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FOURTH PROGRESS REPORT OF THE COMMISSION TO THE COUNCIL AND THE EUROPEAN PARLIAMENT

concerning the implementation of the Commission's
White Paper on the completion of the internal market

TABLE OF CONTENTS

INTRODUCTION	1
PART I : THE OVERALL PICTURE	2
I. GENERAL PROGRESS	2
II. THE GENERAL SITUATION	4
THE COMMISSION	4
THE COUNCIL	6
THE PARLIAMENT	8
III GENERAL SUPPORT MEASURES	8
IV EUROPE WORLD PARTNER	10
- o - o - o - o - o -	
PART II : PROGRESS ON THE WHITE PAPER PROGRAMME	11
I. THE ABOLITION OF PHYSICAL FRONTIERS	11
The abolition of frontier controls on goods	11
The abolition of frontier controls on people	13
II. THE REMOVAL OF TECHNICAL BARRIERS	15
1. Technical harmonisation and standards	15
a. Implementation of the "New Approach"	15
b. Sectoral approximation of laws	16
i) Motor vehicles	16
ii) Tractors and agricultural machines	16
iii) Food law	16
iv) Pharmaceuticals	17
v) Chemicals	17
c. The prevention of new technical barriers	18

2. The opening-up of government procurement	18
3. The free movement of workers	19
a. The regulated professions	19
b. The freedom of establishment for members of the professions	19
c. The free movement of wage-earners	19
d. The general right of residence	20
4. Services	20
a. Financial services	20
i) The banking sector	20
ii) The insurance sector	21
iii) Securities transactions	21
b. Transport	21
i) Air	21
ii) Road	22
iii) Sea	22
iv) Inland waterways	22
c. New technologies	22
i) Television	22
ii) Telecommunications	23
iii) New means of payment	23
iv) Capital movements	23
5. The creation of suitable conditions for industrial co-operation	24
a. Company law and taxation	24
b. Intellectual and industrial property	24
III. THE REMOVAL OF FISCAL BARRIERS	25

- o - o - o - o - o -

ANNEXES

3

INTRODUCTION

1. In June 1985 the Commission unveiled its programme to remove all the obstacles to free movement in the Community. Since then the programme has stood as a yardstick against which to measure the progress made towards implementing the Single European Act, particularly through Article 8A of the Treaty.
2. The new Commission appointed in January will share the same purpose, as has been made clear in its work programme. It intends to keep the programme intact as a single comprehensive package to create the right economic and social conditions in the Community by the end of the century. Meanwhile, the European Councils of Hanover and Rhodes have attached particular weight to public purchasing, financial services, technical harmonisation, intellectual property, transport, energy, the European Company statute and the abolition of frontier controls.
3. With these ends in mind, the Commission is going to continue its periodic reports to keep industry and the public at large informed about progress on the White Paper and to warn the Parliament and the Council of any major difficulties which could block the way to the attainment of the overall objective. This document complements the report formally required by Article 8B of the Treaty, submitted in November 1988 (COM(88)650). It confirms the point made by the Hanover European Council that the process of the realisation of an area without frontiers is now "irreversible". Meanwhile, the Rhodes European Council has requested quicker progress to make up for the worrying delays which have arisen in the work relating to the free movement of people and taxation.
4. This is the fourth in this series of annual progress reports. It includes Annexes listing the measures adopted by the Council, the proposals now being discussed and the further proposals awaited from the Commission.
5. The gradual process of attaining the central objective of a single European market cannot be seen in isolation from the other five objectives which, under the terms of the Single Act, are inextricably linked to revision of the Treaty of Rome. The Single Act pinpointed the flanking policies needed to complete the internal market (economic and social cohesion, social policy and environment) and the policies made necessary by the success of the large market (research and technological development, monetary capacity).

PART I: THE OVERALL PICTURE

1. GENERAL PROGRESS

6. Both the Commission and the European Council have said that the process of completion of the single market is now irreversible because of the combined effect of the speeding-up of the decision-making process which has shown that the objective is credible and of the preparations being made by businesses.

7. Decision-making by the Institutions has accelerated considerably since the Single European Act entered into force, primarily due to the changes in procedure. The extension of qualified majority voting to most issues connected with the internal market has stepped up the pressure to find a consensus within the Council. This faster pace has enabled the Council to have definitively adopted 127 measures representing - together with current common positions and partial adoptions - approval of over 50 per cent of the programme of 279.

8. Since the Single European Act entered into force 36 measures have been adopted on the basis of Article 100A, 16 of them within less than 15 months. It took just 12 months to reach a common position on the key proposal on the harmonization of the technical rules concerning machine safety, compared with 70 months to adopt the first Directive to reduce noise from lawnmowers. The most striking advances have been on the free circulation of capital, obtained in less than a year, and the general recognition of diplomas: after 18 years to secure the right of establishment for architects, it took less than 3 years to agree on the mutual recognition of all equivalent university diplomas. By contrast, no major decision has been adopted in the areas requiring unanimity, i.e. on the taxation of consumption (VAT) or savings or on the free movement of persons.

9. This quicker decision-making is also partly due to the Commission's approach of combining mutual recognition with harmonization. Wider application of the principle of subsidiarity has limited the Community measures on the various areas covered by the White Paper, such as technical rules, government procurement, financial services or diplomas, to the strict minimum needed to ensure free movement.

10. All business surveys show that the 1992 message has been received, albeit sometimes with a measure of concern. Businesses are preparing for the event by making the European dimension an integral part of their strategy from now on. As a result, the Commission intends further to enlarge its information activities beyond those which the Member States have increasingly agreed to undertake, in order to communicate the meaning and the detailed content of the measures adopted and those envisaged more widely. The intention being to encourage businesses to anticipate the overall objective and to include a European dimension from now on in their strategic planning. Together with the general worldwide economic recovery, this business

reaction to 1992 is the principal reason for the revival in investment in the Community, which has now become a more attractive region for foreign investors. As indicated by the Commission in its report on the economic outlook for 1989 and 1990, this growth has been creating more jobs than ever before, rolling back the unemployment rate to 1983 levels. At the same time the Community's dynamic economic performance has generated strong growth in Intra-Community trade as the national economies draw closer together.

11. But the overall assessment must not be allowed to cover up the difficulties which remain. Despite the rapid progress on removing technical frontiers, the main decisions have yet to be taken to abolish the formalities applied to Intra-Community trade. Given the time it will take to implement such decisions and to convert the inspection installations, particularly at airports, decisions must be taken soon to make the process irreversible in this area too. In addition, a change of attitude on the part of the Member States is needed to incorporate the decisions taken into their national law and to do away with the delays which are currently evident in the implementation of Community legislation.

12. Although most of the proposals to abolish frontier formalities are now on the table, the Council has yet to adopt any major decision on them. Progress has begun in the form of the discussions on the free movement of persons and the harmonization of indirect taxation based on the pragmatic approach outlined in the latest Commission Communication (COM(89)260) of 17 May 1989; but no specific measures have yet provided tangible evidence of the political will to abolish frontier inspections. However, the Council could give two clear signals in 1989. One could take the form of a significant increase in the value of duty-free allowances for travellers within the Community, which will be the subject of a new Commission proposal shortly to be made; and the other would be the adoption of the proposal which is already on the Council table concerning the ending of controls on means of transport.

Substantial progress must equally be made by the end of the year in dismantling animal and plant health inspections: the only section of the White Paper which seems to be of little interest to the Council. Even though majority voting may well be increasing the speed of their deliberations, the Ministers of Agriculture are still giving insufficient priority to these files.

13. Pursuant to Article 8A of the Treaty and the Declarations of the European Council, there will have to be an acceleration in the progress of work towards the free movement of people by the deadline envisaged. Witness the problems encountered by the proposal on the general right of residence, which the Commission has been forced to withdraw; or again the blockage of the modest tax proposals to facilitate removals or the use of private cars. The danger is that just one isolated case of someone abusing this right could be taken as a pretext for restricting the right altogether. Certainly, in

response to the ADONNINO report, a great deal has been done to strengthen European identity, with the aid of exchange programmes, health policy and the recognition of diplomas. However, no practical results have been obtained at Community level to abolish frontier crossing formalities as a way of bringing home to all European citizens the objectives for 1992.

14. At the same time, the increase which is taking place in the volume of Community legislation is already causing implementation problems in the Member States. It is not enough for the Council to adopt legal acts. This still leaves the national authorities to implement them in full and in good time. Since last December the number of implementing measures adopted by the Member States has been rising steadily, but so has the backlog. Of the 68 measures which should have been implemented by now only 2 have been incorporated into the national legislation in every Member State. The record varies from one Member State and field to another.

15. The Commission is concerned about the impact of this state of affairs on the credibility of the objective and on legal certainty for all involved. It is systematically applying the procedures provided by Article 169 but must now back-up this legal action with a political approach to the Council, the Member States and the Parliament.

16. In conclusion, with less than four years left, the time has come to embark on a new stage. The genuine progress made towards removing most technical barriers cannot hide the fact that nothing has been done to abolish physical and tax frontiers. Specific decisions must be taken this year to demonstrate the credibility of these objectives too.

11. THE GENERAL SITUATION

THE COMMISSION

17. The Commission has kept to its programme and tabled over 90% of the proposals required by the White Paper, excepting the animal and plant health sector. Moreover, a considerable acceleration in the rhythm of progress is envisaged in this last-mentioned area, to ensure that the entire programme is on the Council table by the end of the year. This will be well ahead of the schedule in the White Paper, in order to keep up the pace of decision-making within the Council and to leave at least two years for incorporation by the Member States.

18. - the internal energy market: the rules laid down in the Treaty on the free movement of goods and services apply to the energy sector, too. With this in mind, the Commission and the European Council have declared their intent to remove obstacles to trade in this sector to boost the competitiveness of major energy-using industries. In 1989

the Commission will table specific proposals, on the one hand, to facilitate transfers of electricity and gas and, on the other hand, to increase the price transparency of these two forms of energy for the major industrial users.

- approximation in the rates of retention tax levied at source on investment income and reinforcement of co-operation between national revenue authorities in cases of suspicion of serious fraud;
- abolition of frontier formalities, including proposals to reorganize animal and plant health inspections, to end checks on vehicles and to reorganize the gathering of statistics;
- implementation of the "New Approach" to technical harmonisation through the draft directives establishing the essential requirements and through an acceleration in the standardisation process;
- completion of the European financial area for banks and securities;
- opening-up of the sectors of public procurement currently exempted from the Community rules;
- finalization of the proposals to remove the barriers created by the national rules on the protection of industrial property;
- the internal energy market: the rules laid down in the Treaty on the free movement of goods and services apply to the energy sector too. With this in mind, the Commission and the European Council have declared their intent to remove obstacles to trade in this sector and deregulate the market to boost the competitiveness of major energy-using industries. In 1989 the Commission will table specific proposals, on the one hand, to facilitate transfers of electricity and gas and, on the other, to increase the price transparency of these two forms of energy for the major industrial users.
- the abolition of fiscal frontiers : the Commission has outlined a new approach to the harmonisation of indirect taxation founded on flexible and pragmatic means of dealing with the problems which have arisen in this domain (see section III). The proposals necessary to give effect to this new approach will be presented between now and August 1989.

19. The Commission sees to the updating of the White Paper programme so that it remains a valuable yardstick for assessing the progress made towards a frontier-free Europe. In view of the progress already achieved in the framework of inter-governmental co-operation concerning the free movement of people, it has been decided for the moment not to present certain legislative proposals foreseen in the programme in order to see if the work already in progress will not

achieve the objectives sought more quickly. Similarly, the Commission has, for the moment, decided against tabling proposals on the site of the Community Trademark Office and its working language. Other changes have been made to take account of the wider use of the mutual recognition principle. Together these have cut the number of proposals from the 286 originally announced to 279.

20. The completion of the Commission's part in the programme should not be allowed to distract attention from the important work still to be done of administering the legislation adopted. Many of the Directives adopted by the Council, particularly on animal and plant health, food and chemicals, delegate a great deal of implementing work to the Commission. This in turn calls for detailed technical work by experts to pave the way for the Commission to adopt decisions. As already stated in the report under Article 8B of the Treaty, the Commission regrets that the Council has not conferred more implementing powers to the Commission.

21. The growth in this work and the increased interest in 1992 generally have led to greater efforts being made by the Commission in the dissemination of information to ensure that what is happening is clearly understood. The priority information programme has made the promotion of 1992 a major objective. Many initiatives are in process and the Commission's network of Offices is playing an important role in the dissemination of information throughout the Community. A network of speakers, Team '92, is in place.

THE COUNCIL

22. The Council has definitively adopted 127 Directives, Regulations, Decisions and Recommendations, partially adopted 5 more, and reached 6 common positions. This is over 60% up on the third annual report. One third of the proposals still on the Council table were submitted in 1988/89.

23. The four areas which are furthest behind schedule are (1) Citizens' Europe, (2) taxation, (3) plant and animal health controls and (4) industrial property rights.

24. The Commission has complained repeatedly about the delays in building a Citizens' Europe. The recent decision on the recognition of diplomas represents practically the only example of Community action of any real importance in this sector. The European Council's decision to establish a group of "Co-ordinators" raises hopes for a new impetus in connection with the abolition of internal frontier controls on the free movement of people. Nevertheless, further progress in this connection must be made, and must be made fast, to make the objective more credible and to dispel any loss of confidence that may be taking place. This progress must include a strengthening of the Community's external frontier controls concurrently with the abolition of internal frontiers.

The time has come for the Member States and the Council to go beyond simple statements of good intentions. The failure of the proposal on the right of residence combined with the Council's refusal to relax the formalities applied to removals or the use of private cars show that it has not yet been possible to overcome the potential risks of tax evasion or abuse of the social welfare rules. Exceptional cases are being used in the negotiations as a pretext to subject honest citizens to restrictive provisions which conflict with the objective and image which the Community wishes to project.

25. Turning to taxation, the Commission welcomes the progress made in the talks on the abolition of tax frontiers, which has secured virtually unanimous agreement on the objective of abolishing tax formalities for Intra-Community transactions. The constructive debate in Parliament and the Council stimulated by the proposals submitted in August 1987 has paved the way for the Commission to review its proposals in order to facilitate the search for solutions meeting the concerns which have been expressed by the Member States. The Commission feels that top priority should be given to the study of these amended proposals since a solution must be found on tax formalities before all inspections on goods and persons can be abolished. As the Commission has repeated many times since 1985, it takes just one frontier inspection to serve as justification for the retention of all the others.

26. In the animal and plant health sector, the Council is committed to pursuing the work directed to the abolition of all controls in the 1992 context. Even so, and despite the reminders given by the European Council in December 1988, the achievements so far have been hardly convincing. It is imperative that the Council further intensifies its efforts and maintains an absolute priority for the animal and plant health sector. As was the case in March 1988, the Commission is obliged once again to express serious concern at the fact that there are still as many as 20 proposals on the Council table, either on the point of adoption or still under discussion. Moreover, in the course of 1989, some 30 new proposals will, in principle, be added to this list.

27. Finally, on industrial property despite the important results the adoption of the Directive on the harmonization of the laws of the Member States on trademarks and the protection of semi-conductor topographies, two fundamental files remain on the table, concerning, on the one hand, the regulation on the Community trade mark, and on the other hand, the draft Convention on the Community patent; both essential to provide manufacturers with satisfactory protection for their products everywhere on the internal market.

THE PARLIAMENT

28. Following the introduction of the cooperation procedure and thanks in particular to improved co-operation between the institutions, over the last few months the Parliament has considerably strengthened its role in the legislative process and increased the speed of its deliberations. It has even made its position known on certain files still before it, such as indirect taxation.

29. Two examples of the Parliament's determination to make the cooperation procedure work effectively can be found in its deliberations, firstly, concerning the common position on television, the examination of which took just one month, and secondly, on the opening-up of government procurement, on which it gave its opinion in under six months. This same determination has also ensured that the June 1989 elections will not interrupt the overall decision-making process.

30. The effective way in which it has exercised its power to propose amendments to the common positions adopted by the Council, has enabled the Parliament to have a real say in the final decisions taken. It is thanks to the intervention of the Parliament that opening-up of public works contracts included the reference to the use of European standards in calls for tender. It was also thanks to its intervention that the discussions on small car exhaust emissions took account of stricter environmental protection considerations.

31. At the moment 25 proposals are pending before the Parliament, most of them submitted in late 1988 or early 1989. Consequently, the newly elected Parliament's agenda will include a series of key files on matters such as indirect taxation, financial services, insurance and industrial property. Over the next few months new proposals will follow on plant and animal health inspections, air transport, technical harmonisation and company law. Amongst other things, the Parliament will have to give its opinion as fast as possible on the new proposals for the approximation of indirect taxation and on the European company statute.

III. GENERAL SUPPORT MEASURES

32. In order to attain the 1992 objective, a series of other measures will be needed to support the moves to break down frontiers within the Community and to boost their impact by achieving greater economic efficiency and paying more attention to economic redistribution. In this context, six areas are particularly important:

33. **Economic and social cohesion in the Community:** One of the instruments for achieving this objective is to be found in the Structural Funds; for which the rules of application have been fundamentally revised with effect from 1 January, 1989. During 1989, the most important task of the Commission will be the establishment of the Community support framework, on the basis of the plans proposed by the Member States. This will provide the overall guidelines to be followed by the Structural Fund allocations which, from now on, will reflect the five priority objectives defined during the revision process. The Commission will be operating throughout this work within the framework of its partnership with the national and regional authorities concerned.

34. **The social dimension :** In the context of the protection of employees at the workplace, the Commission has presented a total of 10 proposals for directives to the Council, of which two have been adopted and four have been agreed, through the reaching of common positions. The Commission, in its endeavours to promote the social dialogue, considers that a single Community market must rest on a foundation of coherent social conditions. This is why on 17 May the Commission adopted the provisional draft of a Community Charter of fundamental social rights.

35. **Competition policy :** the Commission feels that the new opportunities for cooperation between businesses must not damage competition. The Community rules on takeover bids must be backed up by a merger control procedure. It is vital for the Council to adopt a vetting system for mergers, not only to enforce the existing rules on competition effectively but also to safeguard the certainty of agreements between undertakings.

36. **Environmental protection :** environmental protection lies at the heart of the harmonisation measures. The Single European Act requires the Commission to base its proposals on "a high level of protection". Community legislation must make its contribution towards combating the major sources of pollution worldwide. Care must be taken to avoid setting the level of harmonization so low that it leads to public health or environmental objections to the rules governing the single market. For this reason the Commission has taken particular care to ensure that the decisions taken, particularly on such matters as chemicals or emissions from motor vehicles, in no way conflict with environmental protection objectives. Nevertheless, the Commission is obliged to continue insisting on recourse to Article 100A rather than Article 130S whenever the measure concerned is capable of affecting the free movement of goods.

37. **Science and technology :** Community action organised within the framework programme for research is contributing to the scientific and technological knowledge necessary for the adoption of new product standards and regulations, while also playing an important role in the overall policy accompanying the 1992 objective. The next framework programme will place particular emphasis on the role of pre-standards research.

38. Consumer protection : the free circulation of goods and services is based on the protection of health and safety and, more generally, consumer protection. This protection supplies the foundation for specific harmonisation measures and, notably, the definition of the principles of safety within the framework of the "New Approach". The implementation of these principles must be translated into a permanent improvement in product quality on which consumers can feel safe to rely in a market without frontiers. To supplement the specific measures adopted the Commission has also proposed a horizontal directive on product safety. This will be followed by a proposal on civil liability for defective services; thereby establishing a Community safety policy associated with the completion of the internal market. It is in the light of this overall approach that the adoption of the directive on consumer credit is to be welcomed.

IV. EUROPE WORLD PARTNER

39. In the spirit of the Declarations of the Hanover and Rhodes European Councils, the Commission has been able, largely through an information programme focussing on the Community's main trading partners, to correct the misunderstandings which had surfaced concerning the overall objectives, and the means to be applied to achieve them, in the 1992 context. In fact, third countries have generally acknowledged the benefits which they will be able to draw from the arrival of the Single Market.

At the same time, the Commission has seen to it that its internal market proposals contain a section dealing with external relations in a manner compatible with the Community's international commitments or, in relevant cases, directed to facilitating the evolution of a multilateral framework where such does not already exist.

Within the GATT framework the Community is actively participating in the Uruguay Round of negotiations with the objective of obtaining increased liberalisation for trade in goods and services.

In addition, a particular effort is being made to improve co-operation within the European continent, focussing in particular on the deepening of the Community's contacts with the EFTA countries.

PART II: PROGRESS ON THE WHITE PAPER PROGRAMME

I. THE ABOLITION OF PHYSICAL FRONTIERS

The abolition of frontier controls on goods

40. As the Commission stated in the report presented in accordance with Article 8B of the Treaty, effort has been concentrated on the simplification of formalities (the new measures taken to extend the duration and scope of the Community transit procedure so as to facilitate the temporary use in one Member State of goods coming from another). However, independently of the important decisions on capital movements and the abolition of road haulage quotas by 1992, both of which will put an end to the formalities associated with the current controls, progress is still insufficient.

41. It is imperative that the formalities and controls mentioned below, which apply either at the frontier or otherwise on intra-Community transactions, are completely removed so as to release the crossing of frontiers from all hindrances.

42. **Customs and Tax Formalities** : a first measure, of limited but symbolic importance, will enter into force on 15 July 1989 within the context of the above-mentioned regulation on Community transit to abolish all formalities for portable professional equipment. However, the abolition of the totality of customs formalities implies the suppression of fiscal frontiers affecting private individuals as much as commercial undertakings.

Certain Member States have shown interest in simply moving the heavy burden of fiscal controls connected with the crossing of frontiers, currently applied at national frontiers, to the interior of their territories. However, such an approach must be considered to be incompatible with the realisation of a true single market. The new approach of the Commission presented below (see section III) will enable real progress in this context.

43. **Plant and animal health controls** : both the third progress report and the report submitted under Article 8B of the Treaty pinpointed this as the area furthest behind the White Paper timetable. Encouraging progress has been made over the last year, with 8 more animal health measures adopted and 12 new proposals tabled, but it has fallen far short of the progress required in the light of the overall objectives and the time left to achieve them. The Commission plans to catch up on its part of the backlog during this year. However, for that to happen it will also be necessary for the Council to give clear and coherent guidelines in the delegation of powers to the Commission to do away with one of the main current difficulties.

One area which has seen some progress is animal health. The vast majority of the proposals on this subject are now before the Council, which has already adopted virtually all the proposals to eradicate animal diseases. Otherwise, however, delays have accumulated. Nevertheless, the Council still has time to give practical effect to the request of the European Council to attach a high priority to this work. There are two sets of proposals directed to the re-organisation of animal health controls, favouring the application of such controls at the point of production while envisaging limited controls during transport or at points of destination. The adoption of these proposals in their totality would represent considerable progress.

Some progress has also been made in the plant health sector. Over the last year, two measures have been adopted by the Council and five proposals have been submitted by the Commission. 11 more remain to be presented by the Commission. In this area as well, the Commission is committed to make-up the backlog by the end of the year.

44. Controls rendered necessary by Intra-Community commercial policy measures : the gradual reduction in the recourse had to monitoring and market protection instruments under Article 115 of the Treaty implied by the completion of the internal market will lead to the final elimination of the need for such controls. The very noticeable reduction in the use of these measures since 1985 (monitoring measures have fallen from 1,800 to little more than 500) due to the greater rigour of the Commission in examining national requests and a reduction in the number of requests made, is already causing movement towards this final objective. This approach must also be extended to ECSC products.

45. Controls on road transport : the Commission has proposed abolishing all inspections on road vehicles, whether on the amount of fuel in their tanks (a proposal on this has been blocked since 1984) or on compliance with the rules applying to transport services. Adoption of these two proposals would fix the objective of the complete abolition of frontier controls in this sector and would remove one cause of the long delays suffered by lorries and the vehicles behind them.

With a view to achieving this objective by 1990, the Commission plans to propose ending the compulsory stamping of waybills during the transitional period for the phasing out of road haulage quotas up to 31 December 1992.

46. Controls specific to the export of certain goods : export controls will no longer be feasible inside the Community. However, their disappearance must not create problems for the various policies which depend on inspections at internal frontiers, particularly those concerning the protection of the Member States' cultural heritage and the control of trade in strategic goods.