with derogations and differences in implementation of common provisions, have led to divergence in the way the common VAT system is applied. The recently-proposed work programme for an origin-based VAT system aims to get rid of these problems by removing any distinction between domestic and intra-Community transactions and providing legislation which can be applied and enforced equitably throughout the EU.

- **Company law**

Cross-border mergers are still hampered by legal problems. Two unadopted proposals (the tenth Directive and the European Company Statute) would complete the legal framework and allow companies to reap considerable cost savings through simplified organisation and administration. This is a high priority for facilitating business in Europe. The adoption of the proposed framework Directive on take-over bids would provide several means of guaranteeing minimum standards of protection for shareholders in case of take-overs. This measure does not tackle structural barriers to take-overs but could provide a framework of greater legal security which would make it easier to address these other obstacles later.

(b) The need for adjustment of existing measures

This review has identified some instances where existing measures do not meet the needs of economic operators wanting to engage in cross-border transactions, either because of imprecise provisions or narrow scope.

- **Unclear legislation**

Some SMP rules have resulted in divergent, occasionally even conflicting, interpretations in the Member States. Lack of clarity in the public procurement Directives has led to some enforcement problems. Other sector-specific measures (machinery in the work place, the “leased line” Directive, and the transparency Directive for pharmaceutical products) have also given rise to problems of interpretation.

In the foodstuffs sector, questions have arisen about the balance between harmonised and non-harmonised measures and about the interaction of the various legislative texts. The Commission intends to address these issues, amongst others, in a wide-ranging Green Paper on Food Law.

- **Limited scope**

In a few cases, Single Market legislation has not adequately covered all barriers to trade or anticipated new developments in the market as for example the difficulties caused by the absence of a single authorisation procedure for insurance intermediaries or national installation rules in respect of certain industrial products.

4.3 Over-complicated rules

In a limited number of cases, the implementation of the SMP has generated additional costs for business, of two kinds:

- the first is short-term, transitional costs of change to harmonised systems and new technical requirements (such as the need to prepare and translate documentation for compliance with Machinery Directive);
- the second is the cost of excessively complex and detailed regulation, which forces companies to invest substantially and on a permanent basis in order to comply. For example, INTRASTAT imposes relatively high reporting requirements on traders compared to the previous system. Current arrangements for indirect taxation can be burdensome in respect of the place of supply, the need for fiscal representatives and the introduction of special schemes for distance selling or new means of transport. Both of these issues have now been addressed by initiatives taken by the Commission, namely the SLIM initiative and the recent proposal of a work programme for a new common VAT system.

4.4 Old and new obstacles at national level

Simplification of national rules would contribute to a more efficient Single Market. The successful abolition of the "first line" of market-fragmenting measures has increased the importance of removing remaining national regulatory obstacles to cross-border transactions.

While national rules may serve public policy objectives, they are not always proportionate to the desired objectives and some may be protectionist in effect. Many of these obstacles were familiar to the architects of the original SMP.

An illustration can be found in the pharmaceuticals sector, where national regulations in respect of price and reimbursement schemes delay access to national markets and may be used to encourage local products.

Uncoordinated technical legislation aimed at protecting the environment and consumers is frequently seen by business as a complication in the Single Market and a reason for a greater degree of harmonisation of rules. In some cases, the problem may be linked to shortcomings in existing EU legislation as, for example, in waste recovery, where there is little restriction on the type of measures that Member States can adopt. In others, Community rules have been overtaken by additional, more stringent specifications at national level. Such differentiation has a significant impact on smaller companies seeking to enter new markets. Although many of these measures can be justified by Treaty provisions, they may sometimes be out of proportion to their objectives. Invocation of the subsidiarity principle and recourse to Article 100a (4) to justify the maintenance of national environmental protection measures also worries some sectors, particularly chemicals, although to date recourse to Article 100a(4) has been limited to a handful of cases with limited trade effects.

The advent of information society services is also bringing with it the risk of uncoordinated national initiatives to address public policy concerns. The Commission has recently made a proposal for mechanisms to reinforce regulatory transparency in the single market for information society services in order to ensure a more co-ordinated approach where necessary.

More generally, the persistent tendency of some Member States to prescribe detailed technical regulations for products represents a constant threat to the Single Market; on average more than 450 new national technical rules for products are notified to the Commission every year. There is little sign yet that Member States are ready to observe the self-discipline in rule-making that they advocate so vociferously for the Union.

4.5 Management of Community Legislation

(a) Scientific expertise

The objective of the management of technical regulations is to keep the protection of the health and security of EU citizens and of the environment at a high level. Directives therefore need to be adapted according to the latest scientific knowledge.

- The efficiency of regulations depends on a fast decision making process; the food additives case provides an example of the difficulties which arise when procedures are excessively slow and cumbersome.
- The adaptation of directives should be based on independent scientific evidence in respect of relevant processes, production methods, inspections, sampling and testing methods.

The Commission has a number of scientific committees involved in the preparation of proposals. In order to strengthen the credibility of their decisions, these bodies need to be reinforced in their autonomy, structure and composition.

The availability of scientific knowledge at Community level is a requirement for legislation guaranteeing the best possible protection of health, security and the environment, but it also enables the Community to react to new challenges demanding new regulations, in order to prevent the appearance of new obstacles to trade. The Commission will increasingly make use of scientific expertise available from its Joint Research Centre to contribute to questions related to the protection of health, security and the environment.

(b) The external aspects of the Single Market

The development of internal Community legislation is not independent from the actions of the EU in the external sphere:

- Member States' commitments in international negotiations can affect their commitments towards the Community and vice versa;
- it is in the interest of the Community to base internal legislation on the outcome of progress achieved by international bodies in so far as the standard guidelines and recommendations of those bodies are scientifically justified and capable of meeting the Commission's specified levels of health protection.

The Single Market implies that the EU needs to negotiate coherently in international trade matters in order to achieve further market openings through bilateral or multilateral means such as Mutual Recognition Agreements in the field of recognition of conformity assessment results.

The Single Market is also a critical factor for the promotion of the global competitiveness of European business: firms have to operate in a wider market, thus prompting rationalisation of operations, reduction of costs and innovation and diversification of products; the introduction of competition in upstream activities leads to a reduction of costs for inputs; and the increased competition that they face in their own sectors pushes business to become more efficient and cost competitive, and to offer higher quality products and services.

4.6 The Single Market and services of general interest

Efforts to establish a Single Market in services of general interest, where Member States have traditionally awarded special or exclusive rights to designated suppliers, have made significant progress but are still incomplete.

In telecommunication services, value-added services have already been liberalised and the deadline for liberalisation of voice telephony and infrastructures is imminent. In these areas, the definition of transparent rules to guarantee access to networks under fair and competitive

conditions and to promote consumer interests, and subject to guarantees for certain regulatory objectives, such as the provision of universal service or technical requirements for interoperability, is currently receiving much attention.

In energy, although important steps were made in the early 1990s in the form of the Directives on transit and price transparency, efforts at market liberalisation are only now coming to fruition. A common position for a Directive concerning common rules for the Single Market in electricity was agreed in July 1996 which foresees limited but progressive market opening and competition and introduces the element of customer choice, thus breaking existing monopoly situations. Progressive market opening will liberalise one-third of each national electricity market after a period of six years. Substantial benefits for all consumers can only be expected from full liberalisation: additional gains for consumers would amount up to ECU 10-12 billion per annum, an equivalent of ECU 30 per inhabitant - or twice as much as gains anticipated from the opening already agreed. The introduction of third party access in gas would also lead to savings of 900 million ECU per annum for consumers and substantial additional gains could result from increased gas-to-gas competition.

Further attention to the regulatory framework for liberalisation will be required if the full benefit from integration is to be reaped. Competition rules will be a key tool for regulating the market (both through ex-ante guidance and case-by-case application). In the transition to effective competition in sectors where access to networks is important, action on two fronts will be needed:

- agreement on common rules to provide transparency in the behaviour of network operators and clear criteria regarding conditions for access to the network and the services provided over them;
- rigorous application of EU competition rules alongside implementation of the regulatory framework.

Effective liberalisation would be assisted by the separation of regulatory responsibilities and operational activities. The application of the principle of the Single Market to rail transport and to postal services should also result in significant cost reductions and consumer benefits.

5. A RENEWED COMMITMENT TO THE SINGLE MARKET

In this concluding chapter, the Commission puts forward the basis for a new political commitment to the Single Market. This constitutes a call to action to all parties concerned with making the Single Market a success: the national authorities in the Member States, the economic agents for whom the market has been created and the Institutions of the Union.

The Commission identifies the main areas to be addressed in order to achieve full commitment to the Single Market. This will involve, in the first place, living up to commitments already entered into, including:

- effective application and enforcement of existing Community law;
- reducing the burden of over-regulation, particularly, but not exclusively at national level, which still impedes the operation of the market; and
- filling in the few important gaps in the Single Market to meet objectives that were set in 1985.

It will also require a new commitment to meet new challenges.

5.1 Effective application and enforcement of Community law

Proper enforcement of common rules across the entire Single Market is the major priority. This issue is widely perceived as a problem by businesses and individuals, who suffer from delays in implementation of the law in some Member States, and variations in its interpretation and enforcement from one Member State to another. But it is also important for ensuring equivalent levels of safety and security throughout the Union. This may require change in the administrative and even judicial culture in each Member State.

Enforcement issues present a growing challenge and should be given greater attention at the political level. All parties concerned should be ready to consider a more innovative approach, to include the following programme:

- Specific initiatives to strengthen Community rules: more effective rules for enforcement are required and in particular a strengthening of market surveillance of compliance with Community requirements.
- A framework for enforcement policy: Member States should be more open in discussion of enforcement and be ready to exchange detailed information about their enforcement structures, procedures and problems.
- Audits of national enforcement measures are needed in order to establish a high level of mutual confidence between enforcement agencies in the Member States.
- Mobilising scientific and technical expertise: more systematic recourse should be made to independent scientific and technical expertise
- Speeding up infringement procedures: rapid follow-up to well-founded complaints and where necessary the pursuit of infringement procedures against the Member States will be given high priority.
- Better enforcement instruments for the Single Market, as well as wider involvement of national courts in enforcement.
- Monitoring the operation of the Single Market, should be stepped up by improvement of national collection of statistical data on services and greater use of the Commission's network of Euro-Info Centres.

5.2 Reducing over-regulation

Some national legislation untouched by the SMP is still a significant and perhaps unnecessary barrier to market access and cross-border operations. Specific measures are needed to increase the visibility of such legislation and to simplify it where possible. Action already underway to simplify Community legislation for the Single Market should be extended.

(a) Community rules:

The Commission has already launched the SLIM (Simpler Legislation for the Internal Market) initiative which aims at the development of ideas for the simplification of Community Directives and, where appropriate, the national rules which implement them. A report on four areas (INTRASTAT, construction products, ornamental plants and recognition of diplomas) will be presented to the Council shortly. On the basis of these results the Commission will define the working method and scope of further work.

(b) National rules:

The following measures should be considered:

- A Register of national market-fragmenting measures, which will allow a review at Community level of national legislation which is alleged to obstruct the Single Market.
- Reduction of administrative burdens arising from Member States' regulation, in particular measures to address the issues of simplification of the start-up phase for business.
- Exchange of information, in particular about Member States' experience in reviewing their own regulations in order to assess the need for them or to reduce their costs.

5.3 Completion of the legislative framework at Community level

There are a few important gaps in the legal framework necessary to ensure the free movement of goods, services, capital and persons. These result either from a failure to act on proposals already made or from new developments in society which make common rules necessary.

a). Finishing off the 1985 White Paper:

A number of key elements in the White Paper blueprint have yet to be implemented. The outstanding gaps are critical to furthering growth, competitiveness and employment and in ensuring the full participation of citizens the Single Market. Proposals have been presented to the Council in respect of a number of key areas:

Measures to ensure the free movement of persons: The legal framework necessary to ensure the free movement of persons is not yet in place. In political terms the persistence of border controls on persons at some internal frontiers, if not all, is the most important failure of the SMP. Proposals for three Directives necessary for the removal of border controls are before the Council and Parliament and must be acted upon. The Commission may also wish to propose additional measures to improve further the right for persons to move and reside freely within the territory of the Community. Further work is also required to facilitate the acquisition and preservation of entitlements to social benefits.

Taxation issues: This report has highlighted a number of areas in which the absence of a common or coordinated approach to taxation constitutes an impediment to the operation of the Single Market.

- A common system for Value Added Tax: Until the distinction in the tax treatment of "domestic" and "cross-border" operations is removed it will not be possible for business to

treat the entire Single Market as its home market. The Commission has recently put forward a multi-annual work programme to achieve this objective.

- Eliminating double taxation and other obstacles to cross-border income flows: Lack of progress on the harmonisation of the tax treatment of companies or individuals operating in more than one Member State has been one of the most conspicuous failures of the original SMP. It also represents a serious obstacle to the generation of more jobs.

- Approximation of taxation of investment income: Different national systems of taxation of investment income are still leading to distortions in the Single Market for capital.

The creation of a European company law system: The absence of a Community-wide company law system imposes additional costs on the significant minority of firms wishing to be established in more than one Member State.

Adjustment of existing legislation: Some internal market legislation contains unnecessary ambiguities or complexity. The main areas for immediate action are construction products and financial services; others will be identified in due course.

b). A Single Market for tomorrow's economy:

The needs of the information society: As national authorities seek to establish rules for the operation of information technology-based services, they may inadvertently re-fragment the Single Market. The Commission will present an action plan considering, inter alia, legislative measures necessary to ensure the functioning of networks for the communication and transmission of information, or the possibility of extending the principle of 'mutual recognition' of national rules to these emerging markets.

Biotechnology: Biotechnology provides the key for developing a wide range of new products, while ensuring safety and the protection of health in the fields of medicine, agricultural products and foodstuffs. Without common science-based legislation compatible with the Single Market, European research and exploitation of its results will be discouraged and placed at a disadvantage compared with its competitors.

Specific initiatives for services: The importance of services for the Union economy (about 70 per cent of employment) means that additional measures may be needed to overcome the obstacles to the cross border provision of services or establishment.

A single energy market: After evaluating the experience gained in the first phase of market opening, the Commission will propose the final steps required to build a real single market for electricity. Building on the success demonstrated by the unanimous common position of the Council on electricity, similar efforts are now being initiated to liberalise the gas market.

5.4 Complementary action at Community level

A legal framework is not enough for a Single Market. Other policy instruments will have to come into play in order to promote full use of the Single Market; first and foremost, a single currency.

A single currency: The Euro is the most important means of consolidating and increasing the efficiency of the Single Market. It will not only reduce transaction costs and remove the exchange risks associated with cross-border trade and investment, but also increase price transparency, thereby enhancing competition.

Employment and social policy: The Community should support national training and active labour policies, notably through the European Social Fund. Community social policy will also

continue to ensure that free movement of persons is not hampered by national social policy measures and that high social standards can prevail in the Single Market.

Competition policy: The introduction of a Single Market requires even greater vigilance in the implementation of competition policy. The current framework may need to be reconsidered in respect of streamlining Community guidelines on state aids.

Tax policy: In its recent report, the Commission, taking into account the views expressed by members of the High Level Group of personal representatives of Finance Ministers, gave its assessment of the need for a coherent overall tax policy at Community level.

Information policy: The Commission is already implementing a number of initiatives, such as the 'Citizens First!' information action, to meet the growing need for permanent access to information about individual rights and opportunities in the Single Market and clear sign-posting to problem-solving contact points in national and local administrations.

Environmental policy: The Single Market is based on sustainability and adequate protection of the environment. Uncoordinated national initiatives may run the risk of achieving sub-optimal effectiveness in terms of environmental policy as well as impeding the benefits of a Single Market. The Commission is determined to improve the integration of environmental policy within the Single Market.

Enterprise policy: The Multi-annual SME Programme can assist smaller firms in the Single Market, notably by the improvement of the business environment and the Europeanisation of business strategies for SMEs, through the provision of information and support services providing transnational co-operation opportunities.

Trans-European Networks: Infrastructure networks need to be integrated to accommodate the increasing mobility in goods, services and people. Public and private resources can jointly accelerate the development of trans-European infrastructures. Overcoming the barriers to such public private partnerships should be a priority for the Community.

Research and innovation policy: Community Research, Development and Technology policy contributes to the scientific knowledge necessary for the implementation of the Single Market in a number of fields (health, standardisation and telematics). The progressive development of Community innovation policy will help to create the conditions for a better use of the opportunities created by the Single Market, notably through high-technology start-ups.

Consumer policy will need to enhance consumer interests, especially in respect of financial services, services of general interest and the Information Society.

5.5 Conclusions: the need for a renewed commitment to the Single Market

The Single Market under the impetus of decisions already taken will undergo important developments in the coming years. This Communication has shown how far the Single Market has already fundamentally modified the economic and political environment within the Union.

- On the economic front, many of the expected benefits of a Single Market without internal frontiers are beginning to make themselves felt, in terms of increased competition between firms, industrial restructuring, lower prices and more choice for consumers. Although the overall economic effect of these changes has so far been relatively modest in terms of extra economic income or extra jobs, a process is well under way which will yield increasingly important dividends in the future. Business is getting more competitive at the international level - as the growing foreign direct investment in the Union shows. The strategy of European businesses is also changing to become more oriented to a wider market.

- Politically, too, the existence of a Single Market has radically altered the framework for national decision-making on matters which affect the market. The new mobility of economic resources means that national rules increasingly need to take account of these market effects. In addition, the inter-dependence of Member States in ensuring that the objectives of common legislation are met has increased. In a market without internal frontiers the protection of security, safety and health are indivisible; the effective enforcement of the law has become a common, rather than a purely national concern.

The Single Market remains politically centre-stage as a key instrument by which the current priorities of the Union can be delivered.

- **First, jobs.** As the Commission indicated in the Confidence Pact, making the most of the Single Market is the first step towards generating employment in the Union. Increased competition generated by open markets is the key to international competitiveness which will secure the livelihood of our citizens in the longer term. Already there are signs that the existence of the Single Market is beginning to make a positive contribution to overall employment levels in the Union, even during a severe recession. A more favourable economic climate should produce even better results in future.
- Second, the Community is faced with the trend towards the globalisation of the world economy. The move to the Single Market represents by far the most extensive and successful example of the elimination of barriers between national markets. If the momentum is sustained, both at the level of the market framework and of business adaptation to it, then the Community will be well placed to influence and exploit the wider opportunities which globalisation will offer. Progress towards the extension of the Single Market to services of general interest will accelerate this trend, as will the effects of full entry into force of the legislation already in place.
- Third, the achievement of EMU will contribute to the efficient operation of the Single Market by elimination of transactions costs and exchange risk of cross-border payments and by eliminating the sub-optimal allocation of resources to which currency fluctuations can give rise. But the Single Market, by promoting convergence and a more economically homogeneous environment, will contribute to the conditions for the success of EMU.
- Fourth, the Union commitment to develop its relationship with the Central and Eastern European Countries (CEECs), through the Europe Agreements and through negotiations for enlargement, places the take-over of the acquis of the Single Market by the CEECs squarely on the agenda. The preparation of the CEECs has already begun within the framework of the pre-accession strategy. The success with which the Single Market can be extended to these countries will be strongly influenced by the extent to which they perceive it as comprehensive and fully operational, based not only on a complete and coherent legal framework, but on the institutions, structures and practices to support it.

These huge rewards can still escape us if we are not fully committed to delivering a Single Market that works. If the major effort of putting a common legal framework into place for the Single Market is largely behind us, what is needed now is to ensure that the conditions exist in every Member State to allow businesses or citizens to take full advantage of this framework. This requires a commitment at every level: Community, national, regional and local. Making a success of the Single Market also requires the engagement of economic operators as well as those responsible for making and applying the rules.

Appendix 1 : Sources of information for this review

a). The scope of the Single Market Programme (SMP)

For the purposes of this review, the SMP has been taken to comprise:

- the 282 measures outlined in the Commission's White Paper of 1985 which aimed to remove outstanding fiscal, technical and physical barriers to the free circulation of products, services, capital and persons;
- pre-existing legislative measures which provided an important basis for single market completion. To a large extent, the 1985 White Paper completed an already extensive construction. However, the measures identified in 1985 were particularly important as they addressed residual obstacles which had the effect of preventing much of the benefit of earlier actions from being reaped;
- additions to the programme of legislative measures to bring about single market completion in areas which had been overlooked in the 1985 White Paper (these included liberalisation of certain network-based services, such as telecommunications and energy markets);
- flanking Community policies designed to optimise the functioning of the single market, such as competition policy and measures to promote regional cohesion.

b) The research effort:

In order to provide a thorough and informed response to the Council mandate for this review, the Commission launched an extensive information-gathering exercise. This has comprised 38 studies and an extensive survey of business opinion, as described briefly below :

- 19 studies of manufacturing and services sectors : each aimed to determine whether the Single Market measures under review have led to the disappearance of barriers to free circulation and identify any remaining obstacles to cross-border transactions;
- 6 "barrier studies" : each aimed to assess progress in dismantling the most important non-tariff barriers (technical barriers, public procurement, customs and fiscal formalities, industrial property protection, currency management and capital market liberalisation);
- the economic impact of removing barriers was examined in a further 13 studies, which dealt inter alia with trade and investment flows, price convergence, competition and competitiveness, employment and labour markets, and economic cohesion.
- a major survey of the awareness, attitudes and reactions to the Single Market programme at company level was coordinated by the Statistical Office of the European Communities (Eurostat), based on replies from 13,000 enterprises in 12 Member States; it asked a representative sample of firms with more than 5 employees in the services sector and more than 20 employees in the manufacturing sector, (24,000 in all) to rate the success of the Single Market programme and its impact on their strategies and operations.

Other sources of evidence about the effectiveness of Single Market legislative measures have also been considered, including independent studies or surveys carried out in the Member States.

c). Data issues:

Throughout this analysis an effort has been made to obtain up-to-date Community-wide data from a single source (Eurostat). The advantage of data from this source is that it is based on uniform definitions and builds on reliable data collected at regular intervals by national statistical bodies. This approach had to take account of the following considerations:

- many of the data series examined in this review are relatively specialised and are not collected with great regularity (as with price level data, where surveys are only carried out at 5-yearly

intervals). In such cases, it has proved impossible to obtain data for the period after the last survey (1993).

- many of the concepts involve ratios or relative indicators which require a combination of two sets of data used in the analysis (such as price-cost margins or concentration indices). In many cases, all relevant data is not available from Eurostat and use has been made of specialised databases (e.g. Visa, PIMS, Amdata). More complex data of this kind often lags behind more accessible indicators such as trade flows;
- much of the analysis classifies data by sectoral groupings, as with productivity and efficiency effects, for example, where comparisons are undertaken by degree of sensitivity to the SMP. This level of analysis requires data which is disaggregated by sector, such data only becomes available after some delay;
- data problems are particularly pronounced in respect of service sectors. This reflects lack of attention to service sectors in the past, because of the mistaken belief that they were not affected by internationalisation. In addition, many of the traditional concepts related to cost, productivity and trade do not always find a quantifiable equivalent in service sectors. Lack of data availability for services has proved to be a particular difficulty in the course of this analysis. Quantified findings quoted in respect of individual service sectors are often taken from the specially-commissioned studies for these sectors, and involve calculations performed specifically for the purposes of this review.