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FIFTH REPORT OF THE COMMISSION
TO THE COUNCIL AND THE EUROPEAN PARLIAMENT

concerning the implementation of the White Paper on the
Completion of the Internal Market

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INTRODUCTION

1. The Community institutions have been striving to complete the area without frontiers since publication of the White Paper in June 1985.⁽¹⁾ The programme set out in the latter provides a yardstick against which to measure progress made towards full implementation of the Single Act and, in particular, Article 8a of the Treaty.
2. The Commission has continued to implement that programme resolutely, with the result that all the proposals announced in 1985 have now been transmitted to the Council, sometimes with supplementary proposals. The European Council has, for its part, kept up the pressure on the different Council bodies to keep sight of the programme's central political priorities; at its last meeting, in Strasbourg on 8 and 9 December 1989, it attached great importance to completing the financial area, opening up public procurement, transport policy and the free movement of persons, all matters currently before the Council; it also urged the latter to adopt "the decisions which will make the process of the complete abolition of fiscal frontiers irreversible".
3. The Commission continues to review regularly progress towards implementing the White Paper, in order both to meet the demand for information from business circles, citizens and the Community's external partners, and to pinpoint areas where lack of progress might compromise the 1992 objective so as to alert the different political authorities.
4. This is the fifth annual report; it differs from previous ones in that it takes stock not only of decision-making but also of progress made in transposing into national law instruments that have been adopted and come into force. The latter point was the subject of specific reports last year.⁽²⁾ The Annexes therefore now set out a list of proposals adopted by the Council, a list of proposals pending, the progress made in transposing each measure, Court judgments not yet complied with and the status of transposition in each Member State.
5. It should also be borne in mind that this year, like 1988, will see the formal report on "the progress made towards achieving the internal market within the time limit fixed in Article 8a" required by Article 8b of the Treaty.
6. The White Paper's phased implementation cannot be dissociated from that of the Single Act's other five objectives: economic and social cohesion, social policy, the environment, research policy and monetary capacity.

(1) COM(85)310, 14 June 1985.

(2) COM(89)422, 7 September 1989; SEC(89)2098, 4 December 1989.

PART I: THE OVERALL PICTURE

1. GENERAL PROGRESS

7. Irreversibility and anticipation have characterized work in recent months.

8. As the previous reports indicate, the irreversibility noted by the Council meeting in Hannover in June 1988 is the result of the fresh impetus given to decision-making by organizing work more efficiently and, above all, systematic recourse to the voting procedure. The following figures serve to illustrate how the process has been speeded up:

- Almost 60% of the proposals in the 1985 programme have now been adopted: a decision has been taken, or a common position reached, on 158 of them. This total includes key decisions in areas such as liberalisation of capital movements and banking services, the opening up of public procurement, merger control, mutual recognition of diplomas, the implementation of the "new approach" in the field of standards and the opening up of air transport
- There is no comparison between the past and present pace of decision-making: during the 1970s, in the area of public procurement, it took the Council four-and-a-half years to agree on a Directive on supplies; it took only one-and-a-half years to substantially reinforce that Directive. As far as securities are concerned, the first Directive was adopted in 1985 after over nine years' work, whereas since 1987, common positions have been adopted on subsequent proposals within the space of two years and two months. Similar examples are to be found in all areas.
- Even if it is not always necessary to go to the vote, the option of putting proposals to the vote has led to the rapid adoption of directives. This is borne out by the infrequency with which a matter that could be resolved by qualified majority voting has repeatedly appeared on the Council's agenda; it is further borne out by the breakthrough on the right of residence, achieved solely as a result of the change in the legal basis to allow voting in the Council, and due to pressure from Parliament.

9. The Commission's approach, combining mutual recognition and harmonization, has also speeded up decision-making; it has led to agreement on technical regulations; it also enabled important decisions to be taken in December on road cabotage and abolishing veterinary and vehicle inspections.

10. But no such speeding-up has been seen where unanimity is imposed either by the legal basis (trade mark law, taxation) or the Council's refusal to implement the principles of the Single Act concerning the powers of implementation of the Commission ; for this reason the Commission has requested a debate at the General Affairs Council on the subject of "comitology".

11. Both business circles and governments are actively preparing and anticipating, to such an extent that, in the assessment of the Council meeting in Strasbourg, with three years still to go, the benefits are being felt in all sectors of the economy. The authorities are taking appropriate implementing measures in such diverse areas as the budget, physical planning and taxation. These preparatory measures have played their part in economically and politically strengthening the Community since 1984: industrial output has grown by 20% and 8.5 million jobs have been created.

12. The single market is already having a dynamic effect on Intra-Community trade : in constant decline between 1973 and 1985, it climbed back in 1988 to its early-Seventies level at 62% of the volume of Member States' exports. This turnaround is the best testimony to the revitalization of economic integration in the Community, which has not, however, detracted from the Community's role in the world economy, since imports also grew noticeably from 1985 to 1988.

13. Firms are planning to step up investment to meet a surge in demand motivated by the prospect of 1992. Of the less advanced countries, Spain and Portugal will benefit most from this: recent data for 1988 and 1989 show gross fixed capital formation in those countries to be expanding by over 10% a year, well above the Community average of 8.3% in 1988 and 6.9% last year. Firms are currently taking decisions both on allocating resources in-house and on establishing strategies on acquisitions and cooperation in anticipation of the post-1992 market structure. This attitude reflects the credibility lent by the speed of progress towards 1992; this credibility must not be undermined by the prevarication observed in tax matters, particularly.

14. As the fourth report on the implementation of the White Paper shows,⁽³⁾ these positive aspects must not obscure the difficulties being encountered at three levels:

- While real progress has been made in all areas covered by qualified majority voting, matters requiring the Council to be unanimous are falling behind schedule. Even in areas such as opening up public procurement, industrial property and insurance, where important measures remain to be taken, the momentum is such that work ought to be completed in the course of the year. However, while 19% of the programme's proposals require unanimity, the proportion rises to 23% of the 139 proposals before the Council. Even in animal and plant health, where decisions can be taken by qualified majority voting, the process

(3) COM(89)311, 20 June 1989.

has slowed down because of difficulties in reaching agreement in the Council on delegating implementing powers to the Commission. Recourse to intergovernmental measures, requiring the Member States' consensus is also having an impact on progress in work on the free movement of persons.

- As the Commission has already made clear, the transposition and implementation of Community legislation is giving similar cause for concern. Most Member States have become aware of the scale of the backlog and the situation has improved considerably since September 1989: 70% of the necessary implementing measures have now been taken and, while in September only seven measures had been transposed throughout the Community, this figure has now risen to 21. However, in some countries progress has been much slower, particularly in Italy, which despite its experience with Community law, has become the Member State with the greatest backlog since improvements in Spain and Portugal. No less worrying is the lack of improvement, shown in Annex IV, in compliance with Court judgments, where there has been no progress since last December. However, account should also be taken on the one hand of the fact that after the ruling given in 1990 by the French "Conseil d'Etat" all High Courts ensure the direct effect of Community law, and on the other hand, that the "La Pergola" law now enters its implementation phase and should allow Italy to reduce its backlog in 1990.

- Neither has there been any new development to allay concern about the abolition of frontier formalities since the Article 8b report of December 1988.⁽⁴⁾ Frontier formalities are of two kinds: customs controls on goods and therefore also on goods carried by individuals, and identity checks on travellers themselves. Progress has been made in the first area, which requires Community legislation: measures have been taken to abolish most vehicle checks, to reorganize veterinary and plant health inspections and to abolish the obligation to lodge a transit advice note at border posts for goods in transit. Such progress does not, however, represent a qualitative leap forward; such an advance can only be fully achieved by substantial measures on indirect taxation. Work on identity checks is carried out at intergovernmental level, rather than in the Council on the basis of Commission proposals. The Member States therefore have sole responsibility for speeding up and expanding the scope of their work. Despite the impetus provided by the European Council meetings at Rhodes, Madrid and Strasbourg, time is now short. Any deviation from the schedule proposed to the European Council in Madrid by the Coordinators' Group could affect the chances of establishing the system by 1992. It is therefore essential that the General Affairs Council should, as the European Council asked, provide the political will needed to ensure that the timetable does not slip.

(4) COM(88)650, 17 November 1988.

15. The Commission therefore solemnly appeals to the European Council to take the measures needed to establish the area without frontiers. It is essential that work progresses if the Presidency's conclusions following the Strasbourg European Council are to be effectively implemented.

16. In short, the Community is now at a crucial stage in implementation of the Single Act. This year will determine whether or not the objectives set in 1985 and confirmed by the Single Act will be attained.

17. It is in this context that the move towards Europe Economic and Monetary Union (EMU) offers the prospect of reinforcing the effects of the internal market since it increases European economic integration and as a result benefits the competitive environment favourable to the dynamism of enterprises. In addition the achievement of EMU will lead to direct gains for European enterprises in that uncertainties are reduced in the field of exchange rates and costs of intra Community transactions will decrease. But EMU is also necessary, so that all potential gains linked to the 1992 perspective can be realised especially those relating to the liberalisation of capital movements and to the integration of the financial services market in the Community.

18. It is in this same crucial year that the Community faces a new challenge resulting from the very success of the Single Act and the Community's lodestone effect on its neighbours. Such success cannot be allowed to compromise what has been achieved. The internal market must lose none of the momentum carrying it towards economic and political integration. It is in such a frame of mind that the Commission is facing new developments in relations between the Federal Republic of Germany and the Democratic Republic.

19. As regards third countries, the Community has taken on the mantle of "Europe World Partner". Clearly, it expects that its trading partners adopt a similar open policy towards Community enterprises. This approach goes hand-in-hand with the position taken by the Community in the Uruguay Round negotiations on the opening up of markets and the establishing of multilateral rules in the sectors where they are lacking.

11. THE GENERAL SITUATION

The Commission

20. The Commission has honoured its commitments; on 7 April 1990, 1000 days before the 1992 deadline, all proposals are before the Council, but the fact that the Council has taken partial decisions in certain areas (such as transport) or departed from the approach recommended by the Commission (as in taxation) will call for additional proposals. The initial programme related to 279 proposals; that total was increased to 282 in order to take account of new proposals in, for example, the fields of public procurement and services.

21. The main areas covered by proposals tabled in 1989 concern:

- abolishing border controls on veterinary and plant health: The Commission has caught up on the backlog it had accumulated in this field; 38 new proposals (28 concerning animal and ten concerning plant health) have been transmitted to the Council; they concern, in particular, eradicating animal diseases, health and hygiene conditions and controls concerning the bringing to market of animals or animal products which are not covered by Community rules, the extension to national markets of rules currently applying only to intra-Community trade, the organization of Community finance to help cover the cost of implementing veterinary measures, the introduction of a Community safeguard system, and the adjustment of rules on plant health in line with conditions on the single market;
- completing work on technical regulations on, for example, motor cars, pharmaceuticals and machinery;
- completing the liberalization of air and road transport services by proposals leading on to the final phase and undertaking work in the railway sector ;
- completing the general recognition of diplomas by extending the general system already adopted for university diplomas gained after at least three years study to lesser diplomas.

22. The Commission has already embarked on the phase of administering directives and, more generally, existing Community legislation. This is particularly true of pharmaceuticals, agri-foodstuffs, diplomas, banking, etc. The continuous expansion of this legislation is increasing the pressure to keep business circles and, more generally, citizens informed.

23. Responsibility for administering Community legislation includes monitoring implementation by Member States. This responsibility is exercised through the formal procedures laid down in the Treaty.

