

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM(86) 300 final

Brussels, 26 May 1986

## FIRST REPORT FROM THE COMMISSION TO THE COUNCIL

AND THE EUROPEAN PARLIAMENT  
on the implementation of the Commission's White Paper  
on completing the internal market

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## INTRODUCTION

It is just over nine months since the Commission submitted its White Paper on Completing the Internal Market to the European Council and the European Parliament. Nevertheless the Commission considers - and the Council and the Parliament have indicated that they agree - this to be an appropriate moment to publish a detailed progress report on the implementation of its White Paper. This is intended to be the first in a series of reports that the Commission will publish annually on the implementation of the White Paper.

### Format of the Report

This report is divided into six chapters and contains two annexes. Following this introduction, a chapter entitled "The overall picture" provides a global view of the progress achieved to date, draws conclusions from the experience gained over the past nine months and looks ahead briefly to the prospects for the remainder of 1986.

After "the overall picture" the report is divided into three chapters, covering the three main Parts of the White Paper: the physical barriers, the technical barriers and the fiscal barriers. In each chapter, a detailed analysis is provided of the results actually achieved to date by the Commission and the Council in specific areas or sectors. The two annexes which follow the report's "Conclusions" provide details of the proposals submitted by the Commission up to 31 March 1986 (including those adopted by the Council) and of the proposals to be submitted to the Council in 1986.

### Developments affecting White Paper progress

Since last June, when the Heads of State and Government meeting in Milan endorsed the White Paper, there have been two important developments of a political nature which present opportunities which

will have to be seized by the Council if the Community is to make the progress it needs to make in implementing the programme it has adopted.

First, the Heads of State and Government at their meeting in Luxembourg in December not only repeated their endorsement of the White Paper, but also agreed on the extension of majority voting on issues concerning the Internal Market. This should give a significant impetus to the Council of Ministers' decision-making process. In addition, the Heads of State and Government agreed that the Council should confer on the Commission greater powers of implementation. In this connection, the intergovernmental Conference called upon the Council to give the Advisory Committee procedure a predominant place in the interests of speed and efficiency in the decision-making process on internal market issues.

Secondly, the Council, under the Luxembourg Presidency last year, instituted a new and significant change in its own planning procedures which should add further impetus to progress. In the past, each Presidency had its own six-month programme reflecting its own view of the important issues. It was accepted that in order to complete the Internal Market by the target date of 1992 a more purposeful approach was needed. The Council therefore agreed that in future a rolling programme should be adopted as agreed between the sitting Presidency and the two following Presidencies. This programme should specify the subjects to be tackled and the measures to be adopted in the following year. On this basis, the Luxembourg, Netherlands and United Kingdom Presidencies agreed a programme which envisages the adoption of 100 of the measures set out in the White Paper during 1986.

## THE OVERALL PICTURE

In assessing the progress made to date, it must be remembered that the Community is only just at the start of a process which extends up to the end of 1992. It would be unrealistic to expect dramatic progress in an initial period measured in months not years. There have been major steps forward in important areas, which can be expected to bring significant and early benefits to firms and working individuals, and these are to be valued. Nevertheless it is undeniable that, taken as a whole, the first phase of the programme has fallen behind schedule and the institutions of the Community will need to make a major and immediate effort to regain the ground lost.

### Progress in the Council

To date the Council has adopted 27 White Paper proposals since June 1985. Measured against any comparable time-span prior to the White Paper's appearance this would have been regarded as very good indeed and it can be regarded as evidence of a significant new momentum. Nevertheless, it falls considerably short of the 61 proposals the Commission hoped would have been adopted in 1985. The biggest delays have occurred in the agricultural sector where the attention of Ministers has tended to be focussed on other matters.

For the future, it is vital that the Council should improve its procedures following ratification of the Single Act and move purposefully to more majority voting and that greater priority should be given to those measures which form part of the programme, vital to the Community's future, for completing the Internal Market.

The challenge facing the Council in the remainder of 1986 is a considerable one. The White Paper envisages the Council adopting a further 71 proposals in the course of 1986. Taken together with the

proposals not adopted in 1985, this means that the Council should adopt 106 proposals before the end of the year. There can be no question that the rolling programme of the Luxembourg, the Netherlands and the United Kingdom is an ambitious one, but it is one that must be carried through. It will mean that the Community will end the year in a very strong position with well over a third of the White Paper's 300 proposals adopted, many of them of immediate and major importance to European businesses, workers and consumers.

#### Progress in Parliament

Before turning to assess its own achievements, the Commission would like to pay tribute to the European Parliament for the expeditious manner in which it has during 1985 delivered opinions on White Paper proposals put forward by the Commission. The Commission has greatly benefited from the Parliament's goodwill and its full support for the White Paper programme, and is hopeful that both will continue to be translated into action in 1986. The Commission looks to the Parliament to dispatch without delay its opinion on the 17 proposals which it is still considering.

#### Progress in the Commission

The Commission too has fallen behind schedule. According to the White Paper's programme, half of the 300 proposals should have been before the Council by the end of 1985. In fact, only 132 have reached the Council, including those that were already on its table when the White Paper was published. This is because to date the Commission has been able to transmit only 28 White Paper proposals, instead of the 48 the programme foresaw.

The main reason for this slippage has been the shortage of staff in the Commission services.

The Commission has made clear from the outset that the White Paper programme would require adequate resources for its successful completion. So far delays at the Commission end of the pipeline have fortunately not yet delayed the Council's timetable. The Commission is already taking urgent steps to give greater priority to the resource needs of the Internal Market programme. But experience since publication of the White Paper has proved beyond any doubt that additional resources over and above what is available from internal redeployment are also needed.

Looking ahead to the remainder of 1986, the Commission's aim remains to forward the proposals outstanding from 1985 and to submit the 50 new proposals envisaged in the White Paper timetable. These will include:

- 1 proposal on the introduction of common border posts
- 2 proposals on the control of individuals; one an intermediary proposal on the abolition of police controls at internal frontiers; the other a proposal on the approximation of arms legislation.
- 1 proposal on technical harmonisation and standards policy.
- 11 sectoral proposals approximating law on inter alia motor vehicles, food law, pharmaceuticals and high technology medicine and on chemical products.
- 15 proposals on veterinary and phytosanitary controls
- 4 proposals on financial services, 2 of which relate to banking and 2 to insurance
- 3 proposals relating to trade marks

- 3 proposals on new technologies and services; and
- 5 fiscal proposals

The Commission has also taken other initiatives to ensure that the process of completion of the internal market meets with the support of all those operating within the economy and brings early benefits to business and industry. The White Paper recognised the need to take account of the regional and social effects of completing the internal market. The Commission has constantly stressed that in the course of completing the internal market, the prosperity and employment of all groups and regions should be promoted and that the social dimension of the Community should be strengthened.

To this end, the Commission has decided to entrust a group of experts with the task of assessing the regional impact of the full internal market. The social aspects of the completion of the internal market are on the agenda of the Social Dialogue being organised at European level which, after the meeting held last November in Val Duchesse, is being pursued in two working parties.

The Commission has also set up a Task Force for small and medium-sized enterprises, one of whose primary tasks will be to ensure that the benefits of the internal market are fully and promptly accessible to small businesses.

It must not be forgotten that, though the Community's ultimate aim is an area without internal frontiers by 1992, the programme in the White Paper contains many proposals which will, once adopted, be of significant and immediate economic benefit. Some, indeed, have been adopted already. The European Economic Interest Grouping, adopted in 1985, will offer the benefits of a measure of international integration to average and smaller-sized firms which have hitherto only been



available to the big multinationals. The new approach to standards, adopted in its main lines by the Council and now being pursued vigorously (and even ahead of schedule) by the Commission will progressively reduce the problems caused by differing national standards for a whole range of product areas. Both the Commission and the Council have adopted several proposals on free movement of labour and the professions, and on the wider availability of training in the Community which should significantly enlarge the fund of qualified expertise to which European enterprises can have access. During 1986 measures scheduled for adoption by the Council would enable European business to hire engineers throughout the Community, to buy insurance and to compete for public contracts more easily, to have greater access to market and other information services, to raise mortgage credit for new premises, to cease to produce separate accounts for company branches and, in the case of small and medium-sized enterprises in particular, to simplify or even eliminate altogether their VAT administration. These are the immediate prizes to be won by European enterprises if their governments in the Council are to achieve the momentum needed to keep the completion of the Internal Market on course. But the full benefits of a truly integrated single market will only be realised once the whole of the White Paper programme is completed.

PART ONE: THE REMOVAL OF PHYSICAL BARRIERS

"It is the physical barriers at the customs posts, the immigration controls, the passports, the occasional search of personal baggage, which to the ordinary citizen are the obvious manifestation of the continued division of the Community ... These barriers are equally important to trade and industry, commerce and business".

- paragraph 24 of the White Paper.

I. Control of goods

Progress towards the elimination of physical controls made on goods at internal frontiers for fiscal, commercial, economic, health and statistical reasons has been somewhat mixed.

As far as the "various controls" identified in the White Paper timetable are concerned, the Commission succeeded in submitting 3 out of the 4 Proposals envisaged for 1985. These concerned the abolition of road transport quotas at border crossings, followup to the Single Administrative Document and the abolition of customs presentation charges. The outstanding proposal on the abolition of border controls related to transport authorisations will be forwarded to the Council in the second quarter of this year. The Council for its part adopted both proposals envisaged for 1985, namely those concerning the duty-free admission of fuel contained in the fuel tanks of buses and coaches and the follow-up to the Single Administrative Document.

Less success was had in the field of veterinary and phytosanitary controls. The Commission put forward only two proposals (on meat products and an improved Community system of certification of seeds) out of the 6 envisaged in the White Paper timetable. This slippage was largely due to the need to maintain on-going management of existing Community policies and programmes. The Commission's priority for the

remainder of 1986 will be to deal with the backlog from 1985. Although the Council adopted 7 veterinary and phytosanitary proposals on production and trade in milk, hormone growth promoters, micro-biological controls, the medical examination of personnel, swine fever and the control of foot and mouth, it has still fallen a long way short of the 18 proposals envisaged for adoption in 1985. This delay is due in part to the different levels of health protection from one Member State to another and the unwillingness of the Member States to accord mutual recognition to each others' protection methods and standards, and also to the lack of priority given to such matters by Agriculture Ministers.

Although no specific proposals on commercial and economic policy measures were envisaged for either submission to or adoption by the Council in 1985, two events are worthy of mention here. The first was the adoption by the Council of the Commission's negotiating mandate for bilateral agreements within the MFA agreement. This contains three elements of importance in the context of achieving a genuine internal market for imported textiles, namely

- a) a reduction in the number of countries to which traditional bilateral agreements - with quotas broken down by Member States - will apply;
- b) the objective of eliminating around 25% of existing national quantitative limitation, where these have been underused in the past;
- c) provision for progressively increased flexibility between national quotas over the duration of the renewed MFA.

The second was that at the end of 1985, the Commission authorised Greece on the basis of Article 108 of the Treaty to introduce an import deposit requirement for a limited range of products; these safeguard measures are temporary and are to be phased out over a relatively short period.

The Commission has also begun, in conjunction with the national statistical offices, to identify what, if any, intra-Community trade statistics will still be needed once the internal market is completed and to examine how in the absence of frontier controls they might be obtained.

Later this year, the Commission will present to the Council a paper on the implications of the emergence of a large integrated market for the Community's external policy.

## II. Controls on individuals

As a follow-up to the recommendations of the Ad-hoc Committee on a People's Europe (the Adonnino Committee) the Commission in January 1985 submitted a proposal for a Directive on the easing of controls at intra-Community borders. Given the European Council's endorsement of the Adonnino Committee's recommendations, the Commission had high hopes that its proposal would be adopted as envisaged in 1985. The proposal however remains blocked at Council level despite the fact, as the White Paper pointed out, that "there is no area in which progress, where it can be made, would be more visible or more directly relevant to the aims, ambitions and vision of the Community". The Commission supports the European Council in its belief that this is an area where progress can and should be made urgently.

The Commission for its part will persevere with its approach, putting forward this year the two proposals it is due to submit, viz. an intermediary proposal on the abolition of police identity controls when leaving one Member State to enter another and a proposal on the approximation of arms legislation.

The Commission will also be putting forward this year additional proposals, not foreseen in the White Paper, to simplify further the formalities governing the temporary import of vehicles, passenger transport and removals. In this context, and on the basis of the case law of the Court of Justice (notably the Gaston Schul judgement), the Commission published on 21 January 1986 a Communication explaining the manner in which it intends to apply Article 95 of the Treaty in order to avoid double taxation.

PART TWO: THE REMOVAL OF TECHNICAL BARRIERS

" The elimination of border controls, important as it is, does not of itself create a genuine Common Market. Goods and people moving within the Community should not find obstacles inside the different Member States as opposed to meeting them at the border."

- paragraph 57 of the White Paper.

I. Free movement of goods

Whilst it must be admitted that the Commission's achievements in this area since publication of the White Paper are disappointing in statistical terms - only 6 of the 18 envisaged proposals have been submitted - in qualitative terms considerable progress has in fact been made in two important respects.

First, the Commission has submitted ahead of schedule a proposal on pressure vessels, which is the first proposal to implement the Commission's new approach to technical harmonisation and standards policy.

Second, following on from the publication in November 1985 of its new guidelines on legislative policy in the foodstuffs sector, the Commission has recently submitted to the Council four proposals aimed at implementing the new approach to food law harmonisation; these proposals relate to additives, materials and articles in contact with food, food for specific nutritional uses; and food labellings.

In addition, the Commission has submitted new proposals on gaseous emissions from passenger motor cars ("exhaust emissions") and on the classification, packaging and labelling of dangerous substances. The 5 outstanding proposals in the motor vehicles and chemicals sectors will be put forward later this year.

Some delay has occurred in drawing up the 3 proposals envisaged in the construction sector. Further technical consultations on the new

approach to be adopted were the main cause for this. The Commission will shortly submit a single new proposal on construction and at the same time will withdraw its existing proposal which is still held up in the Council.

In addition to the proposals in the White Paper timetable, the Commission has also submitted proposals on standardisation in the field of information technology and telecommunications. These proposals are fundamental to the objectives of restoring industrial competitiveness and of promoting a European technology Community.

In order to prevent the erection of new barriers to the free movement of goods, Member States have since 1 January 1985 been obliged under Directive 83/189/EEC to notify the Commission in advance of all draft regulations and standards concerning technical specifications that they intend to introduce in their own territory. In 1985, the Commission received 80 such notifications. As a result 32 draft national regulations were suspended because of their potential implications for intra-Community trade. In addition, in 10 cases the Commission announced harmonisation directives designed to replace the planned national initiatives. This policy of preventing potential barriers from being set up has already had an impact on the number and type of complaints received by the Commission. The proportion of complaints about the behaviour of administrations is decreasing in relation to those concerning national measures. This policy has been further reinforced by the interpretation given to this directive by the Commission, which declares that any technical regulation adopted without complying with the notification requirement may not be relied upon against third parties.

Finally, since the White Paper was published, the Commission has continued successfully to promote standardisation. As a result, in 1985 cooperation agreements were concluded between CEN and CENELEC and the decision-making procedures of these two organisations were strengthened.

For its part, the Council has adopted 7 of the 17 proposals envisaged

for adoption in 1985. Of these, 5 concerned food law (sampling and methods of analysis, preservatives, emulsifiers, coffee and chicory extracts, and simulants) and 2 concerned chemical products (the marketing and use of polychlorinated biphenyls and asbestos). In addition, the Council adopted ahead of the White Paper timetable the Commission's proposals on non-ionic detergents and on Membership of the European Agreement on detergents.

The 10 outstanding decisions awaited from the Council concern important proposals on gaseous emissions of motor cars ("exhaust emissions") and food law, and other proposals on airborne noise of household appliances, on tyre pressure gauges and on consumer protection in respect of the indication of prices for non-food products. It is crucially important that this backlog of 10 decisions yet to be taken should be disposed of quickly, since the Council is in addition expected, by virtue of its own programme, to adopt a further 28 proposals on the free movement of goods in 1986.

## **II. Public procurement**

The Commission will shortly be submitting to the Council its proposal to improve existing directives, which was originally foreseen for 1985. No other proposal or decision is envisaged in 1986 but the Commission will concentrate its efforts on improving the effective application of the existing directives.

## **III. Free movement of labour and the professions**

Whilst some slippage has occurred on the free movement of goods, significant progress has been made on the free movement of labour and the professions.

The major proposals scheduled for 1985 on -

- ERASMUS, student mobility and cooperation between further education establishments



- COMETT, cooperation between higher education and industry for advanced training in new technologies
- YES, development of youth exchanges, and on
- the mutual recognition of higher education diplomas,

have all been submitted on time, in conformity with the wishes expressed by the European Council. The outstanding proposal to eliminate remaining obstacles to the movement and residence of migrant Community workers will be submitted this year.

Special mention must be made of the promptness with which Parliament has given its opinion on the proposal for a general system of mutual recognition of higher education diplomas. As a result, the Council will be able to examine this year the substance of this important proposal.

Prior to publication of the White Paper, the Council adopted the Directive which extended the right of establishment to architects. Since then, the Council has adopted two proposals extending similar rights to pharmacists and the proposal on the comparability of vocational training qualifications. The Council has yet to adopt 5 proposals already before it related to free movement of people: on the harmonisation of income taxation provisions with respect to freedom of movement of workers in the Community; on the right of establishment of engineering and commercial agents; and on the right of residence for nationals of Member States not yet or no longer employed.

In addition, the Council has yet to take the budgetary decisions needed to implement the Commission's proposal on COMETT.

#### **IV. A common market for services**

The White Paper envisages action in the following 3 main areas: on financial services and securities; on transport services where national

rules hamper the free movement of services; and in the field of new technologies.

In the financial services and securities sector, the Commission had already, at the time of publication of the White Paper, submitted its proposal on freedom of establishment and freedom to supply services in the field of mortgage credit. In addition, the Commission has since submitted 2 of the 4 proposals envisaged for 1985, namely the proposal on the reorganisation and winding up of credit institutions and the proposal on information to be published when major holdings in the capital of a listed company are acquired or disposed of.

The two proposals which the Commission has yet to put forward concern the harmonisation of the concept of own funds and the accounts of foreign branches of banks. These will be submitted shortly; as will an additional proposal on the accounts of branches of companies.

The proposals which the Commission announced it would submit in 1986 (on banks viz large exposures and deposit guarantee arrangements; and on insurance viz accounts of insurance undertakings and winding-up of insurance companies) will be submitted on schedule. In addition, the Commission is likely to submit supplementary proposals on undertakings for collective investment in transferable securities (UCITS) and a proposal on insider trading, not foreseen in the White Paper.

On financial services and securities, the Council has adopted the two proposals on UCITS scheduled for 1985. Viewed overall therefore, the White Paper programme for liberalisation in this sector is well-advanced. Two Council decisions are foreseen in 1986, namely on own funds and the directive to facilitate freedom to provide services in the field of non-life insurance. A ruling by the Court of Justice, expected this summer, is likely to lend a decisive impetus to progress in this field.

Turning to the liberalisation of transport services all the requisite proposals, with the sole exception of the proposal on liberalisation of

coach services which will be submitted shortly, are already before the Council. Although the Council has not yet adopted the Commission's proposal on air transport fares envisaged for 1985, the momentum created by the White Paper and the judgement of the Court of Justice in case 13/85 led the Transport Council in November to adopt transport policy guidelines, which include an undertaking to bring about a road haulage market free from all quantitative restrictions by 1992 at the latest.

Lastly, as regards the liberalisation of services in the field of new technologies, the Commission has just forwarded to the Council a single proposal on Television without Frontiers which amalgamates the two proposals announced in the White Paper for 1985. Together with the Commission's proposal, not mentioned in the White Paper, for a directive on television broadcasting standards, this proposal represents a major contribution to the establishment of a Community-wide television broadcasting area. The Commission hopes that the Parliament will be able to deliver an early opinion on these proposals which once adopted will enable European industry to stand up more effectively to international competition. The Commission would also like the Council to begin to examine these proposals as soon as possible.

#### V. Capital movements

In accordance with its Work Programme for 1986 (paragraph 1.3, monetary cooperation) the Commission will shortly be amending the decisions taken under Article 108 (3) of the Treaty in December 1984 in respect of France and Italy. The amended decisions will be more limited in scope reflecting the more liberal safeguard measures that have been applied by these Member States since 1984.

By mid-1986, the Commission will present a programme for liberalizing capital movements, which will describe the successive stages by which the Community's obligations to allow free movement of capital, in the context of completing the internal market by 1992, are to be met.

In the first stage of this programme, the Commission will this year submit to the Council a proposal for a directive liberalising capital flows associated with the issue and placing of securities representing risk capital, of transactions in securities and long-term commercial credit.

The problem over the free circulation of capital movements associated with the freedom to supply services in the field of mortgage credit will be dealt with in the framework of a proposal for a directive concerning, in particular, freedom of financial loans and monetary operations, which the Commission intends to submit to the Council in early 1987.

#### **VI. Creation of suitable conditions for industrial cooperation**

As announced in its 1986 Work Programme, the Commission intends this year to devote particular attention to creating conditions conducive to industrial cooperation - this is crucially important to the objective of completing the Internal Market and to the creation of a European Technology Community. The measures referred to in the White Paper focus on the creation of a common legal framework for companies, the elaboration of intellectual and industrial property law and the removal of tax obstacles to cooperation.

As far as the objective of creating a common legal framework is concerned, the Council in 1985 took a major step towards this goal by adopting the Commission's proposal for a European Economic Interest Grouping. As a result there now exists at Community level a flexible legal instrument for future cooperation between enterprises, particularly small and medium sized enterprises. The Parliament has yet to give its opinion on the Commission's proposal for a Tenth Directive covering cross-border mergers.

As regards intellectual and industrial property law, the Commission too met its objectives for 1985 by submitting on schedule 3 new proposals on the legal protection of integrated circuits, on the approximation of

the laws of Member States relating to trade marks and on the rules needed for implementing the Community trade mark regulation. Success in this respect could only be achieved at the expense of deferring work on the Commission's Green Paper on copyright. As a result, this Paper will not be published until later this year.

Even though the new Luxembourg Convention on a Community Patent was not signed in 1985, it was initialled by all the Member States which took part in the Inter-Governmental Conference in 1985 and work is continuing to ensure that it will be put into effect in 1987 as envisaged in the White Paper.

Progress in the field of corporate taxation has been less than satisfactory. In 1985, the Council should have adopted proposals on an arbitration procedure concerning the elimination of double taxation, on a common system of taxation applicable to parent companies and their subsidiaries and on a common system of taxation of mergers, divisions and contributions of assets. To date, none of them has been adopted. For its part, the Commission has not yet published its White Paper on corporate taxation. Precedence has had to be given to the work on indirect taxation which has a more direct link with the abolition of frontiers, but the White Paper on taxation will be published shortly.

#### VII. Application of Community Law

As the Commission pointed out in its White Paper, the Community's political and legislative efforts to create an expanded home market for the people and industries of the Community will be in vain if the correct application of the agreed rules is not ensured.

The Commission therefore attaches considerable importance to pursuing vigorously any suspected breaches of Articles 30 - 36 of the Treaty, which provide for the elimination of quantitative restrictions and

measures with equivalent effect in trade between Member States. In 1985, the Commission's services had to deal with more than one thousand cases under this section of the Treaty. Apart from over 350 new complaints which were registered by the Commission in 1985, in this same year formal infringement proceedings under Article 169 were commenced in 152 cases, reasoned opinions under the same Article were sent in 93 cases and 34 cases were referred to the Court.

During 1986 the Commission intends to give priority to its policy of pursuing all infringements whose effect is to block the free movement of goods within the Community.

The Commission announced in its White Paper its intention to publish general communications on its interpretation of the application of Articles 30 - 36 for the whole of an economic sector or in relation to a particular type of barrier. The first of these communications, on the prices of pharmaceutical products, will be published this year.

