



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 10.05.1995  
COM(95) 163 final /2

ADDENDUM: ANNEXE

**WHITE PAPER**

**PREPARATION OF THE ASSOCIATED COUNTRIES  
OF CENTRAL AND EASTERN EUROPE  
FOR INTEGRATION INTO THE INTERNAL MARKET OF THE UNION**

(presented by the Commission)

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# ANNEX

## **Presentation of Community legislation concerning the Internal Market**

The Annex to this White Paper provides for the first time a comprehensive and detailed presentation of current Community secondary legislation relating to the Internal Market. Twenty-three different areas of legislative activity are examined in turn.

Instead of simply enumerating the several hundreds of legal instruments concerned, the Commission has presented the essential purpose of Community legislation in each area, explained the organisational and administrative context in which the legislation must operate and recommended a clear order in which the task of approximation could be taken by the associated countries. This detailed presentation is intended to deepen understanding of the Community's legislative approach by the countries concerned and to facilitate approximation in the pre-accession phase.

It is necessary to bear in mind that this secondary legislation is complementary to the relevant provisions of the Treaty, which are set out in Chapter 2. The associated countries will need to incorporate the substance of primary as well as secondary legislation in their national law.

### **Delimitation of the "Internal Market" acquis**

The first step in designing the White Paper was to decide on the limits of the "Internal Market" in legislative terms.

As has been explained in Chapter 2, the successful operation of a single market assumes the fulfilment of a wide range of basic economic conditions, going beyond the removal of formal barriers to free movement to include other factors, such as the existence across the entire market of open and fair competition between economic operators, the guarantee of minimum social standards and adequate protection of the environment. In this broader sense, most Community legislation could be considered as being relevant to the Single Market, in so far as it directly or indirectly affects one or other of these basic market conditions.

For the purposes of the White Paper exercise, however, the Commission has chosen to adopt a more narrowly-defined approach to describe the relevant legislation. The secondary legislation measures referred to in the Annex are those which directly affect the free movement of goods, services, persons or capital. Other legislation which **only** indirectly affects the operation of the Internal Market by, for example, affecting the competitive situation of firms has for the most part been excluded from consideration.

## **Presentation of the Community Internal Market "acquis" in this Annex**

The sectoral information concerning the Community "acquis" presented in the "fiches" in the Annex is intended to give as full as possible a picture of the purpose and structure of the Community's legal framework for the Internal Market. The following elements, in particular, are designed to guide the associated countries in planning their strategy for the progressive taking over of Community law :

- (i) a *general introduction* to each area of legislation, which describes the underlying objectives and methodology of Community legislation in the field concerned;
- (ii) a *summary of conditions necessary to operate the relevant instrument* of Community law, including both legal and organisational structures;
- (iii) the *identification of key measures and a proposed sequence for approximation within each area of legislation*, in order to focus limited resources on the items that will contribute most to the process of legislative approximation.

Each of these elements is examined below.

### **(i) Introduction to the legislation**

The introduction to each section gives a short explanation of why Community legislation is necessary, what it is intended to achieve, and how the approach of the legislation has developed over time. The relationship between national and Community legislation is also explained.

### **(ii) Conditions necessary to operate the legislation**

Community legislation is not applied in a vacuum. It is based on the legal system of each Member State and also in some cases on the international legal framework. Its application and enforcement depends on the existence of appropriate administrative and judicial machinery in the Member State, as well as on a variety of technical or professional bodies in the private sector.

The Commission considers that for the associated countries the main challenge in taking over Internal Market legislation lies not in the technical adaptation of their legal texts to make them identical to those of the Community but in adapting their administrative machinery and their societies to the framework conditions necessary to make the legislation work. This is likely to be a relatively long and difficult process in some areas; it will demand fundamental changes in the responsibilities of both the national administrative and judicial systems and the emerging private sector in the associated countries.

For this reason each sectoral analysis identifies the relevant national (or international) structures on which effective operation of Community legislation depends. Examples of the kind of structures involved include :



- bodies which assume on behalf of the public authorities a controlling, supervising or regulatory role (such as those which supervise the solvency of insurance companies or control the daily operations of credit institutions);
- bodies which verify compliance with technical regulations or standards (testing laboratories, certification bodies);
- bodies which operate market surveillance in area of free movement of goods (veterinary or plant health inspectorates, or trading standards officers);
- technical organisations responsible for the definition of detailed standards or rules (national standards bodies, professional associations);
- representational organisations that play a role in monitoring compliance with legislation (consumer, worker, professional, or trade organisations);
- judicial or quasi-judicial bodies given powers with respect to enforcement (specialised courts and tribunals, ombudsmen).

The proper operation of these administrative or judicial structures will in turn depend upon training and education facilities for the development of the personnel concerned. The provision of such training and the transfer of relevant Community experience in this area will be one of the main tasks of the approximation exercise.

### **(iii) Sequences for approximation**

Although every piece of Community legislation is important in principle, and while accession to the Union can only be achieved by taking over the entire body of Community legislation, the Commission considers that it is appropriate in the pre-accession phase to propose a sequence in which the associated countries could take over the legislation for each major area. Resources for the approximation exercise are limited in both the Community and the associated countries, whether in terms of legal or technical expertise, Parliamentary time-tables, or the availability of technical assistance for training. These resources should be focused on areas where they will have the greatest effect.

The Commission has therefore tried to present the legislative "acquis" for each area in a way that distinguishes so-called key measures from the total number of measures applicable, and which then proposes a further breakdown of key measures into two levels of priority, Stage I measures (the highest priority) and Stage II measures (the second priority).

Stage I measures have usually been selected on one or more of the following criteria :

- the measures concerned provide the overall framework for more detailed legislation;
- the measures concerned address fundamental principles or provide for the basic procedures which govern the sector concerned;
- the measures are in one way or the other a pre-condition for the effective functioning of the Internal Market in that sector.

In some areas Stage I measures may also include measures that are judged by the Commission to require a particularly long lead-time for effective implementation and which for that reason should be tackled as soon as possible by the CEECs.

The following important points should, however, be noted in respect of the Commission's approach.

First, some measures not yet adopted by the Community but relatively far advanced in the process have been included, especially where a long lead-time may be required for their implementation. Such measures are marked with an asterisk in the sectoral analyses. The sectors are arranged in the order which corresponds to that of the Directorates-General responsible for the subject matter.

Second, the criteria used for choosing the sequence for approximation within each area of legislation are expressed in terms of the logic or the internal organization of the sector concerned. They are not economic. In other words, the proposed order of approximation is based on a coherent approach to the legislation itself, without reference to the economic costs or benefits of its adoption.

Third, no attempt is made to prioritize between different areas of legislation. For the purposes of the approximation exercise, all areas of the Internal Market are considered to be equally important; indeed, the Commission considers that no objective criterion could be used to prioritize them in terms of the Internal Market, even if some areas of legislation, such as company law, might be considered as essential "building-blocks" for a market economy. Prioritizing between different sectors will depend on the political and economic situation of each associated country. The choice has to be made by those countries rather than by the Union.

Fourth, in a limited number of areas it is not possible to prioritize because the legislation concerned represents a whole and the adoption of any single part of it would yield no benefit in terms of free movement.

Finally, no timetables have been set in the "fiches". These will be decided by each associated country in the light of its own situation and strategy.