

THE SINGLE MARKET IN NEED OF A STRATEGIC RELAUNCH

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**THE SINGLE MARKET IN NEED OF
A STRATEGIC RELAUNCH**

Tinne HEREMANS



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INTRODUCTION¹

On the 27th of October 2010 the Commission finally published its long-awaited Communication “Towards a Single Market Act”² with the ambitious objective of relaunching the Single Market. It is beyond doubt that the market integration project is indeed in need of a serious boost. On the one hand, the “*acquis*” should be buttressed more firmly against protectionist reactions, citizen distrust and integration lethargy more generally. On the other hand, the untapped growth potential – in domains suffering from persistent bottlenecks as well as in new sectors – needs to be better exploited. It will however be argued in this contribution that, in its present form, the Commission’s “Draft Single Market Act” (Draft SMA) does not contain all the *strategic building blocks* needed to address the key challenge of reengaging the different actors in the market integration project and genuinely revamp the Single Market. Therefore, on the basis of an examination of the gaps and defaults in the Draft SMA’s approach, and against the background of the preparatory documents presented by Mario Monti³ and the European Parliament⁴, some suggestions for possible *strategic* improvements to be included in the final SMA will be made.⁵

Hence, this contribution will first set out the main points of the Draft SMA and the most important preparatory documents, focusing primarily on the strategic elements contained therein. In a second part, a critical appraisal of the Draft SMA’s strategic approach will be provided, followed by some suggestions for improvement.

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1. The author would like to thank Joep Konings and Reinhilde Veugelers for their inspiring insights. However, all opinions expressed are those of the author, who is alone responsible for any mistakes.
2. European Commission, Communication from the Commission “Towards a Single Market Act”, 27 October 2010, COM(2010) 608 final/2 replacing COM(2010) 608 final, at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0608:REV1:EN:PDF#page=2>.
3. “A New Strategy for the Single Market: at the Service of Europe’s Economy and Society”, Report to the President of the European Commission, 9 May 2010, at http://ec.europa.eu/bepa/pdf/monti_report_final_10_05_2010_en.pdf.
4. European Parliament resolution of 20 May 2010 on delivering a single market to consumers and citizens, P7_TA(2010)0186.
5. Since the European Parliament will most probably not hold its plenary vote on its resolution reacting to the Draft SMA before April, the Commission’s final proposal is only to be expected after that time.

1. TOWARDS A SINGLE MARKET ACT: A LOOK AT THE PREPARATORY DOCUMENTS

In his “*Political guidelines to the next Commission*” President Barroso, seizing the opportunity of the upcoming 20th anniversary of the 1992 Single Market Programme, announced that the Commission would aim to “regain momentum in the internal market” by bringing forward “a major package for tomorrow’s single market”.⁶ The Commission President considers the market integration project to suffer from significant persisting gaps and bottlenecks, a lack of political as well as public support, and increased concerns regarding its social dimension.⁷

Hence, former Commissioner Mario Monti was tasked with drawing up a report setting out options and recommendations for the completion of the Single Market to serve as a source of inspiration for the planned new Commission initiative. Monti sensed that something more was needed than the “business as usual”-approach of drawing up a washing list of missing links and thus set out to devise a genuine *strategy* to revive the Single Market.⁸ Almost in parallel, the European Parliament produced a Resolution on delivering a single market to consumers and citizens based on an own initiative report by Louis Grech.⁹ The Commission’s Communication “Towards a Single Market Act”, which forms the basis for a four-month-consultation to culminate in the adoption of a definitive Single Market Act¹⁰, was finally published on 27 October 2010.

1.1. The reasons for a relaunch of the Single Market in a nutshell

In these times of economic crisis, the need to unleash the *untapped growth potential* of the Single Market Project has become ever more pressing. One of the most striking examples is undoubtedly the services sector which accounts for

6. “Political guidelines to the next Commission”, September 2009, at http://ec.europa.eu/commission_2010-2014/president/pdf/press_20090903_en.pdf, p. 28-29.

7. See Mission letter from the President of the European Commission, Brussels, 20 October 2009, Pres(2009)D/2250, which is also attached to the Monti report.

8. “A New Strategy for the Single Market: at the Service of Europe’s Economy and Society” (hereafter ‘Monti Report’), Report to the President of the European Commission, 9 May 2010, at http://ec.europa.eu/bepa/pdf/monti_report_final_10_05_2010_en.pdf.

9. European Parliament resolution of 20 May 2010 on delivering a single market to consumers and citizens, P7_TA(2010)0186.

10. Note that, despite its name, this Single Market “Act” will be a collection of legislative as well as non-legislative proposals rather than a genuine “Act”.

70% of EU GDP, yet only for 24% of total EU trade.¹¹ Unfortunately, rather than increased market integration zeal, the financial crisis triggered a chain of *protectionist* reactions, thereby painfully revealing the remaining fragility of this cornerstone of European integration which has so often been taken for granted. Recall, for instance, the Member States' fervour to save "their banks" in what should have been an integrated European financial services market; thereby seriously disadvantaging smaller countries with important financial sectors. Likewise, France's plans for a bailout package for its automobile industry caused substantial controversy due to the inclusion of a clause requiring manufacturers to maintain production sites in France. In the final version of the bail-out package this clause was dropped.¹²

Aside from the financial and economic crisis, also other factors have modified the context in which the Single Market operates anno 2010. Even before the woes of the recent crises, the enthusiasm for further completing the Single Market had already faded considerably. Arguably both the enlargement and the deepening of the Union have contributed to this market integration fatigue. While enlargement has increased *diversity* within the Union, the gradual deepening of the integration process has meant that more *nationally sensitive policy fields* are being affected. This is especially noticeable in the area of free movement of workers as well as the "people-intensive" services sector and explains much of the "socially"-inspired resistance.¹³ Hence, the polemic surrounding the adoption of the Services Directive seriously tarnished the whole market integration project, and left the Commission with a heavy political "internal market hangover".¹⁴ Moreover, *globalization* has intensified the competitive pressure on the European economy as well as its interdependence with the rest of the world and thus calls for an increased focus on the external dimension of Single Market Policy.

Given the considerably altered context in which the Single Market operates anno 2011 and the increased urgency to unlock the Single Market's growth potential, a thorough rethink of this policy seems mandatory.

11. Memorandum by British Chambers of Commerce (EUSM9), in The EU Single Market – Written Evidence, published on 22 October 2010, at <http://www.parliament.uk/documents/lords-committees/eu-sub-com-b/singlemarketinquiry/singlemarketwe221010.pdf>, p.2.

12. <http://www.euractiv.com/en/transport/french-turn-car-rescue-plan/article-179846>.

13. In other words, the "low hanging fruits" of market integration have already been picked.

14. For an account of this turbulent legislative process leading up to the Services Directive, see P. TIMMERMAN, "Legislating amidst Public Controversy: the Services Directive", Egmont Paper No. 32, October 2009, available at: <http://www.egmontinstitute.be/paperegm/sum/ep32-sum.pdf>.

1.2. The Monti Report: A grand bargain between the free market and social market economies wrapped in a package deal

Whereas the mission letter from the Commission President requested “a report containing options and recommendations”, Monti sensed that something more ambitious was needed. Hence, following 6 months of consultations, he produced a 107 pages long report on “A New *Strategy* for the Single Market” which *also* contains a list of problem areas and missing links but devotes almost double the amount of pages to an analysis of the “forces de résistance” and strategic measures to address them.

1.2.1. *Structure of the report*

The Monti Report thus starts off with a chapter which is entirely devoted to an analysis of the major – sometimes conflicting – *sources of political and public resistance* to the Single Market (Chapter 1 “A Market in Search of a Strategy”). Under this heading he discusses, among others, social concerns, environmental concerns, consumer concerns about the lack of tangible results and protection, business concerns regarding the persistent fragmentation of the Single Market and its inadequate external dimension, etc.¹⁵ The subsequent chapters are then devoted to the *outlining of a strategy* to reinforce the Single Market in the face of these resistances while also exploiting the opportunities offered by the current context of economic crisis:

- Chapter 2 “Building a Stronger Market” identifies the major “missing links and bottlenecks”, such as the incompletely integrated services market, which prevent the Single Market from realizing its full potential in terms of competitiveness and growth.
- Chapter 3 “Building Consensus on a Stronger Single Market”: seeks to address the, predominantly social, concerns holding back the Single Market project by means of certain targeted measures. The most controversial probably being the proposals for a *limited* degree of tax coordination to avoid socially harmful tax competition.
- Chapter 4 “Delivering a Strong Single Market”: makes concrete recommendations as to the tools to deliver an integrated market. Great emphasis is placed on strengthening enforcement and concrete proposals are made to, among others, speed up infringement procedures.
- Chapter 5 “A Political Initiative to Strengthen the Single Market (And Economic and Monetary Union)”: contains suggestions to improve policy

15. Monti Report, p. 23-31.

making in the Single Market domain. Hence, several recommendations are made for a more integrated approach as well as more political commitment by the different institutions. In addition, Monti advises to highlight the link between the Single Market project and the other projects currently at the centre of European attention, i.e. the EMU, EU2020 and economic governance.

1.2.2. *Core of strategy: a political bargain in a package deal*

At the core of Monti's strategy lies a unique attempt to seek *an overarching political consensus or political "grand bargain"* on the Single Market Project between the competing European economic models, and in particular between the Anglo-Saxon free market and continental social-market model.¹⁶ By way of certain specific measures addressing conflicts between market integration and social objectives, he hopes to persuade social-market economies to commit more truthfully to market integration and competition. A clear example is the proposal¹⁷ to introduce a provision guaranteeing the right to strike (a so-called "Monti clause"¹⁸) in the measures that would be adopted to clarify the interpretation and application of the Posting of Workers Directive¹⁹.

In other words, the core of the compromise which Monti hopes to strike is: a *stricter enforcement* of the Single Market rules to satisfy the Anglo-Saxon model adherents, in exchange for *targeted policy measures addressing social concerns*, including in particular a *limited form of tax coordination*²⁰, to conciliate the social-market economies with further market integration.²¹

16. According to Monti the current economic crisis with its impact on long-held economic beliefs, its effect of increased social inequality as well as its negative impact on Member States' budgetary room for manoeuvre, might allow parties to (partially) leave the long-held ideological stands. Monti Report, p. 34.

17. Monti Report, p. 70-72.

18. Such a provision could indeed be modelled on Art. 2 of Council Regulation (EC) No 2679/98 which safeguards, among others, the right to strike in the context of the Regulation's rapid intervention mechanism aimed at serious obstacles to the free movement of goods which stem from Member State action or inaction. (Council Regulation (EC) No 2679/98 of 7 December 1998 on the functioning of the internal market in relation to the free movement of goods among the Member States, *OJ L* 337, 12.12.1998.)

19. Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services, *OJ L* 18, 21.1.1997.

20. Monti deems this necessary to ensure that tax competition does not prevent the more "interventionist" Member States from raising the amount of taxes they need to finance their social policies (Monti Report p. 79-83). Although the so-called damaging tax competition-story is considered by most economists as a purely political argument, Monti keeps coming back to it.

21. Such a "political package deal strategy", putting together a deal containing a trade-off between different ideological viewpoints, was in fact a crucial factor in the success of the 1992 Single Market Programme. Indeed, Delors prepared his internal market project by, among others, consciously introducing a considerable component of cohesion policy funding in the EU budget as a means to appease the social concerns. Monti Report, p. 84.

To maximize the chances of success for what should be a genuine “quantum leap” in the Single Market Project, Monti holds on to the *technique of a package deal*. In other words, the proposals addressing gaps and bottlenecks are to be bundled together with the consensus-building measures and the initiatives to improve “delivery”, in an overall package deal containing “something for everyone”. This should allow Member States to compromise on certain issues to strike a good deal on others.²²

1.2.3. *Comprehensive and integrated approach*

Monti emphasizes that the success of the relaunch of the Single Market project depends on the adoption of a *comprehensive approach* which integrates policies traditionally not regarded as policies for the Single Market “into a *single market strategic objective*”. To ensure such a unitary vision on and consistent dealing with the Single Market across policy areas, the European institutions should reorganize their operation to a certain extent. Within the Commission an overarching Single Market Group of Commissioners could be created so as to ensure that an integrated approach is adopted towards Single Market policy formulation.²³ Furthermore, the European Parliament and the Council should adopt a more integrated approach and treat Single Market measures beyond the confines of the IMCO committee and the Competitiveness Council formation. The European Council for its part should make the Single Market a key priority and assist the Council in adopting an integrated approach.

1.2.4. *Political Initiative*

In order to create the required momentum for this “grand bargain” to be carried through, Monti stresses the need to invest in a “fully fledged political initiative”. Hence, a *strong political commitment* towards this project should be taken by the Commission, the other European institutions as well as the Member States. Aside from adapting their internal *modus operandi* to ensure a consistent approach across policy domains (see above), the institutions should also con-

22. At the time of the 1992 Single Market Project the British and the Belgian presidencies succeeded in unblocking the adoption of the necessary legislative measures in the Council by bundling them in packages to be, in principle, accepted or rejected as a whole. Without being a 100% success, it led to the swift adoption of the great majority of the proposals involved.

23. It seems that Barroso has installed several Groups of Commissioners including one group dealing with the Single Market. It cannot, however, take decisions itself and remains under the control of Barroso. *Note d'information de M. le President*, SEC (2010) 475, 16 avril 2010 – revised on 21 April. Enforcement however, should be left to the specific commissioner who is competent in respect of the disputed issue so as to avoid an endless balancing of different interests.

sider organizing a fast track legislative procedure for the key strategic Single Market measures identified.

1.3. The Grech Report on delivering a Single Market to consumers and citizens

Without going into detail it is worth to briefly highlight some main points of the European Parliament Resolution on delivering a single market to consumers and citizens which was based on the report by Louis Grech.²⁴ At the core of this report lies the call for a *new paradigm* of political thinking which *places the European citizen at the heart of EU policymaking*. This then requires a *holistic and common approach* to the Single Market in which economic, consumer protection, social, environmental and health policy objectives are fully incorporated. The report also devotes considerable attention to the “*governance*” of the Single Market, emphasizing the need for stricter enforcement, political leadership by the Commission and political ownership by Member States.

In essence, it can be said that the main strategy advocated in the Grech Report is to *increase public support* for the Single Market by “putting European citizens at the heart of policymaking”. This involves, among others, ensuring that the whole spectre of citizens’ concerns are taken into account, that citizens are better informed about their opportunities and that consumer-friendly legislation is prioritized.

1.4. The Commission’s Communication “Towards a Single Market Act”

With a meaningful delay²⁵ reflecting the intense discussions which took place within the College, the Commission finally published its Communication on a

24. European Parliament resolution of 20 May 2010 on delivering a single market to consumers and citizens, P7_TA(2010)0186. (hereafter: “Grech Report”) The European Parliament’s Committee on the Internal Market and Consumer Protection (IMCO) has recently released three draft follow up reports: Draft report on a Single Market for Enterprises and Growth (2010/2277(INI), 13 January 2011; <http://www.europarl.europa.eu/document/activities/cont/201101/20110127ATT12657/20110127ATT12657EN.pdf>); Draft report on Governance and Partnership in the Single Market (2010/2289(INI)), 12 January 2011, <http://www.europarl.europa.eu/document/activities/cont/201101/20110127ATT12655/20110127ATT12655EN.pdf>); Draft report on the Single Market for Europeans (2010/2278(INI)), 12 January 2011, <http://www.europarl.europa.eu/document/activities/cont/201101/20110127ATT12659/20110127ATT12659EN.pdf>.

25. It had first been announced for the 6th of October 2010.

Single Market Act, containing fifty proposals in different areas, on the 27th of October 2010.²⁶

1.4.1. A Macro-level look: strategic elements

The Draft SMA breaks with the tradition of lists of unrelated technical proposals and attempts to devise a more coherent and engaging *political project* to relaunch the Single Market.

1.4.1.1. Structure of the Draft SMA

Concretely, the Draft SMA is divided into three main parts. The first chapter focuses on turning the Single Market into a “relay for growth” and even a “base camp for Europeans in a globalised world”, and is thus entitled “*Strong, sustainable and equitable growth for business*”. The second chapter aims to address the resistance to market integration perceived amongst citizens and thus seeks to “*Restor[e] confidence by putting Europeans at the heart of the Single Market*”. A third chapter is devoted to the governance of the Single Market and suggests to involve all actors (private, public,...) through “dialogue” and “partnership” in the governance process.²⁷ Such increased involvement should result in a collective commitment to the Single Market Project.

1.4.1.2. Placing the European citizen at the heart

A novelty in the Commission’s approach is undoubtedly its attempt, in line with Monti’s suggestion, to squarely address the *causes of citizen’ dissatisfaction* with the Single Market. For that purpose great emphasis is laid – at least in narrative – on the *social aspects* of the Single Market Project and, more generally, on the strategic objective of *placing the European citizen at the heart* of the integrated market.²⁸

For many, it came as a surprise that the Commission did not come forward with a definitive Single Market Act but rather with a “proposal” which is to form the basis for a *four-month public consultation* following which the final Single Mar-

26. European Commission, Communication from the Commission “Towards a Single Market Act”, 27 October 2010, COM(2010) 608 final/2 replacing COM(2010) 608 final.

27. The title of the chapter is: “Dialogue, Partnership and Evaluation: the keys to good governance of the Single Market”.

28. The Draft SMA’s second title is devoted to “Restoring confidence by putting Europeans at the heart of the Single Market”.

ket Act should be adopted.²⁹ However, for the Commission, this “genuine European public debate” on the Single Market forms in fact a key element in its attempt to reengage and re-enthuse citizens.

1.4.1.3. *A holistic or comprehensive approach*

The Commission has also – to a certain degree – followed up on the European Parliament’s and Monti’s call for a more “*holistic or comprehensive approach*” to the Single Market wherein the interconnection and interdependence between Single Market policies and other EU policies is recognized.³⁰ Aside from policy measures intended to appease citizens’ – mainly social – concerns, the Commission also integrated other EU policy objectives such as sustainability, innovation, etc. In terms of organization, the Commission notes that such a “global approach” will require coordination of the work of the Commission and the other institutions. Moreover, by explicitly linking the various proposals with the EU2020 flagship initiatives, the Commission clearly acknowledges the important instrumental role of the Single Market in the wider EU2020 “Strategy for smart, sustainable and inclusive growth”.

1.4.1.4. *Governance through partnership*

In respect of governance of the Single Market, the Commission relies heavily upon the paradigm of “*partnership*”.³¹ The public and stakeholders are to be fully involved by means of more dialogue, as exemplified by the four month consultation process on the Draft SMA and, on a more permanent basis, a “new framework for dialogue”. Member States and local governments are called upon to co-manage the Single Market by way of, for example, the increased use of the mutual evaluation process, the extension of the Internal Market Information System, etc. Moreover, by involving all actors as closely as possible at all stages, i.e. preparation, implementation, evaluation or monitoring, enforcement, the Commission hopes to trigger a “collective commitment” towards the Single Market.

29. Note however that the Grech report had in fact asked for such an additional wide public consultation, para. 79.

30. The Draft SMA talks about a “global approach”. Note in this respect the common contribution of 12 commissioners to the Draft Single Market Act.

31. See below 1.4.2.3. This was also proposed in the Grech Report, para. 54.

1.4.1.5. *Timetable*

Truthful to the successful methodology of the 1992 Single Market Programme, the Commission identifies in its Draft Single Market Act *certain priority actions* to be carried out by 2012 in line with a strict *timetable* à la Delors' White Paper.³²

The final version of the SMA drawn up on the basis of the outcome of the public consultation should contain a policy action plan (consisting of 50 priority measures) for the period of 2011-2012. Based on an evaluation of the results in terms of growth creation and confidence-building, the Commission will then propose a second phase with new proposals addressing other sources of growth and trust.

1.4.2. *A brief micro-level look at the concrete proposals*

Although the focus of this contribution is on strategy rather than the 50 concrete proposals, a brief overview should nonetheless be provided, if only to give some idea about the congruence between its rhetoric and substance.

1.4.2.1. *Proposals aimed at economic growth through integration*

With an eye to creating a single market which allows for “strong, sustainable and equitable growth for business”, the Draft SMA puts forward 24 “priority” proposals backed up by explicit deadlines.

In the field of **Intellectual Property** rights, the Commission repeats the necessity of an *EU patent* (as well as a unified patent litigation system) operational by 2014. In addition, it proposes a framework Directive for the *management of copyrights* across the EU to stop fragmented national rules from obstructing the emergence of an integrated European digital market. Furthermore, the fight against *counterfeiting and piracy* will be intensified via an action plan (containing legislative and non-legislative measures), a revision of the legislative framework to adapt it to the development of Internet and to enhance customs work in this domain, and by re-examination of its strategy regarding the implementation of IPs in third countries.

32. Note that the Commission is now looking at a “realistic and manageable” set of 10-12 “key priority measures” which the Commission should present still in 2011 and can be adopted by the end of 2012. See Barroso's speech at the “Single Market: time to Act!” event held in Brussels on the 8th of February 2011, at: http://ec.europa.eu/internal_market/smact/docs/speech-11-74.pdf.

By further developing and applying the mutual evaluation process introduced by the Services Directive, the Commission hopes to finally make headway in the (previously seriously neglected) creation of an integrated **European services sector**. Special emphasis is placed on the foreseen adoption of specific measures for the business services sector.

With regard to the horizontal policy domain of the “**digital agenda**”, the SMA announces several actions. To address the serious underdevelopment of the **electronic commerce** sector in the EU the Commission will adopt measures to boost consumer confidence, inform consumers via a so-called “code of online rights” as well as strengthen the enforcement of the Services Directive’s non-discrimination clause (on the basis of nationality or place of residence) by the national administrations. In order to further facilitate **online business dealings**, the Commission will propose a Decision to ensure the mutual recognition of e-identification and e-authentication. In addition it will propose to revise the Directive on electronic signatures.

Furthermore, the Commission intends to reform the **standardisation** framework to allow the standard-setting procedures to be more effective and inclusive.

Given the importance of a single, interconnected and efficient European **transport** system, the Commission intends to publish a White Paper on Transport Policy aiming to remove the remaining barriers.

Whereas the original Energy Tax Directive was mainly intended to prevent internal market barriers, the Commission now proposes to revise it to align it more closely with the EU’s **climate** change and energy efficiency objectives in the fiscal context. Furthermore, it will investigate the possibility for a common European “ecological footprint”-methodology and present an energy efficiency plan.

Continuing to promote the centrality of **Small and Medium-sized enterprises** (SMEs) in the Single Market, the Commission (1) promises an action plan aimed to improve access to finance; (2) plans to review the Small Business Act to ensure, among others, that the “Think Small First Principle” is adequately implemented and to align it with the EU2020 Strategy; (3) intends to revise the accounting Directives to remove unnecessarily burdensome obligations.

In view of the importance of access to **funding for innovation and long-term investments**, the Commission announces several potential actions. Aside from investigating the possibility of project bonds to finance European projects, the Commission will also explore ways to encourage private investment, in particular in long term projects, by means of, for example, corporate governance

reform. Furthermore, as venture capital funds are an essential source of finance, their regulatory environment will be improved.

The **public procurement** rules will be simplified and updated to make the process more flexible as well as to allow these public contracts to contribute also to other policies like innovation and environmental protection. Furthermore, the Commission plans to adopt a legislative initiative on **services concessions** containing clear and proportionate rules so as to improve transparency, equality of treatment, and create a level playing field for companies. In addition the Commission's initiative should create a supportive EU framework for this type of public/private partnerships.

Among the most sensitive proposals contained in the SMA are certainly those dealing with **taxation** issues. Considering that the current fragmentation poses significant barriers for business, the Commission announces that it will propose a Directive introducing a common consolidated corporate tax base (CCCTB). In addition, a new VAT strategy will be devised on the basis of a fundamental review of the current system.

With regard to the **external dimension** of the internal market the Commission puts strong emphasis on seeking further regulatory convergence at the international level, both in its bilateral and its multilateral dealings. In respect of access to public procurement, the Commission announces a legislative proposal for a Community instrument drawing on the implementation of the EU's international commitments which should allow the EU to proceed on the basis of reciprocity in its relationships with industrialized nations and the major emerging economies.

1.4.2.2. Proposed confidence-building measures

To achieve its goal of “Restoring confidence by putting Europeans at the heart of the Single Market”, the Commission advances about 19 concrete – to a more or lesser degree – proposals.

The vague announcement that the Commission will “adopt, by 2011, a Communication and a series of measures on **services of general interest**” (SGI) is somewhat concretized by an enumeration of the key components of its policy on SGIs. For one, the Commission will continue to provide *information* to citizens & to public authorities (as part of a “tool-kit”) on all relevant European legal issues, ranging from public procurement to state aid. Secondly, it intends to implement measures which allow for *better quality evaluation* and comparison

between SGIs in the different Member States. Thirdly, the Commission will investigate whether the *universal service obligation* can and should be extended to other services, possibly on the basis of Art. 14 TFEU.

Given the remaining absence of an operational network of interconnected cross-border transport infrastructure, the Commissions will revise its guidelines for the development of the **Transeuropean transport network**. Moreover, to be able to target the most pressing gaps, the Commission will advance a Proposal on a global framework for the funding of transport infrastructure.

To address the urgent need for **modernized energy infrastructure which better interconnects** the national energy networks, the Commission announced a Communication on energy infrastructure priorities up to 2020/2030 which will be implemented via a new European instrument for energy security and infrastructure.

Following up on Monti's advice to adopt certain targeted measures to **address specific conflicts between the economic freedoms and social objectives**, the Commission makes the more general pledge that the rights guaranteed in the Charter of Fundamental Rights³³, including the right to collective action, will be "taken into account".³⁴ In addition, it promises to conduct an in-depth *social impact assessment* of all legislative proposals concerning the Single Market. Considering that the "implementation, application and enforcement" of the Posting of Workers Directive could be improved and its interpretation clarified, the Commission will adopt a legislative proposal aimed at improving the implementation of the Posting of Workers Directive. In view of the controversy surrounding the Viking and Laval cases³⁵, this proposal is *likely* to also include, or be supplemented by, a clarification of the exercise of fundamental social rights within the context of the economic freedoms of the Single Market.

In respect of **pensions**, the Commission is set to re-examine the Directive on activities and surveillance of pension funds, as well as to develop other proposals on the basis of the July 2010 Green Paper on pensions, to address the continuing problems experienced by mobile workers in respect of their pension rights.

33. Note also: European Commission, Strategy for the effective implementation of the Charter of Fundamental Rights by the European Union, 19 October 2010, COM(2010) 673.

34. Note however that Monti himself went further by suggesting the insertion of a clause which would safeguard the right to strike, see below 2.1.1.1.

35. ECJ, Case C-341/05 *Laval un Partneri* [2007] E.C.R. I-11767; ECJ, Case C-438/05 *The International Transport Workers' Federation and The Finnish Seamen's Union* ("ITWF") [2007] E.C.R. I-10779.

Furthermore, the Commission intends to consult with the social partners on the possibility to set up a **European framework for the advance planning of industrial restructuring** so as to limit the risk of social unrest and enhance the chances of an economically and socially beneficial outcome.

One of the difficulties of the European market integration project clearly remains the lack of **cross-border movement of workers and “skills”** more generally. To improve on this, the Commission advances several proposals which are to facilitate recognition of qualifications and skills, which remains highly problematic, as well as to encourage student mobility. Therefore the Directive on the recognition of professional qualifications will be revised and might include a more elaborated professional card construct. In addition the Commission will build on its “Youth on the Move” Communication by developing a “Youth on the Move card” as well as the provision of information on studying abroad. Another measure being evaluated is the possibility of creating European student mobility loans. Furthermore, the Commission will continue the implementation of the European qualifications framework which introduces a common European reference framework which Member States are encouraged to apply to the different diplomas and certificates awarded by them. In addition the Commission will propose a Council Recommendation to promote and validate training outside the classroom. A further proposal will be on a European Skills Passport enabling individuals to record the knowledge and skills they have acquired throughout their lives.

To stimulate **social (market) economy initiatives**, including socially innovative corporate projects, the Commission will propose a *Social Business Initiative* which would encompass social ratings, ethical and environmental labelling, revised public procurement rules, the introduction of a new investment fund regime and better access to finance via, among others, the tapping into dormant savings. In addition, the *different legal forms* in which many socially-tinted initiatives are set up, are open to improvement and streamlining within the EU. Hence, the Commission announces a regulation on a European Foundation Statute to encourage foundations to go cross-border. In addition, it announces a public consultation on the implementation of the Regulation on the Statute for a European Cooperative Society which will be followed by concrete measures. Furthermore, the Commission intends to launch a study on mutual associations examining in particular their cross-border activities. Finally, stressing its intention to “redefine the role of businesses in today’s economy”³⁶, the Commission announces public consultations on *corporate governance* and transparency of information provided by businesses on social and environmental matters as well

36. Draft SMA, p. 25.

as human rights. These consultations *could* then culminate in legislative initiatives.

A first series of actions aimed at the European citizen in its capacity of **consumer** in the Single Market relate to guaranteeing product safety. Aside from an action plan to step up European market surveillance, the Commission will bring forward guidelines for customs controls in the area of product safety as well as propose a revision of the general product safety Directive to create a more coherent and effective framework. The Commission further announces legislative action to guarantee access of consumers to certain basic banking services. In addition, it calls on the banks and financial institutions to adopt self-regulatory measures for increased transparency and comparability of bank charges. Furthermore the Commission intends to propose a Directive aimed at the creation of an integrated European mortgage market with a high level of consumer protection. The Commission will adopt a Communication which identifies the tax obstacles still facing European citizens wanting to make use of their free movement rights, and make suggestions on how to eliminate these.

Lastly, the Commission proposes to amend the Regulation on the rights of air passengers and plans a Communication on the rights of passengers for all means of transports.

1.4.2.3. *Proposals for better governance of the Single Market*

The keyword of the Commission's scheme for governance of the Single Market is "**partnership**"³⁷, be it with the public and stakeholders through "*dialogue*", or with the Member States and local governments via *co-management* of the Single Market.³⁸ By engaging the public through a four month consultation process on the Draft SMA and, on a more permanent basis, through a "new framework for dialogue", the Commission strives to restore the citizens' confidence *in* and appreciation *of* their Single Market. Moreover, by involving all actors as closely as possible at all stages, i.e. preparation, implementation, evaluation or monitoring, enforcement, the Commission hopes to trigger a "**collective commitment**" towards the Single Market.

This "partnership"-approach is reflected in the proposals concerning *evaluation* processes. For one, the Commission intends to extend the **mutual evaluation process** introduced in the Services Directive to other key Single Market legisla-

37. This was also advanced in the Grech report, para. 54.

38. In the Draft SMA this part is entitled "Dialogue, partnership, evaluation: The keys to good governance of the Single Market".

tion. Moreover, the Commission plans to organise a yearly **Single Market Forum** with all stakeholders to assess the state of the Single Market.

Partnership is also promoted at the *implementation* stage where the Commission announces a legislative proposal containing a strategy³⁹ to extend the **Internal Market Information System (IMI)** to other legislative areas with an eye to creating a genuine face-to-face electronic network for European administrations.

Likewise, in respect of *enforcement*, the Commission pledges to work in partnership with the Member States by drawing up **transposition plans and draft correlation tables** for the legislative proposals provided for in the SMA. While calling on the Member States to reduce their transposition deficit of single market Directives, the Commission commits itself to reducing the average time taken to deal with **infringement** files. The promotion of other “**soft enforcement tools**” or “informal problem solving mechanisms” (EU Pilot Project, Solvit,...) also reflects this partnership-spirit.

As regards dialogue with the public, the Commission will increase **consultation** efforts during the preparation as well as the implementation phase. Moreover, by facilitating access to information on European as well as national rules and procedures through the further development of a **one-stop-shop**, i.e. “Your Europe”, the public should be further implicated.

Given that the functioning of the Single Market as well as the trust placed in it, is crucially dependent on the ability of consumers to enforce their rights, the Commission aims to strengthen the **alternative dispute resolution mechanisms**. Hence, it will submit an initiative on the use of alternative dispute resolution (ADR) in the EU and adopt a Recommendation on the network of ADR systems for financial services so as to ensure simple, reasonably priced out-of-court settlement procedures for cross-border consumer disputes. It will further propose a European system for the settlement of online disputes for digital transactions. In addition, a consultation on a European approach to collective redress will be held to see how this could be introduced in the EU and the Member States legal systems.

39. First to be set out in a communication.

2. EVALUATING THE ATTEMPT TO RELAUNCH THE SINGLE MARKET: NEED FOR A MORE STRATEGIC APPROACH

Whereas the substance of the concrete proposals in the Draft Single Market Act also merits close examination, this contribution takes a different angle and aims to analyze the document on the basis of its “*strategic building blocks*”. Indeed, it is felt that the major challenge facing any Single Market initiative at present is the effort to reengage and re-enthuse the different actors for the global project itself of a more closely integrated market. Hence, this paper seeks to evaluate *whether the (macro-) approach adopted is likely to succeed in genuinely “relaunching” the Single Market*

Admittedly, strategy and vision will only take you so far, but, however essential the substantive quality of the concrete proposals may be, no Community hard core competence can compensate for the lacking “political as well as public support” which is so desperately needed to make the Single Market work. Therefore, the request of an engaging *renewed narrative and political project* for the Single Market Project does not seem excessive if the objective is to regain momentum.

Indeed, since the 1992 Single Market Programme, a succession of initiatives (an “action plan”⁴⁰, two “internal market strategies”⁴¹ and a “Single Market Review”⁴²) were launched with the intention of furthering market integration. Although these proposals, to a more or lesser degree, contained valuable elements and booked some successes, the fact that Barroso deemed it necessary to announce a “major package for tomorrow’s single market” less than 2 years after the 2007 Single Market Review, could be seen as an indication that this time something more than “business as usual”, i.e. a gradual low-profile approach, is needed.

40. European Commission, Communication “Action Plan for the Single Market”, 4 June 1997, CSE(97)1 final.

41. The Internal Market Strategy 1999-2002 was made up of a range of communications: European Commission, Communication “The Strategy for Europe’s Internal Market”, 6 October 1999, COM (1999) 464; European Commission, Communication “2000 Review of the Internal Market Strategy”, 8 May 2000, COM (2000) 257 final; European Commission, Communication “2001 Review of the Internal Market Strategy – Working Together to Maintain Momentum”, 17 April 2001, COM (2001) 198 final; European Commission, Communication “2002 Review of the Internal Market Strategy – Delivering the Promise”, 11 April 2002, COM (2002) 171 final.

The Internal Market Strategy 2003-2006: European Commission, Communication “Internal Market Strategy – Priorities 2003 – 2006”, 7 May 2003, COM (2003) 238 final.

42. European Commission, Communication “A single market for 21st century Europe”, 20 November 2007, COM (2007) 724. See the rather critical appraisal of the Review’s impact by Jacques Pelkmans, Single Market Revival, 17 March 2010, CEPS Commentary, available at: <http://www.ceps.eu/book/single-market-revival>, p.2.

2.1. Draft SMA: room for improvement in terms of strategy

The Draft SMA should clearly be credited for breaking with the tradition of lists of disparate technical proposals and for attempting to devise a more coherent and engaging *political project* to relaunch the Single Market. Nonetheless, some critical remarks concerning the Draft SMA's strategic building blocks seem in place.

2.1.1. A Political Project?

2.1.1.1. Social versus/juncto growth?

One of the most striking features of the Draft SMA is undoubtedly the great emphasis laid – at least in *narrative* – on the *social aspects* of the Single Market Project. The Commission should definitely be applauded for taking on board Monti's advice to seek to restore the confidence⁴³ of those worried about the impact of the internal market on social policies and objectives.

However, the extent to which this narrative will *de facto* result in concrete policy actions remains to be seen. Indeed, as for many of the Draft SMA's proposals, several of the social measures announced remain noticeably vague and uncommitted. For example, as regards the contentious relationship between the right to strike and the economic freedoms⁴⁴, Monti made the concrete suggestion to introduce a provision guaranteeing the right to strike (a so-called "Monti clause"⁴⁵) in the measures that would be adopted to clarify the interpretation and application of the Posting of Workers Directive.⁴⁶ The Draft SMA, however, merely states that "the Commission will ensure that the rights guaranteed in the Charter, including the right to take collective action, are

43. The Draft SMA's second title is devoted to "Restoring confidence by putting Europeans at the heart of the Single Market".

44. Recall the controversy surrounding the Court's case-law on collective action: ECJ, Case C-341/05 *Laval un Partneri* [2007] E.C.R. I-11767; ECJ, Case C-438/05 *The International Transport Workers' Federation and The Finnish Seamen's Union ("ITWF")* [2007] E.C.R. I-10779.

45. See footnote 17.

46. Monti Report, p. 70-72. The inclusion of such a provision protecting the right to strike would, arguably, not change the "*formal legal status*" of this right in court proceedings. Indeed, on the one hand, the Court *already* takes fundamental rights into account as "an integral part of the general principles of Community law" and, as part of the Charter of Fundamental Rights which the Lisbon Treaty accords the "same legal value as the Treaties" (Art. 6 TEU). On the other hand, when the Court is called upon to balance the Treaty-based fundamental freedom to provide services (Art. 56 TFEU, which underlies the Posting of Workers Directive), as against the fundamental right to strike (both rights thus being of primary law status), such a provision of *secondary* legislation does not carry the legal weight to shift this balance. Yet, it can be expected that the Court would still be *significantly influenced* by the legislator's explicit intention to protect the right to strike within the context of the posting of workers.

*taken into account*⁴⁷ and that its legislative proposal for improving the implementation of the Posting of Workers Directive “is *likely* to include or be supplemented by a *clarification* of the exercise of fundamental social rights within the context of the economic freedoms of the single market”⁴⁸. Similarly, in respect of services of general interest (SGI) the Commission rather vaguely announces the adoption by 2011 of “a Communication and a series of measures” on SGIs.⁴⁹ Furthermore, the statement that the horizontal social clause enshrined in Art. 9 TFEU should become operational⁵⁰ is criticized for not being backed up by a concrete proposal.⁵¹

Although the revaluation *of* and emphasis *on* the social dimension of the Single Market is essential for the creation of an integrated European social market economy supported by all Europeans, the Draft SMA has arguably become – at least in narrative – a bit too focused on this. Indeed, whereas the Draft SMA goes to great pains to demonstrate its commitment to reconcile market integration with social concerns, it does not seem to display the same degree of fervour in denouncing protectionism and explaining how market integration and increased competition boost growth to the benefit of all Europeans. Moreover, the concrete substantive proposals for further (growth-stimulating) integration sometimes seem to lack the level of ambition and devotion required. This is especially apparent in respect of the enforcement of Single Market rules where the commitments undertaken are of a rather “soft” nature. For example, the concrete benchmarks for the reduction in the duration of infringement procedures as proposed by Monti⁵² are replaced by a vague statement that the “Commission undertakes [...] to reduce the average time taken to deal with infringement files”⁵³.

47. Draft SMA, proposal No. 29, emphasis added by author.

48. Draft SMA, proposal No. 30, emphasis added by author.

49. Draft SMA, proposal No. 25. Although it does “put some flesh on the bones” of this vague statement in its ensuing explanation, see above pp. 9-10. See also the criticism in the Draft report on the Single Market for Europeans, p. 10.

50. Draft SMA, p. 19.

51. See the criticism expressed by Louis Grech when giving evidence to the House of Lords Select Committee on the European Union, The EU Single Market (Corrected Evidence), 15 November 2010, at <http://www.parliament.uk/documents/lords-committees/eu-sub-com-b/singlemarketinquiry/cEUB151110ev2.pdf>, p. 27. See also: the PES reaction, “EU Commission Single Market proposals ‘not ambitious’ enough – Too little is done for citizens says PES”, 27 October 2010, at: <http://www.pes.org/en/node/44498>.; Draft report on the Single Market for Europeans, Nos 6-7 & p. 10. It should be noted however that proposal No 30 of the Draft SMA does set out the Commission’s intention to conduct social impact assessments of internal market legislation. Yet, the critics are of the opinion that the social clause should entail more than mere social impact assessments.

52. Monti Report, p. 98.

53. Draft SMA, proposal No. 47.

2.1.1.2. *Global versus fragmented approach*

The Commission rightly followed up on the EP's and Monti's call for a more *holistic and comprehensive approach* to the Single Market where the interconnection and interdependence between the traditional single market policies and other EU policies is acknowledged and acted upon.⁵⁴ It has, moreover, carefully linked the various proposals with the EU2020 flagship initiatives, thereby not only highlighting the important role of the Single Market in the EU2020 project but also giving more visibility to this crucial "strategy for smart, sustainable and inclusive growth".

Unfortunately, despite the intention to present a comprehensive or "global" approach, the Commission has not put into practice Monti's suggestion to genuinely "integrate" other policies into a "Single Market strategic objective". More precisely, while the instrumental value of a good functioning Single Market for other policy objectives has been rightly emphasized, the intention to create a "global" strategic package for relaunching the Single Market has not been matched by concrete political action placing other policies at the service of an overarching Single Market Project. Hence, almost simultaneously with the release of the Draft SMA, a multitude of overlapping communications and reports were published in the domains of industrial policy⁵⁵, citizens' rights⁵⁶, digital agenda⁵⁷, etc., thereby clearly endangering the coherence of the Single Market strategy and posing the *risk of re-fragmentation*.⁵⁸ Simultaneous and coordinated action in the different policy domains, as opposed to fragmented action, is however essential for successful policy-making.⁵⁹ Clearly, this "mushrooming of communications" does not help the already strained visibility of the Single Market Project either. Although it is an understandable "political reflex" of the different commissioners involved in the subgroup drafting the SMA to all rally for their own high-profile reports in their area of competence, a stronger chairman role taken up by Barroso could have pushed through the need to prioritize the comprehensive Single Market Package.⁶⁰

54. Note the common contribution of 13 commissioners to the Single Market Act.

55. European Commission, Communication "An Integrated Industrial Policy for the Globalisation Era – Putting Competitiveness and Sustainability at Centre Stage", 28 October 2011, COM(2010) 614.

56. European Commission, EU Citizenship Report 2010 – Dismantling the obstacles to EU citizens' rights, 27 October 2010, COM(2010) 603 final.

57. European Commission, Communication "A Digital Agenda for Europe", 26 August 2010, COM(2010) 245.

58. See also Louis Grech when giving evidence to the House of Lords Select Committee on the European Union, The EU Single Market (Corrected Evidence), 15 November 2010, at <http://www.parliament.uk/documents/lords-committees/eu-sub-com-b/singlemarketinquiry/cEUB151110ev2.pdf>, p.5.

59. See also the Council's call for coordinated action, Competitiveness Council, Conclusions on the Single Market Act, 10.12.2010, http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/intm/118409.pdf, No 23.

60. See Mario Monti's Speech at the extraordinary general meeting of Confrontations Europe, "Vers un pacte pour un grand marché européen", 18 November 2010, at http://www.confrontations.org/IMG/pdf/CR_Assemblee_Generale_18_Nov_2010.pdf.

2.1.1.3. *More focus on the political compromise-agreement needed?*

Although the intention to take into account the citizens' concerns and to place the citizen at the heart of the Single Market is essential, it should not distract from the fact that what is really needed to make headway in completing the Single Market is *political agreement* between the Member States. Hence, seeking further public support and awareness through a four month consultation is a laudable effort, yet it cannot surrogate the need for a *political compromise*. Unfortunately, the Draft SMA did not take up the “*grand bargain*” carefully constructed by Monti with an eye to overcoming the Member States' reticence.⁶¹ In addition, the Draft SMA does not refer to the use of the *package deal* method which would allow Member States to support the relaunch proposal as a package deal with something for all, and would prevent them from conducting a “pick-and-choose”-exercise.

2.1.1.4. *Weakness of delivery and governance methodology*

Furthermore, the Commission continues its crucial effort of the 2007 Single Market Review to improve *delivery*. However, despite good intentions⁶², a persistent difficulty in the Commission's Single Market governance remains the *scarcity of systematic market and sector monitoring*, which would permit to identify the real obstacles and priority action items.⁶³ Such analyses could moreover provide more concrete data on the expected growth and related social advantages to underpin the specific legislative proposals.

Although the Commission's focus on *partnership* in the governance of the Single Market is a valuable and necessary objective, it should still be accompanied by a sufficiently resolute attitude regarding *enforcement* for those instances where

61. Note however the doubt expressed by Malcolm Harbour at the validity and necessity of the so-called “Monti bargain” between the Anglo-Saxon and Continental economies, when giving evidence to the House of Lords Select Committee on the European Union, The EU Single Market (Corrected Evidence), 15 November 2010, at <http://www.parliament.uk/documents/lords-committees/eu-sub-com-b/singlemarketinquiry/cEUB151110ev2.pdf>, p. 28.

62. See, among others, Staff working paper on “Implementing the new methodology for product market and sector monitoring: Results of a first sector screening”, SEC(2007) 1517, 20.11.2007, at: http://ec.europa.eu/citizens_agenda/docs/sec_2007_1517_en.pdf

63. It should however be mentioned that since the 2007 Single Market Review the Commission has embarked on a couple of such monitoring exercises resulting in, among others: the retail market monitoring report “Towards more efficient and fairer retail services in the internal market for 2020”, COM(2010)355 final, 5.7.2010; and as regards the food supply chain: Commission Communications, “Food Prices in Europe”, COM(2008) 821 final, 9.12.2008; for the pharmaceutical sector: Study by Eco-rys for the European Commission, Directorate General Enterprise & Industry, “Competitiveness of the EU Market and Industry for Pharmaceuticals”, December 2009, retrievable at: http://ec.europa.eu/enterprise/sectors/healthcare/competitiveness/monitoring/index_en.htm;

the collective commitment “spirit” is lacking.⁶⁴ Hence, in the final SMA the Commission would be advised to adopt a firmer and more ambitious approach on stepping up enforcement.⁶⁵

Clearly the release of the Draft SMA has not succeeded in placing the Single Market once again at the centre of media and political attention, which remains however a prerequisite if a genuine quantum leap in market integration is the objective. This can be partially blamed on the *absence of the necessary political commitment*, and more specifically on the Commission President’s negligence to publicly put his weight behind the renewal of the Single Market project. Therefore, it would seem advisable for Barroso to explicitly and publicly endorse this project as a Commission’ priority. However, a promising recent evolution has seen the President of the European Council somewhat taking over the political initiative⁶⁶ and systematically referring to the importance of strengthening the Single Market and prioritizing the 50 proposals of the Draft SMA.⁶⁷

2.1.1.5. *Time for a “Cecchini II”? Growth to meet the challenges of ageing, greening and globalization*

It seems that one possible tool to boost the “PR” of the Single Market Project and generate the necessary political momentum, while avoiding the trap of antagonizing social and market competition objectives, could be the commissioning of a new Cecchini-like report on the so-called “*costs of non-Europe*”.⁶⁸ Faced with the diverse manifestations of “market” and “market integration” fatigue, there

64. Contrast Monti’s firm insistence on stronger enforcement as the counterweight for the “social compromises” on market integration (Monti Report, pp. 95-98) with the much softer tone adopted in the Draft SMA (pp. 32-33.)

65. See also the Draft report on Governance and Partnership, Nos 15-20 & 28-29.

66. See also the Draft report on Governance and Partnership., No 4 and Nos 24-26 where IMCO explicitly calls for the President of the European Council to be given the mandate to “coordinate and supervise the relaunch of the Single Market, in close cooperation with the President of the Commission” and suggests a yearly spring European Council assessing the state of the Single Market.

67. For example: Keynote speech “2011 – Challenges for the EU”, at Europe House, London, 13/01/2011, http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/118794.pdf; Speech “The great challenges for the European Union”, Warsaw University, 17/01/2011, http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/118874.pdf; Speech at the Annual Brussels Think Tank meeting, “Europe 3.0: Building a Viable Union”, 25 January 2011. Note also his twitter message of the 17th of January 2011, “The European single market: key to #EU’s prosperity over last decades. We’ve built the world’s largest single market. Quite an achievement!”, <http://twitter.com/euHvR/status/26978915578810368>.

68. In 1988 Paolo Cecchini and his team were asked by the Commission to conduct an ex ante assessment of the effects on growth and jobs of the 1992 Single Market Programme. Although its findings were not uncontested, this vast report nonetheless provided the Commission with strong support for its proposed measures. See Europe 1992: The Overall Challenge [Summary of the Cecchini Report]. SEC (88) 524 final, 13 April 1988.

should be a renewed effort to objectively calculate and demonstrate the *benefits* which further market integration and competition can bring.⁶⁹

As suggested by Peter Holmes⁷⁰, such a “costs of non-Europe” analysis⁷¹ could be based on the main macro challenges facing the *European welfare states*, being the need: (1) to manage an ageing population, (2) to green the economy and (3) to respond to the increased competition coming from the East and the South. In other words, a first step would be to calculate the increase in growth/productivity needed to maintain the European living standard in the face of these challenges. Subsequently, the projected contribution of each new policy proposal to this necessary growth should be calculated and openly communicated. Such concrete numbers are more likely to spur Member States than vague policy claims.

However, in view of the social concerns surrounding market integration, Holmes emphasizes that this “Cecchini II” exercise should also include an honest account of the *costs and losers* of further market integration rather than a mere “net benefit” story as was presented in Cecchini I.⁷² Indeed, part of the social concerns surrounding the Single Market Project relate to these so-called “short term losers” and should thus be squarely addressed. Hence, a new report should identify the winners as well as the losers of further market integration and analyse how those “losing out” can be compensated or retrained by means of flanking policies, like a more effective cohesion policy⁷³. In other words, more attention should be given to the *distributional impact* of further market integration.

69. Note for example ETUC’s skepticism in respect of the “vague” and “speculative” 4% growth prediction in the Commission Communication, see “ETUC Resolution Towards a Single market Act – ETUC proposals” (ETUC Resolution), 1-2 December 2010, at http://www.etuc.org/IMG/pdf/Resolution-on-Towards-a-Single-Market_ActEN.pdf, n°7.

70. Peter Holmes and Jim Rollo, “EU Internal Market: Shaping a new Commission Agenda 2009-2014”, SEI Working Paper No. 114, April 2010, http://www.sussex.ac.uk/sei/documents/working_paper_114.pdf.

71. It should be noted that at the occasion of the event “Single Market: time to Act!” held in Brussels on the 8th of February 2011, Commissioner Barnier announced that together with Commissioner Rehn he would launch a study on “the costs of non-Europe”, which should be finalized in 2012. Although no details on the precise objective and substance of this study are available at present, it does seem to go in the direction of what is suggested here and should thus be welcomed. http://ec.europa.eu/internal_market/smact/docs/s11_84.pdf.

72. Note ETUC’s criticism on the Commission’s 4% growth prediction as failing to clarify what it would signify in terms of jobs, ETUC Resolution, n°7.

73. The Commission set out its plans for the future of cohesion policy in “Conclusions of the fifth report on economic, social and territorial cohesion: the future of cohesion policy” (COM(2010) 642 final), 9.11.2010, http://ec.europa.eu/regional_policy/sources/docoffic/official/reports/cohesion5/pdf/conclu_5cr_part1_en.pdf

2.1.2. SMA's procedural scheme

2.1.2.1. More consultation and vague proposals

The main surprise was probably the fact that the Commission did not come forward with a definitive programme but rather with a “proposal” which forms the basis of a *four-month public consultation* following which the final Single Market Act (SMA) will be adopted.⁷⁴ Many have criticised the lack of urgency which speaks from this consultation “intermezzo”⁷⁵ and have questioned its added value. Indeed, during his exploratory expedition, Monti has already conducted extensive consultations with the various stakeholders over a 6 month period. So rather than yet more consultation, what is really needed now is concrete *action*. It should moreover be recalled that when the individual legislative proposals will be adopted on the basis of this “Act”, they will automatically be subject to further public consultation.⁷⁶

A further point of criticism is the vagueness of several of the Draft SMA's proposals, *vagueness* in terms of their ultimate objective as well as the instruments to be used. Indeed, announcements of action plans, white papers, communications, etc., abound.⁷⁷ Given that many of the issues addressed have already formed the object of extensive analysis and consultation over the previous years, the Commission was expected to come up with more mature proposals at this stage.⁷⁸ A clear example of this overdue precision is the Draft SMA's announcement of a *public consultation* on a European approach to collective redress. Having already been the object of extensive previous consultation⁷⁹, Monti's more resolute call to “adopt EU legislation on collective redress”⁸⁰ seems more fitting. It is hoped that at the end of the four month consultation the Commission will put forward more concrete proposals.

74. Since the European Parliament will most probably not hold its plenary vote on its resolution reacting to the Draft SMA before April, the Commission's final proposal is only to be expected after that time.

75. Note that this is the first time that a Single Market “review/action plan/...” is subjected to such a public consultation process.

76. However, Commissioner Barnier seems of the opinion that this four month public consultation will shorten subsequent consultation processes over the individual proposals and could even pave the way for more first reading agreements. Speech at the extraordinary general meeting of Confrontations Europe, “Vers un pacte pour un grand marché européen, 18 November 2010, at http://www.confrontations.org/IMG/pdf/CR_Assemblee_Generale_18_Nov_2010.pdf.

77. For example: a white paper on transport policy (proposal No 7), a “look” into the feasibility of an initiative on the ecological footprint of products (proposal No 10), a consultation in order to create a European framework for advance planning of industrial restructuring (Proposal No 32).

78. Especially since many of the proposals were “nothing new” but were already in the pipeline. Although bundling these existing proposals in a more political project might help to “speed up” their adoption or concretization; the *drawing up* of the SMA should also be grasped as an opportunity to take them one step further.

79. See: http://ec.europa.eu/consumers/redress_cons/collective_redress_en.htm

80. Monti Report, p. 42.

2.1.2.2. *A concrete timetable*

The Commission's proposal to *identify* in its Single Market Act *certain priority actions* to be carried out by 2012 in line with a strict timetable à la Delors' White Paper, should clearly be welcomed.⁸¹

81. Note that the Commission is now looking at a "realistic and manageable" set of 10-12 "key priority measures" which the Commission should present still in 2011 and can be adopted by the end of 2012. See Barroso's speech at the "Single Market: time to Act!" event held in Brussels on the 8th of February 2011, at: http://ec.europa.eu/internal_market/smact/docs/speech-11-74.pdf

CONCLUSION

Over the last year most of the EU's attention has been, inevitably so, absorbed by its efforts to weather the storms plaguing the monetary union. Yet one piece of the puzzle vital to the EU's economic recovery as well as long term growth has, up to now, not received the interest it deserves, i.e. the effort to relaunch the Single Market. Indeed, given that a more integrated European market is an important catalyst for stimulating growth in the face of the economic and financial crisis, this component of the "E" in the "EMU" should urgently be given a more prominent role in the drive for economic recovery.

In view of the urgency of this need to tap into new sources of economic growth, the persistency of many important obstacles, the loss of public confidence as well as the resurgence of protectionist reflexes, it is clear that, rather than yet another gradual low-profile initiative, the Single Market needs a true "relaunch". Convinced that such renewed momentum can only be created by means of a *genuine "strategic" approach*, this contribution set out to examine the strategic building blocks proposed in the Draft Single Market Act and the main preparatory documents, i.e. the Monti and the Grech report.

It seems that in its Draft SMA the Commission, spurred by both the Monti and the Grech report, does indeed attempt to recast the Single Market in a "*new*" *political project* with an engaging narrative centered on "putting the European citizen at the heart". Hence, the Draft SMA should be applauded for recognizing the social concerns thwarting citizens' support for market integration. Likewise the intention to adopt an integrated approach with other policy objectives can only be welcomed.

However, there seems to remain considerable room for improvement. Hence, with an eye to the adoption of the final SMA, some suggestions are made. For one, the absence of sufficient political commitment to this project at the highest level has been criticized by many and President Barroso, as well as President Van Rompuy, are called upon to more explicitly put their weight behind this vital initiative.

Secondly, the Commission's intention to take a "global and integrated approach" to the Single Market should be supported by concrete policy actions placing, where necessary and appropriate, actions in other policy domains at the service of a "Single Market strategic objective". This requires a high degree of coordination between the different Commissioners.

Thirdly, there is a need to replace the abundance of vague policy announcements with much more concrete proposals. The vagueness of the announced actions undermines, to a certain extent, the credibility of the Commission's commitment to both the social dimension and the growth or competition objective, thereby leaving both "sides" dissatisfied.

Fourthly, although the vagueness of the announced policy actions complicates a full appraisal of the Draft SMA's focus, it is felt that the Draft SMA in its effort to demonstrate its commitment to the "social dimension", does not sufficiently explain the benefits of further market integration and competition. One possible manner to integrate more closely the – too often antagonized – social and growth/competition dimensions could be to commission a new "Cecchini-type" report which would objectively calculate the projected contribution of further market integration in addressing the challenges facing European welfare states, while *also* openly identifying and addressing the distributional impact.

Lastly, even though Monti's idea of the need for a political "grand bargain" between the competing European economic models is not followed by all, the author is of the opinion that such a political compromise at the level of the Council could allow for genuine headway to be made and should thus form an important aspect of the overall strategy. Likewise, the technique of a package deal seems advisable to prevent a "pick-and-choose" exercise undermining the coherence and vigor of the relaunch effort.