

COMMISSION OF THE EUROPEAN COMMUNITIES

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SIXTH 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 since June 1985 to implement a legislative programme designed to complete an area without internal frontiers; this programme, which was published as part of a White Paper,¹ provides a yardstick against which to measure progress made towards completion of that area in accordance with the Single Act and, in particular, Article 8a of the Treaty.
2. It is now more than one year since the remaining proposals required by that programme to permit the final legislation to be adopted in time for it to be implemented by the Member States by 31 December 1992 were submitted to Council and the European Parliament. The Commission is endeavouring to keep to the timetable by seeking appropriate compromises that are compatible with the objective in view.
3. The European Council's continuing support and guidance on the most difficult issues have maintained the political pressure on the Council and the Member States and have contributed greatly to the current results which, as the Commission indicated in its previous report, are convincing political and economic circles of the irreversibility of the process by which the frontier free area is taking shape. This support was last expressed at the European Council meeting in Rome, where the European Council undertook to do everything necessary to ensure that the 1 January 1993 deadline was met.
4. 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.
5. This is the sixth annual report; as in the case of the previous report, it not only takes stock of the decision making process but also covers problems involved in implementing Community legislation at national and Community levels. The annexes therefore now set out not only a list of proposals adopted by, or pending before, the Council but also the progress made by the Member States in transposing each measure and in implementing Court judgments.
6. The Commission has already given an account of the progress being made in the report it presented to the Council last November under Article 8b of the Treaty.² The present report will restrict itself, on many points, to expanding on the Article 8b report since work has barely progressed since publication of that report. The level of decision taking, which stood at nearly 70% in December, should exceed 75% by the end of the first half of this year.
7. Although this report is confined strictly to the single market, it should also be borne in mind that the process of completing the single market cannot be dissociated from the five other objectives of the Single Act: economic and social cohesion, social policy, the environment, research policy and the strengthening of economic and monetary cooperation.

1 COM(85)310.

2 COM(90)552.

PART I : THE OVERALL PICTURE

I. GENERAL PROGRESS

8. Although work is continuing apace, particularly in the area of free movement for individuals, progress has been very limited since the last report; while there is reason to think that major decisions needed to finalize work will be taken in the months ahead, there are certainly no guarantees that all the decisions will in fact be taken, and this for the following reasons:

- in the area of taxation, the political orientations established in 1990 and the progress achieved in the first six months of 1991 allow one to suppose that the Council's work will result in the adoption of the main legal acts once the opinion of Parliament is available. It must be emphasised in this context how important it is, as much for the taxation authorities as for the economic operator, to have these texts at their disposal as soon as possible this year. One of the measures already taken concerns the raising of duty paid allowances.
- as to the free movement of individuals, the following progress has been made:
 - (i) signing by Denmark of the Dublin Convention of June 1990 determining the Member State responsible for examining applications for asylum, which has now been signed by all Member States;
 - (ii) arrangements drawn up by the TREVI Group for cooperation between police forces;
 - (iii) adoption by the Council of a common position on the directive on the acquisition and possession of weapons.
 - (iv) convergence of immigration policies through the definition of political orientations on the entry procedures for immigrants and the coordination of national admission policies.

However, the convention on crossing external borders, which constitutes the key element, has still not been signed despite the repeatedly stated wishes of the European Council. The main difficulty lies in the interpretation of Article 8a; a clear interpretation of this provision, as requested by the European Council, is made of all the more necessary to ensure its full effectiveness by the fact that the extension of the Schengen Agreement to Spain and Portugal demonstrates the Member States' capacity to agree to a solution to problems once there is political agreement on the objective to be pursued.

With regard to cooperation between firms, no progress has been made on the creation of a Community trade mark or on the consolidation of company losses or, finally, on mergers between companies from different Member States. While work has continued steadily on the European company, which has high political priority, and has begun on withholding taxes on interest payments and royalties, progress is delayed in Parliament on international mergers and, at Council level, on investment services.

In the case of freedom of establishment, the completion of work aimed at facilitating mobility still depends on the extension of recognition of qualifications to all regulated professions and on the reform of the arrangements under which workers and their families obtain the right of residence.

In the services field, the main problem lies in extending the right to supply services to the investment field and to sea, inland waterway and road passenger transport.

9. In its Article 8b report, the Commission set out for the Council a tentative programme of work for matters which it considers should be given priority in 1991. While, over the past 12 months, the pace of work has been such that the proportion of proposals adopted has risen from 50% to 66%, only eleven new measures have been adopted by the Council since the Article 8b report appeared in November 1990. This leaves 89 proposals from the White Paper programme still on the table.

10. This situation can be attributed to four factors:

- Firstly, there have been regrettable delays with certain proposals before Parliament up to the June session; while these delays concerned only 35 proposals, they were generally matters on which Council agreement could have been rapidly reached, and these delays in Parliament have therefore affected organization of the Council's work and the periods allowed for transposition in Member States.
- Secondly, the dispersion of proposals among the various Council bodies is leading to an unbalanced distribution of work between those different bodies, and in particular to a dilution of the political pressure from the European Council. It should be noted that the Internal Market Council has cancelled two of its meetings whilst at the same time other bodies of the Council were not in a position to make progress on dossiers within their field of responsibility.
- In the area of transport taxation, political agreement is likely to be reached within the timescale set by the European Council on only one aspect, the level of excise duty on diesel fuel. Elsewhere little progress has been made.
- Finally, a number of issues depend on key political decisions being taken in the Member States in such fields as transport, worker participation and the location of the Trade Mark Office.

11. The Commission is currently examining with the Member States the contribution which implementation of Article 100b of the Treaty might make: this Article permits the Council, during the course of 1992, to recognize as being equivalent national rules which have not been harmonized according to Treaty procedures. With a view to drawing up the list required of it, the Commission is making enquiries among the Member States, which should enable it to put forward the necessary proposals.

II. THE GENERAL SITUATION

The Commission

12. The Commission has exercised its power of initiative to the full. All the proposals arising from the White Paper have been presented: between 1985 and 1990, 196 proposals were transmitted to the Council and Parliament to add to the 86 proposals already before the Council. New proposals put forward from now on will be aimed at extending legislation already adopted (public procurement, insurance, etc.) or at administering basic legislation (air transport, technical legislation, etc.).

13. As pointed out in the previous reports, the Commission's attention will now focus on administering existing Community legislation; this presupposes that implementing laws are adopted to give full effect to the basic proposals adopted by the Council, that the organizational measures necessary for such administration are taken and, finally, that accompanying measures are adopted which will guarantee balanced implementation of the measures relating to freedom of movement:

- The implementing legislation is concentrated mainly in the animal health, plant health and foodstuffs fields:
 - (i) In the veterinary sector, the Commission has adopted more than 100 implementing measures under the powers devolved to it by the Council; these measures relate both to the new strategy regarding supervision (including the necessary financial decisions) and to the administration of the basic directives.
 - (ii) In the phytosanitary sector, none of the application measures has been taken - except in the area of animal feedstuffs - due to the absence of full decisions of the Council on the "framework" provisions.
 - (iii) In the foodstuffs field, implementing measures have to be taken on the basis of the "framework" directives adopted by the Council. These implementing measures are part of the normal process in the case of additives: a proposal concerning sweeteners is already before the Council; it will be followed, before the end of the year, by another proposal concerning colorants, which will cancel the pending proposal for an 8th Directive. Other proposals on preservatives, antioxidants and the other additives will follow. Commission implementing measures relating to materials coming into contact with food and to dietary foods are currently being prepared.
- Organizational measures are necessary to enable the Commission to fulfil its administrative responsibilities, which require both a high level of technical expertise and a capacity to react rapidly to requests for products to be authorized or to health problems which, without that capacity to react, could lead to decisions being taken at national level that would prejudice freedom of movement. Such organizational measures have been proposed for the following fields:
 - (i) the Commission has suggested that a medicines agency be set up which, while not intruding on the public authorities' powers to authorize medicines, would pool scientific capacity in the Member States and guarantee European industry a rapid appraisal of products;
 - (ii) in the foodstuffs field, the Commission has put forward proposals for reinforcing the structure of the Scientific Committee for Food and cooperation between the various competent bodies in the Member States;
 - (iii) in the veterinary and plant health fields, the Commission has given the necessary undertakings to increase substantially the staffing resources required for the inspection tasks which it has to carry out to ensure that legislation adopted is properly implemented.
- Back-up measures have been adopted or proposed to ensure that the frontier free Europe functions smoothly and thus to guarantee freedom of movement: these measures mainly involve fields connected with the abolition of frontier

checks (steps to combat trafficking in drugs and precursors, data protection, transport policy, etc.).

14. Responsibility for administering Community legislation includes monitoring implementation by Member States. This responsibility is exercised through the formal procedures laid down in the Treaty, and it should be noted in this regard that the Commission adopted internal measures in 1990 to ensure that infringement proceedings could be instituted rapidly. However, the challenge of 1992, the comprehensiveness and balance of the White Paper programme and the speeding up of decision making all justify the steps taken to politicize monitoring of the transposition process based on complete transparency of the situation in each Member State.

The results of this action can be viewed positively since the level of transposition increased from 69% in December 1990 to more than 73% in May 1991, and this despite the entry into force of 20 new instruments. Each country's awareness of its responsibilities is demonstrated by the fact that countries such as France and in particular Greece have stepped up their rate of transposition (as Portugal had done in 1990), with the result that the responsibility for the delay now lies entirely with Italy which has adopted barely more than half of the national measures; countries such as the Netherlands, Luxembourg, Ireland and Spain have been unable to keep up the necessary rate of transposition. Implementation of Court judgments has itself considerably improved over the last twelve months, since 26 judgments are currently the subject of actions brought for failure to act, as opposed to 43 a year ago, this due to steps taken by Italy to regularize the position in twelve cases. Only three new actions have been brought over this same period. These failures to act involve only four Member States: Greece (3), Germany (4), Belgium (4) and Italy (15).

15. But the implementation of measures goes beyond transposition alone. It is also dependent on (i) sound training for the national authorities which will have to administer the same rules in a convergent fashion, (ii) on information programmes aimed at making firms and citizens aware of their new rights and (iii) on appropriate information exchange mechanisms:

- The training measures are based mainly on programmes for the exchange of officials between national authorities but they may also include measures aimed at training administrations in the application of Community rules; programmes are now in progress in the customs field (MATTHAEUS programme) and in the animal health sphere.
- Responsibility for the information programmes lies primarily with the Member States and trade organizations; however, the particular needs of SMEs and the single market's special impact in certain industrial sectors justify a specific effort by the Commission; the Council already has on its table a proposal for a decision to reinforce these actions of information in the enterprise policy of the Community.
- Cooperation between national authorities and between those authorities and the Commission will be one of the factors dictating whether or not Community obligations are properly met; the Commission is therefore examining the possibility of making available to Member States cooperation structures and information exchange infrastructures. It was with this in mind that it announced, in its action programme on trans European networks,³ a communication on this specific theme with the aim of identifying needs,

3 COM(90)585 of 10 December 1990.

