

Single Market

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SPECIAL 15 years



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Single Market

In this special issue of Single Market News we look back at the progress that has been made in building the EU's Single Market since its launch fifteen years ago.

The four pillars of the Single Market are of course the free movement of goods, services, people and capital. In all these areas great progress has been achieved.

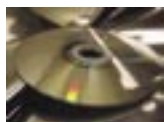
In this issue we look at some of the policy areas which have transformed the business environment in Europe making cross-border trade easier and opening up major new areas of business.

Much has changed for individuals in the EU with easier opportunities for living and working abroad. Indeed much has been accomplished over the past fifteen years and more it still to come.

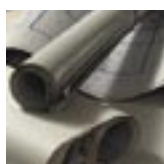
And let's not forget all the people, past and present in DG Internal Market and Services, who have worked so hard and effectively to make this Single Market a reality.



Jörgen Holmquist
Director-General
DG Internal Market and Services
European Commission



20 Preparing copyright rules for the Internet age



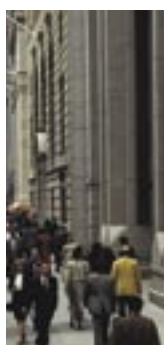
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The road to 1992

In June 1985, the Commission, under its then President, Jacques Delors, published a White Paper seeking to abolish within seven years all physical, technical and tax-related barriers to free movement within the Community. The overriding aim was to stimulate industrial and commercial expansion within a large, unified economic area on a scale with the market of the United States.

Set against a sombre economic backdrop in Europe with prolonged low GDP growth, high and volatile inflation, escalating unemployment and deteriorating public finances, this was a brave and ambitious programme. The 'EC 1992' plan was to push through some 282 Directives and Regulations by the beginning of 1993 to unshackle the markets of Europe.

The outcome - the creation of the Single Market of the European Union - is widely regarded as one its greatest achievements.



Spurred on by a feeling that Europe was falling behind major competitors, European leaders recognised the need to take action and in 1985 published the White Paper on the completion of the internal market - a plan to create “an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured”.

By removing regulatory barriers, Europe's leaders believed that the Single Market could open up 'opportunities for growth, for job creation, for economies of scale, for improved productivity and profitability, for healthier competition, for professional and business mobility, for stable prices and for consumer choice'.

The EU institutions and the Member States laid down a seven year programme to draft and adopt the hundreds of Directives and Regulations needed to sweep away the legal, technical, regulatory, cultural and protectionist barriers that were still holding back free trade and free movement within the EU.

By the 1992 deadline, more than 264 of the 282 Directives and Regulations had been adopted with the remainder adopted subsequently. This massive legislative undertaking covered a wide range of areas such as industrial standards, financial services, transportation, government procurement and customs documentation.

Since the launch of the Single Market, further reforms have been implemented, including significant liberalisation of markets such as telecommunications and transport, and complemented by structural reforms under the Lisbon Strategy.

The Single Market today

The most visible evidence of the Single Market is of course the absence of border controls within the EU.

The old customs barriers for goods have been abolished, doing away with 60 million tax forms per year. Customs controls on people were also removed, though border posts continue spot checks when necessary as part of the fight against crime and drug trafficking.

Under Single Market rules trade in the

majority of commercial products is covered by harmonisation legislation or goods can be marketed across the EU under the principle of mutual recognition of national rules. This means that any product legally manufactured and sold in one Member State, can be placed on the market in all others (see page 8).

For people providing professional services, markets have been opened by mutual recognition and through the coordination of national rules concerning access to or practice of certain professions such as law, medicine and architecture.

Action has been taken to improve worker mobility, and particularly to ensure that educational diplomas and job qualifications (e.g. for plumbers, carpenters, etc.) obtained in one EU country are recognised in all the others.

Markets for public procurement have also been opened. Regardless of whether they are awarded by national, regional or local authorities, public contracts are now open to bidders from anywhere in the EU as a result of Directives covering services, supplies and works in many sectors, including water, energy and telecommunications.

Changing industrial base

Whilst the economy of Europe moves away from a basis of manufacturing towards a services-oriented culture, progress in the financial services sector has been particularly impressive.

The EU's Financial Services Action Plan (FSAP), which set out to create an integrated market for financial services by 2005, has been completed. This cuts the cost of borrowing for businesses and consumers.

The cost of making payments has also fallen: a cross-border payment of 100 euro now costs an average of 2.5 euro, compared to 24 euro only seven years ago. Meanwhile today savers can choose from a wider range of investment products - savings plans and pension schemes - obtainable from the European provider of their choice.

Export performance

The Single Market has helped the EU to improve its export performance, with external trade increasing from 6.9 percent to 12.3 percent of EU GDP between 1992 and 2005. And productivity has been enhanced with evidence that efficiency in some sectors of the EU economy has increased by up to 2 percent.

The Single Market programme, combined with domestic reforms to replace state-owned monopolies with private-sector companies, has done much to enhance competition in European product markets and, to a lesser extent, in services.

Businesses have also benefited in many ways. It is now easier to start or buy a business. Bodies such as the European business support networks provide assistance to new entrepreneurs setting up their operations throughout Europe.

EU regional policy plays a direct role in the development of SME business support services such as access to finance,

management and marketing etc.

EU competition law helps ensure a level-playing field regarding mergers and acquisitions within the EU. Mergers among European companies registered in different EU countries can also now be simplified by the creation of a 'European company'.

Benefits for citizens

EU citizens have also seen the benefits of the Single market through lower prices. The opening of national services markets has brought down the price of national telephone calls to a fraction of what they were ten years ago. Competitive pressure has driven down the price of air fares in Europe. Meanwhile in the car market, cross-country price differentials fell throughout the 1990s and prices across the EU became more responsive to changing market conditions.

The opening of national EU markets has reduced the cost of many goods and products. EU citizens now enjoy a wider choice of high quality goods and services. Three out of four European citizens think that the possibility for products from other Member States to be marketed under the same conditions as domestic products has had a positive impact.

Some 73% consider that the Single Market has contributed positively to the range of products and services on offer. The introduction of the euro has made easier it to compare prices across borders in the Eurozone.

The removal of national restrictions has enabled more than 15 million Europeans to go to another EU country to work or spend their retirement. Compared with ten years ago, the majority of citizens



In 1985 the Commission of Jacques Delors adopted the programme of measures to introduce the Single Market by 1993.

15 YEARS OF THE SINGLE MARKET

By removing cross-border barriers to trade, the Single Market has helped strengthen competition in Europe, driving up levels of innovation, enterprise and growth and delivering lower prices and more choice for consumers.

The EU is now the largest multi-member Single Market in the world. The development of the Single Market has delivered:

- an increase in EU GDP of almost 2 percent or 225 billion euro (2006 figures);
- 2.75 million extra jobs;
- a fourfold increase in foreign direct investment in the first ten years.

(72%) of Member States find travelling within the EU easier.

Review of the Single Market

Following 15 years of gains and achievements in building the Single Market, the Commission will be publishing in November another landmark document, the Single Market Review, which will attempt to chart the course of the Single Market for the next stage in its development.

'Building the Single Market is one of Europe's defining achievements'

Charlie McCreevy, Commissioner for Internal Market and Services

The Single Market of the European Union is now the largest market in the world with an annual value of 10 trillion euros and, following recent enlargements, is home to over 490 million citizens.

The work in building the Single Market over the past fifteen years is regarded across the political spectrum as one of Europe's defining achievements. By removing barriers to the free movement of goods, services, capital and people, and by strengthening competition, it is estimated that the EU's prosperity has been boosted by at least 225 billion euro.

As Europeans travel throughout the Union on low-cost airlines and call home on low-cost telephone lines, and as students begin their new university term in another Member State thanks to the Erasmus programme, it is clear that many aspects of everyday life have improved thanks to the Single Market.

Original hopes have been largely fulfilled

When the Single Market was conceived, the primary motivation was to improve economic performance. Today we can say that the hopes of the Delors Commission have largely been fulfilled.

Since its inception in 1992 the Single Market has raised Europe's output by over 2 percent and created nearly 3 million additional jobs. Foreign direct investment in the EU has increased fourfold.

Partly because of the success of the Single Market, the EU is a major force on the world stage in many areas including trade and the environment. And the rules that



"We need to build on the successes of the Single Market and exploit its potential to improve the living standards and social conditions of all EU citizens. Improving living standards and social conditions is what we mean by 'delivering a Europe of results'."

we agree in the Single Market for products such as mobile phones, chemicals and car safety set the benchmark for firms worldwide.

Of course this Commission is fully aware that the Single Market is not an end in itself. Single Market policies must serve the people and the economy as a whole.

This means creating more choice for citizens together with better services in their daily life. It means offering firms new opportunities to build their businesses. And it means making it easier for workers to move to other countries and pursue new opportunities.

Looking back

It is instructive to look back at what has been achieved over the past fifteen years. In the pages of this issue of Single Market News we take the opportunity to explore Europe's progress in a number of important policy areas.

Progress in several of these fields has relied on detailed legal reforms but this patient work underlies the significant changes that we see in the business environment in today's European Union.

And alongside our headline figures of growth and prosperity, we should not ignore the reality of how much easier it is today to live and work in other EU countries.

Over 10 million EU citizens have moved across borders to work. And today your hard-earned professional qualifications will generally stand you in good stead to exercise your trade or profession abroad.

The future direction

The task in hand today is to chart the path of where the Single Market should go from now on. This is the subject of the Single Market Review which will be published in November.

We are making our decisions against a background of great economic change – particularly the rapid advance of technology and the emergence of new powers such as China and India. At the same time, enlargement, ageing populations and climate change bring new challenges for Europe; challenges which were not

foreseen at the start of the Single Market project.

For Europe to rise to these new challenges and benefit from the opportunities of globalisation, we must adopt an outward-looking, global perspective. And we must move away from the traditional model

"Partly because of the success of the Single Market, the EU is a major force on the world stage in many areas including trade and the environment."

for the Single Market – one that seeks to achieve integration through legislation and the harmonisation of rules – towards a new and more flexible approach to Single Market policies.



We must maintain Europe's competitive edge for the future of EU businesses and, above all, the future of its citizens.

We need to build on the successes of the Single Market and exploit its potential to improve the living standards and social conditions of all EU citizens. Improving living standards and social conditions is what we mean by 'delivering a Europe of results'.

We need to reassure and convince citizens that the best reply to globalisation is a strong, open and united Europe. Citizens do sometimes view the Single Market – and going wider, globalisation – as threatening. But in reality, the Single Market makes Europe stronger, not weaker.

Progress through consultation

The new direction of the Single Market will not be 'imposed from Brussels'. An extensive consultation process has taken place over the past 18 months as the foundation of the Single Market Review which is under way.

During the Review the Commission has consulted broadly and widely, seeking input on the future of Single Market policy from citizens, businesses, parliamentarians and civil society organisations.

We undertook a major Eurobarometer survey to ask 25,000 citizens and 7,500 company executives what they think about the Single Market. And we have sought the views of experts on specific issues such as enforcement and communication. We have listened to all of these views and taken them seriously.

The Eurobarometer survey shows that a large majority of respondents think that the Single Market has brought many benefits. Citizens particularly value the opportunity to travel or study in another Member State. A significant proportion of citizens (36%) has even contemplated moving abroad.



McCreevy: "And alongside our headline figures of growth and prosperity, we should not ignore the reality of how much easier it is today to live and work in other EU countries."

Many also believe that the Single Market had a beneficial effect on the choice and quality of goods in shops. And we were very pleased to learn that more than two thirds of citizens surveyed (67%) believe that the Single Market has increased competition and view this is a good development.

What's more, the overwhelming majority of citizens think that increasing worker mobility can help to better fight unemployment. I am glad that the citizens do not seem to share the protectionist instincts of some of their governments!

The new approach in building the Single Market with its focus on citizens has been set in motion. The Single Market review will be a first important step with concrete actions.

Barriers disappear to cross-border trade in goods

Perhaps the clearest achievement of the EU's Single Market policy is evident in the freedom with which goods can be traded across the territory. The removal of customs barriers was one of the overriding aims of the original common market and the foundation of this, the Customs Union, will celebrate its 40th anniversary next year. The EC 1992 programme has built upon this work and led to the dismantling of significant non-tariff barriers.

Firms selling in the Single Market today know they have unrestricted access to a consumer base of 500 million people, enabling them to achieve economies and efficiencies of scale, which in turn translate into lower prices.

The ease of exporting has also helped open up new markets to smaller firms who would previously have been de-

ferred from exporting by the cost and administrative time.

The absence of border bureaucracy and the spread of the euro have cut delivery times and reduced costs.

Before the internal frontier controls on goods were removed, customs controls between Member States required millions of customs declarations annually, supported by customs controls to check them. These are no longer needed.

Nearly 80% of industrial production and approximately 74% of intra-EU manufacturing trade are now subject to EU harmonisation rules and can be freely traded.

Principle of mutual recognition

For cases where there has been no harmonisation of technical specifications or other rules, the EU has introduced the principle of 'mutual recognition' so that companies need only one authorisation from their home Member State to provide a product or service anywhere in the EU.

As a result, manufacturers of goods work to common standards, accepted by all Member States. Mutual acceptance of testing and certification mean that goods need only be certified once to be valid across the EU.

Sweeping away the final obstacles

Some 25% of trade within the EU takes place under the principle of mutual recognition as mentioned above. There are cases however when they can fall foul of national regulations.

“Before the internal frontiers were removed, customs controls between Member States required millions of customs declarations annually... These are no longer needed.”

Member States can invoke the rules on 'overriding reasons of general interest,' - typically high standards of consumer or en-

vironmental protection - to request that products be adapted to their national rules.

As a consequence, trade in certain products is still being hampered by technical obstacles created by national rules on designation, form, size, weight, composition, presentation, labelling and packaging.

New package of measures

In February of this year the Commission adopted an important package of measures designed to further strengthen the Single Market for goods and eliminate barriers that still exist.

The measures are part of its Better Regulation policy, through which the Commission sets out to change and simplify to rules. They also set out to ensure that only safe products arrive onto the Community marketplace.



Under the proposals, Member States will no longer be able to use their national rules to deny access to a product coming from another Member State.

At present the onus is placed on importing manufacturers or dealers to prove that a particular product is in compliance with national regulations. The new proposal will place the burden of proof on national authorities to fully justify why they refuse market access. And, if necessary, this can be challenged quickly and cheaply in national courts.

To provide better information to all parties concerned in cross-border trade, contact points will be set up in each Member State through which manufacturers from other Member States will be able to obtain precise information about national rules affecting their products, as well as information about legal remedies.

Harmonised sectors and CE Marking

For the harmonised area which already covers 75% of the intra-EU Trade in industrial goods, some further refinements are proposed to tighten up the system of CE marking.

The majority of products falling under the harmonised technical legislation can be identified by the CE symbol. This conformity mark symbolises that all the regulatory requirements that should have been undertaken in order to place the product on the market have been done. It indicates that the product fulfils all the health and safety requirements set out in the legislation – the product is therefore by definition safe and fit for use.



"Nearly 80% of industrial production and approximately 74% of intra-EU manufacturing trade are now subject to EU harmonisation rules and can be freely traded."

There are some 1,800 agencies within the EU which certify that products are in compliance with European rules and can bear the CE marking. The new proposals launched in February introduce a toolbox of additional measures affecting accreditation and co-ordination at EU level with the aim of ensuring they take the same approach when carrying out their work.

The proposals build upon existing systems and to introduce clear Community policies on both accreditation, a mechanism for ensuring the quality of testing, inspection and certification bodies, and market surveillance.

Market surveillance and safety

An integrated, borderless Single Market remains the best way to enhance the competitiveness of the European economy. The Single Market for goods is a reality although in practice certain elements do not function as originally foreseen. There have been examples of potentially dangerous products entering the marketplace, the most recent example being the recent recall of toys. This highlighted both the poor quality of the manufacturing and the deficiencies in surveillance controls.

Product safety is indeed covered by European legislation on industrial and consumer products which has been in place for over 20 years with the so-called "New Approach" legislation. This has harmonised requirements at European level and defined essential safety properties of products.

Market surveillance has been identified in the Lisbon programme as a major element to strengthen the competitiveness



Following the removal of most barriers to trade in goods across the EU, a new package of measures has been drawn up to ensure the system operates fairly in all sectors. It will also reinforce market surveillance to prevent the circulation of dangerous products.

of European industry. Surveillance is primarily implemented at national level and there is an urgent need for better coordination and exchange of information at EU level in order to ensure a more uniform level of safety throughout the EU. Some manufacturers take advantage of this situation to the detriment of lawful manufacturers.

The new proposals aim to solve remaining problems and simplify and improve existing internal market legislation on goods by providing a clear and consistent legal framework.

And the implementation of the proposals for a modernised Customs Code and an electronic customs environment will also provide a stimulus for the free circulation of goods in the Single Market.

Public procurement market opens up to cross-border bidding

Public procurement is a major component of the EU economy. Defined in broad terms as the goods, services and works purchased by the Government or public utility services, it makes up over 16% of the European Union's GDP or over 1,800 billion euro in 2005. Approximately 320 billion euro of these purchases are covered by the EU Procurement Directives which open the door to bidders from all EU countries.

One impact of the EU Directives is to get the best value for money in public purchasing. Given the volume of procure-

"Even a very conservative estimate of 10% cost saving by Member States, would permit each country to reduce their national budget deficit by 1.1% of GDP."

ment involved, it will go a long way to improve the efficiency of public spending.

Public savings

Since procurement corresponds to approximately 30% of the total public expenditure, the savings involved through improved procurement processes can have a tremendous impact. Even a very conservative estimate of 10% cost saving by Member States, would permit each country to reduce its national budget deficit by 1.1% of GDP.

The EU public procurement Directives aim essentially at encouraging free and fair competition for public procurement markets through increased transparency and by ensuring that competition is not distorted within the internal market.

It is clear that the new approach has provided public authorities with better value in terms of both, lower prices and higher quality procurement over the past decade.

Available data suggest that additional savings can still be obtained by developing new policies, in particular electronic public procurement, as well as defence procurement and public-private partnerships where further clarification on the scope of the EU public procurement Directives is needed.

The results so far

Although some EU rules have been in place since the 1970s, it was clear that the Single Market would not be incomplete without truly opening up national public procurement markets. Therefore under the 1992 Single Market initiative several specific Directives were established, and further revised and consolidated in 2004. Thus the last fifteen years can be seen as a transition towards the full implementation of the EU public procurement regime. Indicators point to a constant improvement of implementation and compliance. Indeed both the number of invitations to tender published EU-wide and their value have doubled between 1995 and 2003.



Procurement rules

To ensure open and competitive procurement public administrations and institutions should advertise all their contracts well in advance.

Contract notices must be published in the Official Journal of the EU to invite tenders for a particular set of products services or works above certain thresholds. In the tender documents public purchasers must describe their requirements in an objective manner, avoiding any specifications which could unreasonably favour one particular product or supplier. Sufficient time must be allowed for suppliers to draw up and submit their tenders.

Finally, once the contract has been awarded to the best bid (either on lowest price or according to the most economically advantageous offer) a Contract Award Notice should be published. This provides unsuccessful bidders with valuable marketing information with which to improve future tenders.

Impact of the rules 1993- 2002

An initial evaluation of the Directives in force between 1993 and 2002 has demonstrated that compliance with EU rules is now substantial, but that there is still significant room for improvement. The overall assessment of the Directives' effects is very positive, with the orders of magnitude estimated as somewhere between a little less than 5 billion euro and almost 25 billion euro savings a year by 2002.

Although the Directives have also raised compliance costs for both awarding authorities and suppliers, this is outweighed by the significant overall benefits:

- Transparency has increased; the playing field is more level, and better procurement practices have been encouraged.
- Suppliers have adapted to a large EU market, with some greater emphasis on selling outside the home country, and some increase in specialisation.
- Competition has significantly increased for many public procurement contracts.

Thus the Directives have resulted in an overall improvement in welfare. While

mal procurement functions have benefited more, as have those where efforts have been made to integrate national and EU legislation. Some suppliers emphasised however that authorities sometimes focus too much on legal compliance and not enough on an efficient procurement process intended to obtain value for money.

New public procurement Directives

In 2004, two Directives were adopted (2004/17/EC and 2004/18/EC) consolidating four earlier Directives and modernising the rules for public procurement in the EU. In particular, they introduced a new framework to encourage the use of electronic means of communication and clarified the rules for repetitive purchasing arrangements and central purchasing bodies.

Because of the size of public procurement markets, policy-makers are also increasingly interested in using public procurement as an instrument to direct public money towards horizontal policy goals such as environment and innovation. This is possible insofar as the Public Procurement Directives provide rules on 'how to buy' but leave the choice on 'what to buy' to the public authorities. This is only limited by the rule that whatever purchasing decisions are taken, they may not hamper competition.

For example, a new procedure, the 'competitive dialogue', was introduced in response to the needs of public private partnerships and other similar arrangements, where more flexible bidding procedures were considered appropriate, e.g. for large and complex contracts involving negotiations before the precise technical and contractual specifications could be



agreed upon. Moreover, the Directives contain several features which allow public authorities to take into account of social and environmental aspects. To clarify the existing opportunities and what is and is not possible under the Directives, the Commission has also produced a 'Handbook on green procurement' and a 'Guide on innovation and public procurement'.

Experience has shown that there is now sufficient flexibility in terms of rules to accommodate a range of procurement methods adapted to the various needs of contracting authorities. In addition, a framework of indicators has been set up so that the use of the various options and development of procurement markets generally can be subject to continuous monitoring and evaluation.

While it is still too early to begin to evaluate the results of the new consolidated Directives, it is confidently expected that benefits will continue to increase.

eProcurement and future perspectives

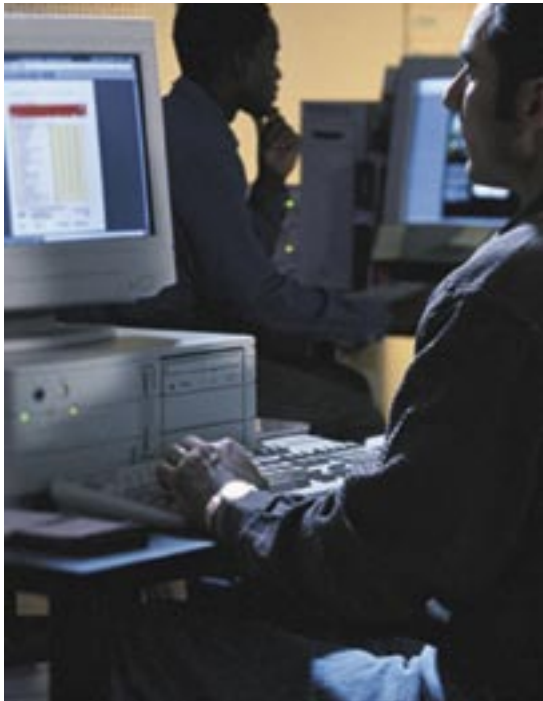
Alongside the task of implementing the legal framework, new priorities are already emerging. These include further improving procedures through eProcurement and remedies and further opening up public procurement markets in the area of defence and public-private partnerships.

The potential of eProcurement is likely to be all pervasive, providing new opportunities for improved competition and re-

"Available data suggest that additional savings can still be obtained by developing new policies, in particular electronic public procurement, as well as defence procurement and public-private partnerships..."

the above trends have most benefited efficient and expanding suppliers, suppliers as a whole may be said to have become more efficient.

There is also evidence that SMEs are now very active in public procurement: some 78% of contracts published in the Official Journal were awarded to SMEs. Finally, the impacts differ regarding Member States: those with more centralised and/or for-



"Studies indicate their could be savings of 5% in terms of prices paid when eProcurement is generalised, and much more if transaction costs are trimmed by automation."

duced transaction costs for both buyers and suppliers.

The new EU framework allows the replacement of traditional paper-based processes by electronic means in all stages of the procurement cycle (from notification through to ordering and payment) as well as to take advantage of radically new - sometimes exclusively electronic - procurement tools and techniques (e.g. eCatalogues, electronic auctions and repetitive purchasing). Studies indicate there could be savings of 5% in terms of prices paid when eProcurement is generalised, and much more if transaction costs are trimmed by automation.

The rationale behind the provisions on eProcurement is that any economic operator should be able to bid electronically in any other EU Member State. For

this, all eProcurement systems and tools must be generally available, non-discriminatory and interoperable across the EU.

In order to help stakeholders take advantage of the new opportunities and avoid fragmentation through new 'e-barriers', a Commission Action plan on eProcurement supports and coordinates Member States' implementation and standardisation efforts. eProcurement is not an end in itself but acts as a lever for cutting red tape and modernising national public procurement frameworks, making them more transparent, efficient and competitive.

More work will be needed on security aspects (e.g. electronic signatures) and in particular at a European level to ensure effective cross-border eProcurement, before the full benefits can be realised. While some elements have only made slow progress so far, change has been more rapid in other eProcurement areas. For example, 75% of the tender notices advertising contracts in the EU Official Journal are now sent electronically, and mainly through EU-wide standard online forms.

Review of the Remedies Directives

Effective review procedures are essential in making sure that public contracts go to the company which has made the best offer and in incentivising businesses to bid for contracts anywhere in the EU.

The Commission therefore seeks to establish more efficient EU rules on remedies in public procurement. A new proposed Directive sets out to strengthen the national review procedures that businesses can use when they consider that a public authority has awarded a contract unfairly.

For example, according to the proposed Directive, contracting authorities would need to wait for at least 10 days after deciding who has won a public contract before the contract can actually be signed.

This 'standstill period' is designed to give bidders time to examine the decision and to assess whether it is appropriate to initiate a review procedure. If this standstill period has not been respected, national courts may under certain conditions render the contract 'ineffective', i.e. require that it be set aside. The Directive also seeks to combat illegal direct awards of public contracts. If rendered ineffective by a national court, the contract must be tendered again, according to the appropriate rules.

The European Parliament agreed the Commission's proposal at its first reading in June 2007. The Directive should now be formally adopted by the Council, and published in the EU Official Journal later this year. EU Member States will then have 24 months to implement it in their national laws.

Public-private partnerships

In performing tasks in the general, and also their own, economic interests, public bodies increasingly opt for public-private partnerships (PPPs). The hallmark of such cooperation, which is generally geared to the longer term, is the special role of the private partner. This private partner is involved in various phases of the project concerned (planning, implementation and operation), and is intended to bear risks which are traditionally borne by the public sector, as well as to contribute to financing the project, e.g. major infrastructure projects and high-quality public services.

Public bodies are free to pursue economic activities themselves, assign them to third parties or to enter into a PPP. However, if they decide to co-opt third parties in economic activities the Community provisions for public procurement and concessions apply. These aim, first, to enable all interested economic operators to tender for participation in public tasks,

"There is also evidence very active in public procurement. Some 78% of contracts in the EU Official Journal were

including PPPs, on a fair and transparent basis and second, to enhance the quality of such projects and cut their costs by means of increased competition.

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A broad public consultation in 2004 showed, however, that fair competition is not guaranteed throughout the Community at present and that there was consider-

able need to clarify the rules in particular for mixed public-private companies which fulfil public tasks (so-called institutionalised PPPs).

In order to improve legal certainty and investment security a future Communication will explain how the Community provisions for public procurement and concessions are to be applied to the founding and operation of IPPPs. In addition, based on the results of an Impact Assessment the Commission will probably propose legislation applicable to the choice of private parties for PPPs taking the form of concessions.

Defence Procurement

Procurement Directive 2004/18/EC applies to public contracts awarded by contracting authorities in the field of defence, subject to Article 296 of the Treaty.



Article 296 allows Member States to exempt the procurement of arms, munitions and war material from Community rules if this is necessary for the protection of their essential security interests.

According to the Court of Justice, Article 296 must be interpreted restrictively, and its use is to be limited to exceptional and clearly defined cases. In practice, however, many Member States use it extensively to exempt almost all defence procurement from Community rules.

One of the main reasons for this is that Directive 2004/18/EC is ill-suited to defence procurement. Developed for civil supplies, works and services, it does not sufficiently take into account the specificities of many defence contracts, in particular complexity and sensitivity. As a consequence, most defence equipment is procured on the basis of uncoordinated national rules, which differ greatly in terms of publication, tendering procedures, selection and award criteria, offsets, etc.

This regulatory patchwork creates market fragmentation and opens the door to non-compliance with the Treaty principles. Lack of transparency and discrimination of suppliers from other Member States lead to a lack of openness of defence markets, with negative effects for all stakeholders.

In order to tackle this problem the Commission has prepared, in close cooperation with Member States, a proposal for a new procurement Directive adapted to the defence sector. This Directive will be presented in autumn 2007 together with a proposal for a regulation on intra-Community arms transfers and a Communication on defence industries, as part of the so-called 'defence package'.

It will be more flexible than Directive 2004/18/EC and contain tailor-made provisions for defence-specific issues such as



security of supply and security of information. It will apply to the procurement of arms, ammunition and war material, but also to certain sensitive non-military security equipment which has features similar to defence.

The proposal of such a Directive is a strong political signal for the Commission's readiness to support Member States in their efforts to build a common Defence Equipment Market. Coordinating national procedures, the Directive will reduce the current regulatory patchwork in this field. Leaving Article 296 in place, it will make it easier for Member States to use Community rules, but also more difficult for them to justify possible exemptions.

This, in turn, will reduce the number of exemptions and hence improve transparency, non-discrimination and openness of defence markets in the EU.

info http://ec.europa.eu/internal_market/publicprocurement/index_en.htm

From Common Market to Single Market

- 40 years as a Single Market campaigner

Malcolm Harbour MEP



My interest in European politics was triggered by the evolving Single Market. I worked in the car industry for over thirty years before I was elected to the European Parliament. As a car designer, I was immediately drawn into the world of international regulation. In the 1960s, there were still significant differences in technical requirements across European countries. The yellow headlamp bulbs required in France are a memorable example.

This practical experience of the costs and waste incurred by unnecessary differences in technical rules made a strong impression. Were cars with yellow headlamps really safer than those with white bulbs? What were the special characteristics of French roads that made this unusual legal demand so jealously guarded? Not surprisingly, I became convinced about the huge potential that could be gained from a single European market.

My first political campaign, in 1975, was to be one of the local leaders of a "yes" campaign in the UK referendum, when voters were asked if they wanted to stay in "the Common Market". That successful campaign certainly kindled my enthusiasm for further engagement with European policy-making, which led to my election as an MEP twenty four years later.

Little did I know that one of my future roles would be to take the Vehicle Type Approval Directive through the Parliament 2007! While I was pleased with that achievement, I did reflect, somewhat ruefully, that it had taken far too long to

achieve this much needed harmonisation. But the single market is, of course, far bigger than motor vehicles. I became, in my later career, much more absorbed in the broader issues of commercial and industrial policy, and the subsequent enlargements of the European Community.

I was deeply involved in planning a successful assault on the newly opening Spanish market in 1983, creating a new dealer networks and new marketing campaigns. I well remember the quotas imposed by Spain to protect its market ahead of accession to the EU. My then Managing Director used to rail at these injustices and demand that I used my political connections to get them removed!

"I am pleased that, since 2000, completing the Internal Market has risen steadily to the top of the political and economic priorities of the European Union."

I also became deeply involved in the intricacies of EU competition policy, especially the organisation of distribution systems, 'the block exemption'. These involved my first attendance at European Parliament hearings and meeting Commission officials.

This practical experience of 'Europe' impressed upon me that the workings of the 'Single Market' had a deep impact on

citizens everywhere. It also highlighted how much more needed to be done to reap the benefits of a true, barrier-free single market - 'an area without frontiers, with free movement of goods, services, people and capital'.

Naturally, I was a big supporter of the 1988 Single Market Programme, with its targeted programme of action leading up to 1992. I went to seminars and read the Cecchini reports outlining the benefits. (I recently dusted off my copy and found many of its prediction on the impact of a true single market were remarkably accurate).

In the UK, a very effective marketing campaign, making extensive use of primetime TV advertising, catapulted "1992" into the public mind. It was, probably, the high water mark of British public acceptance of the benefits of EU membership. No government since has attempted anything so ambitious!

I fought my first election to become an MEP in 1989, as the Single Market campaign was running strongly. It didn't get me elected, but the political 'bug' had bitten. After missing out 1994, I finally got to the Parliament in 1999 and, not surprisingly, was appointed to the Legal Affairs and Internal Market Committee.

Since then, I have had the privilege of being able to translate my enthusiasm for

the single market into real work on the instruments that would bring it about.

I arrived at an exciting time. The impact of the digital economy and its extraordinary ability to destroy market barriers, was just becoming evident. I worked on ground-breaking projects like the eCommerce Directive.

Keen to move away from my image as a 'car guy', I became one of the *rappoteurs* on the Electronic Communications package. I was deeply involved in the work on Electronic Signatures, Copyright in the Information Society, Data Protection, Computer Implemented Inventions, to name just a few of our files.

I am absolutely convinced that the evolution of the digital economy has made the single market even more important to Europe than it was before. I also firmly believe that we have been far sighted in moving, at European level, to put the right framework in place.

EU Communications legislation is widely regarded as a global model for deregulating an industry, in a manner which encourages competition and will generate new capital investment. We have consistently undersold these single market achievements. Many in the USA, for example, admire our work on communications.

As former Commissioner Pascal Lamy once reminded to the Industry Committee, "in many areas, our single market technology is better than America's."

It was disappointing then, to find that the generally admirable Lisbon Strategy somehow relegated the importance of the Internal Market to a lowly position. In 2000, I spoke at a debate with the then Commission President Prodi, and complained to him that completing the Internal Market only rated one page in this voluminous launch document.

I am pleased that, since 2000, completing the Internal Market has risen steadily

to the top of the political and economic priorities of the European Union. The re-launched 'Lisbon Strategy for Jobs and Growth' gave it a central position. We are promised a new strategy for the Single Market in the 21st century, to be launched mid-November, and it is expected to be a top item at the Economic Summit in March 2008.

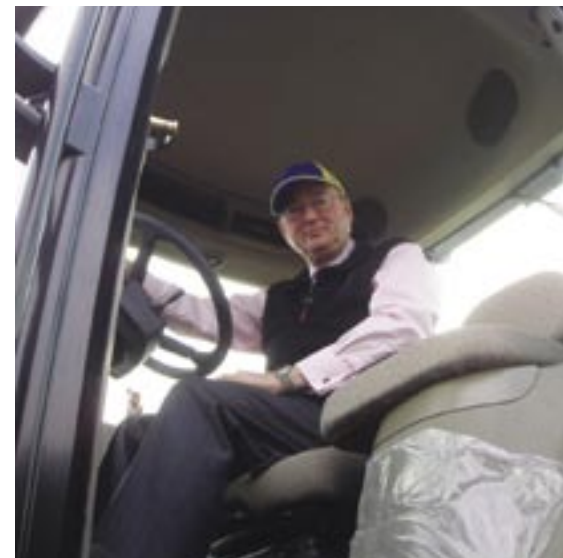
Since I was elected co-ordinator of the EPP-ED group on the newly created Internal Market and Consumer Protection Committee in 2004, Single Market matters seem to be ever more insistent in my political work. I am in danger of becoming a 'Single Market bore' (indeed, many of my colleagues think I am already there). But I remain absolutely committed to ensuring that an enlarged Europe and its citizens get the benefits of economic growth, consumer choice and enhanced quality of life that a properly functioning market will deliver.

Undoubtedly, the biggest test of that commitment was the battle to deliver an effective Services Directive. In Autumn 2004, it sometimes seemed that I was the only member of my Committee giving robust support to this proposal. By May 2006, we finally turned the corner and gained a positive outcome - thanks to the enormous efforts of the Austrian Presidency under the leadership of then Economics Minister Martin Bartenstein.

The Services Directive outcome showed me how important the Parliament has now become in bringing compromise solutions, but also how co-decision really means deep co-operation with our co-legislators, the Member States.

I was surprised and honoured to be nominated as one of the 50 Europeans of the Year 2006, with a citation that said "if a fully liberalised services market results, he will be able to claim much of the credit."

In concluding this very personal reflection about the Single Market, my involve-



Malcolm Harbour, who worked in the British car industry for over thirty years before being elected to the European Parliament, has seen at first hand the positive impact of the Single Market on many industrial sectors.

ment in many important projects to take it further forward has helped me to see how much more can be done to make it work better.

Our focus now is on implementing the market rules fully and consistently. We expect Member States to implement the Services Directive fully and effectively. The 'Goods Package' will help deal with many frustrations that still block market access for large and small companies. But what Europe needs - and I hope it will be delivered through the Commission's forthcoming strategy proposals - is a major awareness raising campaign telling citizens and businesses about the achievements and future importance of completing the single market. Europe needs to be proud of what it has achieved, and to realise that a fully functioning Single Market will be crucial to delivering high-quality jobs, encouraging innovation and giving Europe a sustainable future in a globally competitive world. It may have economics at its core, but it is a highly political project. It needs strong political leadership.



Company law changes to support cross-border business

The objective of European company law is not to replace existing national laws. It is to help companies to reap the full benefits of the Single Market, while ensuring an equivalent, effective and proportionate protection of shareholders and third parties throughout the European Union.

Company law was already identified in the 1960s as an area in which harmonisation was necessary to ensure the sound operation of the internal market.



The first phase of EU company law-making, which lasted until the mid 1980s was greatly focused on the harmonisation of safeguards to protect shareholders and creditors.

The first company law Directive, which was adopted in 1968, harmonised the disclosure requirements for companies. It was followed by Directives on capital requirements, accounting, mergers and divisions of companies.

During that period, the Commission also proposed Directives to enhance the mo-

bility of companies and make of the Single Market as much of a reality for companies as it is for people.

However, the proposals on the cross-border mergers of companies and the cross-border transfer of the registered office faced opposition from some of the Member States and could not be adopted. Even though the statute for the European Economic Interest Grouping was adopted, the statute for a European Company remained stalled for years.

"The European Company (SE), in waiting since the 1960s, was put in place in 2001. To date, some 90 companies in Europe, including major players, have become SEs."

With the launch of the Single Market in 1992, a new, more flexible, approach to law-making was adopted. Instead of seeking full harmonisation of national laws, EU Directives focused on setting minimum requirements common to all Member States, while leaving Member States free to impose more stringent requirements on their home companies.

Relying on national rules

Rather than introduce new rules, EU measures also relied on national laws whenever there was sufficient equivalence between national systems. This new approach to law-making, combined

with the fresh impulse given by the Commission's 2003 Action Plan "Modernising Company Law and Enhancing Corporate Governance: a plan to move forward", opened new grounds for companies in Europe.

In particular, the measures which were intended to help companies to benefit fully from the Single Market, but which had been shelved for years, could be adopted.

The European Company (SE) - in waiting since the 1960s - was put in place in 2001. To date, some 90 companies in Europe, including major players, have become SEs.

Cross-border mergers

2005 saw the adoption of the Directive on cross-border mergers of companies, which enables companies to restructure on a cross-border basis without having to incur the expense of winding up.

In 2007, the Council and the Parliament adopted a Directive which introduces minimum standards facilitating the exercise of voting rights in listed companies. In parallel, the existing EU company law framework, which for some part is almost 40 years old, is being modernised and simplified.

This trend is set to continue, to ensure that EU company law goes on providing a regulatory environment which is supportive of business in the Single Market.

Accounting & auditing rules redefined for the global marketplace

Recent years have been marked by a strong tendency towards globalisation in which international financial markets have been developing rapidly. Improved market efficiency decreases the cost of capital and thereby contributes to economic growth. However, in order to build an integrated capital market which operates effectively, smoothly and efficiently a higher level of transparency and comparability of financial reporting from all publicly traded Community companies would be required.

Comparability of financial statements

In March 2000 the Lisbon European Council of March had emphasised the need to accelerate completion of the in-



ternal market for financial services, and as part of this task, stressed the need to enhance the comparability of financial statements of publicly traded companies.

It was with this background that in 2005 the EU took the truly bold and visionary step of supplementing the legal framework applicable to publicly traded companies by requiring the use of International Financial Reporting Standards (IFRS) for the preparation of their consolidated financial statements.

This marked the biggest change in financial reporting for listed companies in a generation.

Successful application of IFRS

The key task for the EU over the coming years will now be to ensure the successful application of IFRS in practice. New studies already indicate that the implementation has been successful and that the quality and comparability of financial information has already improved.

At the same time it is important that IFRS-based financial statements of listed EU companies become accepted internationally, without any reconciliation requirement.

In parallel, the EU strongly encourages the convergence efforts of other important jurisdictions and initiatives that will pave the way for IFRS to become adopted and applied Worldwide.

It is also time to start reflecting on the needs of Europe's other companies and what the future accounting requirements for these should be. It is particularly important that the accounting rules for SMEs are revised with the aim of simplicity, and at the same time, made more relevant.

Reliable audit reports

To maintain and enhance confidence in the EU capital and securities markets, investors, and other relevant shareholders, should have at their disposal reliable audit reports. Auditors and audit firm play therefore a key role in ensuring that the accounting figures provided by issuers fully represent their financial situation.

The EU has been actively involved in au-

ditting matters for more than 20 years already. The final objective has been to improve audit quality all over the Community. This has been an evolutionary process which has culminated with the adoption of a new comprehensive Directive in 2006. A similar process is taking place as well in some foreign countries such as the United States, Canada or Japan.

As a result of the new Directive all Member States will have to set up public oversight bodies and efficient external quality assurance systems to ensure high audit quality all over the Community. This will be complemented with an adequate system for investigations and sanctions.

Rules similar to those applicable to EU auditors will apply to foreign auditors auditing foreign issuers which trade their shares and bonds in the EU. In this way European investors, and other stakeholders, will be adequately protected regardless they trade EU or foreign securities.

The choice made in the EU for a system of auditing providing high quality and reliability should serve as a model to other regions in the world.

Given the increasing tendency towards global financial markets, all parties concerned, including EU companies and investors, would benefit from a new scenario in which capital exchanges can take place on sound and confident basis.



Corporate governance rules adjust to modern times

In its 2003 Action Plan 'Modernising Company Law and Enhancing Corporate Governance: a plan to move forward', the Commission gave top priority to high corporate governance standards.

High corporate governance standards were perceived as a key ingredient of striving markets and were necessary to restore confidence following the corporate scandals of 2001 and 2002. This meant restoring the authority of the board of directors and empowering shareholders.

The Commission devised an original regulatory approach, which combines binding and non-binding measures and takes account of the diversity of corporate cultures in the EU. It is firm on principles but flexible on their application and so respects the different corporate cultures of the EU.

'Comply or explain' principle

The cornerstone of the EU corporate governance framework is the 'comply or explain' principle. This principle, which is binding, imposes on listed EU companies to either comply with the corporate governance code to which they are subject or explain to which extent and why they do not comply.

Non-binding recommendations

Since the national codes of corporate governance were broadly equivalent, the Commission decided not to propose an additional EU code of corporate governance. Instead it sought to promote the convergence of the existing national codes towards common standards. To this end, the Commission adopted two

non-binding Recommendations in December 2004 and February 2005.

The first Recommendation focuses on the remuneration of directors and the Commission recommends that every listed EU company publishes an annual statement on its remuneration policy.

The remuneration policy should also be subject to shareholder vote, though this vote may be only advisory. The recommendation further provides that the individual remuneration of directors be disclosed in detail in the annual report.

Lastly, share based schemes, e.g. discounted share purchase and stock option plans, should be subject to prior shareholder approval.

Independent directors

The second Recommendation focuses on the role of independent directors and the creation of board committees.

Independent directors have an important role, in particular, with regard to company audit or the nomination and remuneration of executives, which are issues in relation to which directors linked to management or controlling shareholders may have a conflict of interests.

Committees of the board should be created to address and advise the board on such issues and independent directors should play an active role in these committees.

To further promote the convergence of national codes, the Commission created



in October 2004 the European Corporate Governance Forum. The Forum, which consists of 15 high level experts, meets several times a year. It identifies and examines best practices in Member States and provides advice to the Commission.

Empowering shareholders

The last initiative taken by the Commission aims at empowering shareholders. In June 2007, a Directive was adopted which ensures that the shareholders of listed companies have a timely and easy access to the complete information ahead of general meetings, and have simple means to vote cross-border.

To this end the Directive imposes the publication of all general meeting documents on the company's website and abolishes most constraints on proxy voting.

Trade marks and patents evolve to support innovation

Industrial property rights are a driving force for promoting innovation, growth and competitiveness. Since 1992 there have been several major legislative developments which have contributed to the removal of barriers to the free movement of goods and services, and to fostering a regime of undistorted competition on the EU market.

The most important novelty was undoubtedly the creation of a Community trade mark in 1994, which followed the harmonisation of national trade mark laws in 1989. Trade marks are an indicator of business origin, which distinguishes the products and services of one company from those of another.

The Community trade mark is in particular attractive to businesses as it gives its proprietor a right which is valid in the whole territory of the EU (as opposed to national marks which only cover their relevant national territory). This enables



businesses to adapt their activities to the scale of the Community.

A similar exercise has taken place for designs rights dealing with the appearance of a product as resulting from its features (the lines, contours, colours, shape, texture and/or materials, etc.).

A design gives the designer the possibility to protect his creation against other designs that come too close. In 1998 the Community legislator harmonised the national design laws and in 2002 it adopted the Community design regulation, creating a system of (registered and unregistered) Community designs for the whole of the EU.

The Office for the Harmonisation of the Internal Market (OHIM), located in Alicante, is responsible for the registration of the Community trade mark and Community designs. The success of OHIM is demonstrated by the volume of companies - more than 200,000 from all over the world - who have turned to it since it became operational in 1996.

Indeed, since it began processing trade mark applications in 1996, more than 350,000 trade marks have been registered.

And since 2003 when the registration of the Community design started, more than 200,000 designs have been successfully processed.

The OHIM has become a true benchmark amongst Intellectual Property offices. It has ambitions to become a fully fledged 'e-organisation' and to even further improve its services towards the users.

In 2004 the EC acceded to the Madrid Protocol concerning the international registration of trade marks. The Madrid Protocol offers business a simple process for applying for trade mark rights in about 70 countries outside the EU in one single international application filed at the



OHIM. In the beginning of 2008 the EC will adhere to the Geneva Act on the international registration for designs.

Awaiting the Community Patent

Inventions are protected through the patent system. In 1998 an important Directive was adopted regulating the patentability of biotechnological inventions based on human, animal, plant or microbial genetic material. However, the Single Market for patents is still incomplete. Europe has not yet been able to create a single and affordable Community patent.

In 2003 the Council reached a common political approach on a Commission's proposal for a Community Patent Regulation, but failed to agree on the final text.

In a renewed effort to break the deadlock, the Commission launched in 2006 a broad consultation on the future of patent policy, followed in April 2007 by a Communication on 'Enhancing the patent system in Europe'.

Preparing copyright rules for the Internet age

Harmonisation policies in the field of copyright and related rights were launched in the beginning of the 1990s. They brought a high level of protection for a variety of proprietors of copyright and rights related to copyright. Driven by the aim to create a Single Market for goods and services that rely on copyright, the Commission adopted several Directives harmonising the substantive law governing copyright.



At present, copyright is governed by seven EU Directives. They cover:

- protection for computer programs;
- a rental and lending right for authors, performers, phonogram and film producers;
- a series of broadcasting and communication rights for performers, phonogram and film producers well as broadcasting organisations;
- special clearance rules for satellite transmissions and cross-border cable retransmissions;

- harmonised rules on term of protection; the legal protection of databases and an artists resale right.

The more recent Information Society Directive updates copyright rules and makes them applicable to online transactions.

As the above Directives show, traditional internal market policy has been essentially concerned with substantive aspects of intellectual property, such as the scope of these rights, the EU-wide introduction of related rights (such as producers' or performers' rights in Directives 92/100 and 2001/29) and the term of protection for authors and owners of related rights (e.g., performers, record labels and film producers in Directive 93/98).

EU Directives focused on substantive copyright and related rights because it was thought at the time that harmonisation would eliminate legal barriers to the free movement of protected goods or services across the EU.

Persistent national orientation

But this ambitious drive toward harmonisation of substantial rules on copyright and related rights has not ended one European phenomenon: the fact that all harmonised rules remain national and the titles granted to the beneficiaries of protection remain national titles.

This is why the Commission, on 18 October 2005, adopted a Recommendation on the management of online rights. The

Recommendation implies that one way forward toward achieving EU-coverage is that rights are aggregated into attractive packages (repertory). This repertory can then be licensed to online music shops by one collecting society on an EU-wide basis in one single transaction.

Instead of 27 local licenses the Recommendation seeks to foster a single license for attractive repertoire at little overhead.

Enforcement of IP rights

In 2004 the EC adopted a horizontal Directive on the enforcement of intellectual property rights.

The Directive, which applies to both industrial property and copyright, requires the Member States to apply effective, dissuasive and proportionate remedies and penalties against those engaged in counterfeiting and piracy and so create a level playing field for right holders in the EU.

All Member States now have a similar set of measures, procedures and remedies available for business to defend their intellectual property rights.

Recognition of qualifications and working abroad

The free movement of workers, freedom of establishment and free provision of services are three of the founding principles of the European Union. Regulated professions - ones requiring dedicated training and expertise - have however always required special consideration as national requirements for qualifications are effectively a barrier to entry.

There are more than 800 regulated professions in the EU ranging from engineers to chiropodists. Each has its own requirements as to training and qualifications - elements which are vital for both quality of work and, frequently, consumer safety.

Over the past forty years different types of regimes and numerous Directives have been introduced to cope with the complexity of permitting professionals to work in other EU countries.

Directives

Whilst waiting for agreement on the recognition of diplomas, so-called transitional Directives were adopted from the 1960s onwards dealing with automatic recognition of periods of professional experience for craft industries and commerce.

In 1975 agreement was reached in the Council of Ministers on the coordination of training to per-

mit the automatic recognition of diplomas for doctors. This opened the way to five other health-sector professions to be accommodated by 1985.

Reaching agreement was increasingly difficult and, when the Directive relating to architects was finally adopted following 17 years of Council discussion, it was apparent that the approach of coordinating training systems had to be abandoned as a route for extending recognition to other professions. It was necessary to move towards a system of mutual recognition.

Thus the General System of recognition of diplomas emerged in 1988 - 'general' because it related to all other professions whose exercise is subject to a diploma requiring at least three years of university or higher education.

Compensatory measures

Given that, in the absence of coordination, significant differences could appear between diplomas issued in the Member State of origin and the host Member State, it was agreed that the latter would be permitted to demand compensatory measures, but only in the form of an aptitude test or an adaptation period of supervised practice but not requiring all the training to be repeated.

This system was extended in 1992 to professions which required lesser training, then it was applied in 1999 to those in the craft sector and commerce.



Consolidation

Given the considerable number of Directives (15) that covered this sector, it was decided to consolidate them and in 2005, they were replaced by one single Directive. The new Directive set out to retain the existing body of law yet increase the level of cooperation between national authorities to help migrants. It also introduced an easier system for providing services, based on the general rule that prior checking of qualifications was not required. This system originates from the Lawyers Directives on practice under home title (e.g. as "solicitor" in France), which are not covered by this consolidation.

In a general sense, it is recognised that effective cooperation between Member States constitutes an important factor in providing effective protection for the consumers who use these professional services.

To this end, the new Directive relies significantly on the exchange of information between national authorities, particularly regarding the disciplinary, administrative or penal sanctions that would affect migrant professionals, or the authenticity of diplomas.

Boosting cross-border services in the EU

While much has been achieved on the free movement of goods within the Single Market, cross-border trade in services has remained below its potential. Services represent almost 70% of GNP and jobs in the EU but internal market barriers are hindering the realisation of their full economic potential.

At the Lisbon summit in March 2000 EU leaders called for a strategy to remove cross-border barriers to services. Analysis of the legal and economic issues which are behind the underperformance of cross-border trade in services was undertaken by the Commission together with an in-depth consultation with stakeholders, resulting in the publication of a Report on the State of the Internal Market for Services in July 2002.

This report provided a comprehensive inventory of the legal, administrative and practical obstacles to establishment and to the free movement of services across borders in the EU. These barriers, the report showed, have a serious negative effect on the cost and quality of the final service to end-users whether they are other service providers, manufacturers or consumers. Notably consumers suffer from a lack of choice and unnecessarily high prices for services they receive.

In January 2004 the Commission proposed a Directive aiming at eliminating obstacles to the free movement of services and facilitating establishment.

Remove barriers and red tape

The Directive sets out to remove barriers, cut red tape, modernise and simplify the legal and administrative framework - also by use of information technology - and make Member State administra-

tions co-operate much more systematically.

The overriding objective was to improve the competitiveness of not just the service enterprises, but also of European industry as a whole.

The proposal stirred much debate and after long deliberations in Council and the European Parliament, a compromise was reached with some of the elements of the initial proposal removed. The Services Directive (123/2006/EC) finally saw the light of day in December 2006 and has to be implemented in the Member States by the end of 2009.

With some notable exceptions, the Directive covers all services - regardless of sector - including, to name but a few, construction services, retail services, the services of most regulated professions (e.g. architects services, legal and fiscal advice), tourism and leisure services, etc.

The service businesses covered by the proposal account for a large share of all economic activity in the EU.

The Directive sets out to remove barriers affecting those service providers who want to establish a permanent presence in another Member State and those who provide services only temporarily or occasionally there.

It also contains a number of provisions specifically aimed at facilitating the reception of services, which will be of particular benefit to consumers. For example,



the Directive obliges service providers, before concluding a contract or providing their service, to supply the consumer with important information such as their identity and contact details, the public authority which authorised them to carry out their business, and the price and main features of the service offered.

Overhauling national regulations

The programme of administrative simplification and cooperation launched by the Services Directive is very ambitious and requires Member States to overhaul their national regulations which impact on establishment and cross-border provision of services.

The Services Directive is one of the most important European-level contributions to the Commission's efforts to boost the European economy and unleash the potential of the Single Market for services.

The Commission is working closely together with Member States to ensure a coherent and effective implementation of the Directive by the end of 2009.

15 years of reform to prepare the EU internal postal market

The road to the internal market for postal services started in 1992 with a Commission Green Paper on postal services.

In view of the poor quality of postal services at that time, an ambitious reform was launched. The aim was to ensure that EU citizens would enjoy a sustainable high quality universal postal service and this within the framework of the Single Market.

In 1997, the first Postal Directive was finalised. The co-legislators decided to in-

"The postal sector is now a dynamic industry, playing a pivotal role in the wider communication markets."

roduce more competition in the sector by gradually reducing the 'reserved' area enjoyed by national postal administrations. This was accompanied by the creation of a robust regulatory framework, both at EU and Member States level.

Concrete benefits for citizens and businesses

The reform process quickly generated concrete benefits for postal users. EU citizens soon began to enjoy higher quality, be it in terms of access to services or delivery time.

In order to keep this positive trend on track, the stakeholders and co-legislators reiterated the need for a more efficient and innovative postal service. The Postal Directive was amended in 2002 to further open the market and set the target date of 2009 for full market opening.

Cross roads of the communication markets

In parallel, the Commission monitored the implementation of the Directive and offered its assistance to Member States, notably through strong administrative cooperation.

The Commission monitored carefully market developments such as quality of service and social aspects.

All indicators together with numerous studies confirm that market opening is both necessary and desirable for postal users. The reform process is helping the postal sector to face up to the challenges of new technologies. The postal sector is now a dynamic industry, playing a pivotal role in the wider communication markets.

A Lisbon deliverable

In October 2006, the Commission proposed to amend the Postal Directive and confirm the full opening of the postal market.

This balanced proposal seeks to secure the provision of postal universal service and at the same time reinforces consumer protection.

This approach was well received by the European Parliament and Member States. The Parliament, in its first reading on 11 July 2007 paved the way for a possible political compromise by sug-

gesting that more time be given to some Member States to prepare, while maintaining the key elements of the proposal.



On 1 October 2007, the EU Transport, Telecommunications and Energy Council reached a political agreement which reflects the main lines of the Commission's package as amended by the European Parliament. This agreement is fully in line with the goals of the Lisbon agenda.

Next steps

The next and final phase of negotiations will conclude in 2008 when the Parliament finalises its second reading.

The mission of EU postal reform will continue and will require close monitoring of the development of competition and the provision of assistance to Member States to secure the high quality of services that EU citizens expect.

Towards the Single Financial Market

The aim of the EU's policy in the financial services sector is to create an integrated Europe-wide single market through a framework of legislation, co-operation and practice within which financial services can operate across borders and make the free movement of capital and services a practical reality. The policy addresses the 'wholesale' (corporate and capital) markets and the 'retail' (consumer) markets as well as the underpinning services such as the clearing and settlement of shares and the integration of payment systems.

In the late 1990s, while preparing to introduce the euro, the EU was also preparing a wide-ranging policy action aimed at removing the remaining technical and regulatory barriers to the creation of the Single Financial Market. It was adopted in 1999 as a package of 42 measures to be implemented over five years, called the Financial Services Action Plan (FSAP).

The adoption of the euro contributed to the realisation that a single currency alone was not enough to ensure full integration of financial services in Europe. The FSAP was necessary to overcome the persisting fragmentation of the EU financial markets.

Nearly all the FSAP measures were adopted by the 2005 deadline, which marked a formidable achievement of the Commission, the Council and the Parliament. However, implementation of some measures (e.g. Markets in Financial Instruments Directive, Capital Requirements Directives) in the Member States is still ongoing.

The FSAP was focused on wholesale markets and supervision, which corresponds to the logic of financial integration, where capital markets are the driving force and big financial institutions are

the first movers. Since 2005 therefore the removal of obstacles to the integration of retail financial services has been the priority in the Commission's work.

Investment services - MiFID arrives

The ground-breaking change for investment services business in the EU will be introduced by the Markets in Financial Instruments Directive (MiFID). Adopted in 2004 as an upgrade of the former Investment Services Directive, MiFID enters into force in November 2007. It will transform the landscape for the trading of securities and introduce competition and efficiency throughout Europe's financial markets.

It is good news for investors because it will both give them greater choice and increase their level of protection. It will drive down the cost of capital for companies, generate growth and boost competitiveness of EU capital markets.

MiFID will significantly increase competition across borders. It will do this by substantially updating the so-called 'single passport' for investment firms. It will also lead to a step-change in competition between various types of companies dealing with securities trading: investment firms, stock exchanges and other trading venues.

For the first time in many countries, trading in shares will not be the sole prerogative of the local stock exchange. Share trading will be able to be done on the stock exchange as before, but also on an

electronic trading platform, a voice broker, a so-called 'systematic internaliser', or via a bilateral OTC transaction. This will put significant pressure on exchanges to reduce costs and to better match investors' needs. This in turn can only lead to more investors using capital markets, and more deep and liquid capital markets.

Investor protection will be strengthened by MiFID as the rules will be harmonised at a high level so that investors can feel confident in using the services of investment firms wherever they are in Europe and wherever the investment firms come from in Europe.

For the first time, there will be strong EU rules covering the core investor protection topics: best execution, information to clients, order handling, suitability, investment advice, inducements and conflicts of interest.

Banking - freedom of establishment

Over the past 15 years, considerable progress has been made in the field of EU banking legislation. Recent Directives reflect global developments and enact Basel II rules agreed at G-10 level.

Community law concerning banking aims to ensure the freedom of establishment of credit institutions and the free provision of financial services in the EU.

More specifically, it harmonises the essential conditions for access to and the



exercise of banking activity in the EU and lays down minimum requirements as regards prudential supervision of credit institutions.

The purpose of prudential supervision is to prevent bank failures and safeguard both depositors and the overall stability of the financial and economic system. The Directives have also encouraged enhanced risk management by financial institutions. The implementation of these Directives into the law of the Member States ensures continuing financial stability and maintains confidence in financial institutions, thus protecting consumers.

In the event of a bank failure, the Directive on Deposit Guarantee Schemes ensures that depositors are reimbursed at least 20,000 euro by such a scheme under national law. This not only protects a part of the depositor's wealth but also prevents contagion across the broader banking system.

Single market for insurance

The objective of EU level insurance legislation is the creation of a single market for insurance products and services. Such legislation must also protect consumers, in particular individuals for whom the safe delivery of promised benefits is vitally important.

To achieve this goal, the EU has introduced prudential rules in the fields of life and non-life insurance. These rules establish an 'EU passport' (single licence) for insurers based on the concept of minimum harmonisation and mutual recognition. Rules have also been introduced for insurance intermediaries conducting their activities throughout the EU, as they play a pivotal role in the process of selling insurance products in the EU and in protecting the interests of policy-holders.

In addition, a number of specific measures have been introduced for motor insurance. These measures have made the free movement of motorists and their vehicles in the EU a reality and have permitted the abolition of border checks on insurance, so that vehicles can be driven as easily between Member States as within one country. Particular attention was also

paid to improving the situation of victims of cross-border road accidents.

Despite the excellent progress made, work continues apace in the insurance field. The Commission has just adopted a proposal for a Solvency II Directive looking to overhaul and modernise the current prudential rules. Once adopted, it would introduce the most advanced and modern solvency system in the world.

Occupational pensions

The past 15 years we have also seen progress in the field of occupational pensions with the introduction of legislation that allows pension funds to manage occupational pension schemes for companies established in another Member State thus permitting a pan-European company to require only one pension fund for all of its subsidiaries throughout Europe.

UCITS

Investment funds provide retail investors with access to professionally managed and diversified investments on affordable terms.

The European fund industry currently manages over 6 trillion euro of assets. The cornerstone of the EU regulatory framework for investment funds is the UCITS Directive ('Undertakings for Collective Investment in Transferable Securities'). UCITS are a type of specially constituted collective investment portfolio, whereby the fund's investment policy and its manager are authorised and regulated in accordance with specific requirements. UCITS benefit from a 'passport' allowing them to be offered to investors in any EU jurisdiction once authorised in one Member State.

The UCITS Directive has proved an important first step towards integrated and competitive European markets for investment funds. Assets under management have grown fivefold over the past ten years and they currently account for 13% of European households' financial assets.

The growing importance of this business means that there will be a need for con-



tinued attention to the modernisation and development of the EU legislative framework.

The Commission therefore intends to make a series of targeted improvements to the UCITS Directive. They will focus on ensuring that investors are in a position to make informed investment decisions and improving the possibilities for fund managers to operate effectively on a cross-border basis.

European investors will need a capable and well-regulated asset management business as increasing longevity of EU citizens requires them to take more responsibility for their long-term financing needs.

Retail Financial Services

In 2007, the Commission published a Green Paper on Retail Financial Services. It is currently considering a range of measures to improve the functioning of retail markets and to make sure that the benefits of the Single Market are passed on to Europe's citizens. These include initiatives to improve the cross-border provision of financial services, to improve customer mobility, to empower citizens as well as to protect consumers where necessary.

Retail financial services are expected to be a key element of the final report on the Single Market in the 21st Century, due later this year. Action will only be pursued where there is evidence of clear and concrete benefits for citizens and a strong economic rationale.

A single euro payments area is now within sight

Although the Single Market has existed since 1993 and citizens and business have been able to buy and sell using euros since 2002, the Single Market for payment services remains hugely fragmented along national lines.

For example, the majority of national debit card schemes only cover payments in national markets. And yet, an efficient payments system remains a cornerstone for a properly functioning internal market.

The high cost of cross-border payments in the EU has therefore long been viewed as a problem by the Commission. In 1994, it adopted a proposal (Directive 97/5/EC) to improve the efficiency of

cross-border transfers by providing a harmonised legal framework.

However, progress was difficult and cross-border payments costs remained high. A regular series of questionnaires carried not

by the Commission in the period 1993-2002 showed that on a 100 euro transfer, on average between 17 and 25 euros of the payment were eaten up by transfer costs.

With the adoption of the euro, the costs of cross-border payments became especially visible. This led the Commission to propose Regulation (EC) No 2560/2001 which eliminated by law differences in price between corresponding cross-border and national payments in euro. This in effect encouraged the European banking sector to modernise the EU-wide payment infrastructure and to establish an integrated payments market for euro payments.

Modernisation efforts

These modernisation efforts needed to be accompanied by an appropriate legal framework for integrated electronic payments market in the EU. Therefore in December 2005, the Commission unveiled plans for the creation of a 'single euro payment area' (SEPA) by 2010 with its proposal for the Payments Services Directive (PSD).

The PSD will establish the legal conditions to make electronic payments in euro between EU Member States 'as easy, cheap and secure' as domestic transfers. Cross-border payments will become much faster and easier. For example, an electronic credit transfer in euros must be credited to the recipient's account - no matter where it is located in the EU - by the end of the next business day at the latest, and cross-border direct debits in euro will become possible for the first time.

The new legislation sets out to unify payment rules across all EU Member States and at the same time increase competition by opening up payments markets to new players called payment institutions.

Through increased competition and the greater efficiency made possible through the economies of scale of an integrated payments market, the Commission forecasts that the SEPA could generate payment savings of over 25 billion euros every year for businesses and consumers. Furthermore, if SEPA is developed as a launch pad for the automation of business processes linked to the payment chain such as eInvoicing, then additional annual savings of as much as 100 billion euros or more are possible. Similar ben-



efits are already being achieved in some Scandinavian countries with highly automated payment systems. There seems no reason why these services could not over time be just as successfully rolled out across Europe.

At the same time, citizens and businesses need protection and legal certainty when making payments throughout the EU electronically. Therefore, whatever the payment instrument used (e.g. card payments, credit transfers, ePayments, direct debits, etc.) the PSD provides users with a high level of protection and legal certainty, independent of the origin of the payment instrument. Moreover, although the focus of the SEPA is on the euro, the PSD also grants these benefits to non-euro, national currency payments.

The PSD will come into force on 1 November 2009, but banks will already be launching SEPA products from the start of 2008. The target is that by the end of 2010, a critical mass of payments will be made using the new SEPA products. At long last, the single euro payments area is now within sight.

Countering cross-border financial crime in the EU

The downside of open, fast moving financial markets is the risk of using the financial sector for laundering money from criminal activity. The fight against money laundering has been a political priority of the EU for a number of years, given its importance in protecting the reputation and stability of the financial system and supporting efforts to combat organised crime.

Far-reaching anti-money laundering measures are already in place as a result of the first and second EU Directives which have led to the introduction of significant controls designed to facilitate the detection and prevention of money laundering.

The Third Anti-Money Laundering Directive, adopted in June 2005, builds on existing EU legislation and incorporates into EU law updates made to the Forty Recommendations of the Financial Action Task Force (FATF), which is the international standard-setter in the fight against money laundering and terrorist financing.

The Directive is applicable to the financial sector as well as lawyers, notaries, accountants, real estate agents, casinos, trust and company service providers. Its scope also encompasses all providers of goods, when payments are made in cash in excess of 15,000 euro.

Obligations under the Directive

Businesses and individuals subject to the Directive need to:

- identify and verify the identity of their customer and of its beneficial owner, as well as monitor their business relationship with the customer;
- report any suspicions of money laundering or terrorist financing to the national financial intelligence unit;

- take supporting measures, such as ensuring the proper training of the personnel and the establishment of appropriate internal preventive policies and procedures.

From drug money to terrorism

The Third Directive ensures that the definition of money laundering includes not only the concealing or disguising of the proceeds of serious crimes such as drug trafficking (as defined in the framework of police and judicial cooperation between Member States) but also the financing of terrorism with either criminal or legally acquired money.

More specifically, the Directive extends the anti-money laundering obligations to providers of services to companies and trusts and life insurance intermediaries. It goes beyond the FATF requirements in bringing within its scope all persons dealing in goods for cash payment of 15,000 euro or more.

The Directive sets out detailed 'know your customer' requirements and, like the FATF Recommendations, introduces a risk-based approach.

Money laundering counter-strategies

Due to its nature, money laundering, in its most significant forms, takes place in or through the financial markets and other exposed economic sectors.

It is no longer about the small guy depositing cash in a bank account. It is much more sophisticated, involving legal persons (and front/shell companies), numerous wire transfers, trade-related transactions etc. Criminals are always ahead and

different kind of laundering typologies are used.

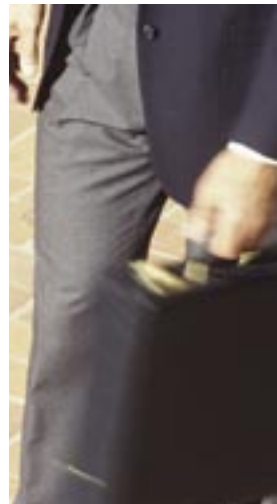
For these reasons, money laundering cannot be tackled only with law enforcement/prosecutorial tools: a 'financial' preventive approach is also needed. It is important to detect money laundering patterns and proceeds flows, in order to allow for an intelligence-led approach to the fight against money laundering.

Cooperation amongst institutions

For this, the cooperation of the financial sector is key. Financial institutions must be involved, both to prevent their misuse and to identify, at an early stage, criminal activities.

The international and EU standards developed over the past 20 years have led to the identification of specific tools aimed at:

- knowing who the customers are and what they do;
- record keeping, to ensure there is the 'paper trail' needed to support analysis and investigations;
- active collaboration, through the identification and disclosure of suspicious client activities to specialised competent authorities (so-called financial intelligence units, FIUs).



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