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Interim Report

drawn up on behalf of the Committee on Economic and Monetary Affairs

on the ~~removal~~ of technical barriers to trade in the European Community

Rapporteur: Mr K. von WOGAU

On 14 November 1979 the European Parliament instructed the Committee on Economic and Monetary Affairs to draw up a report on the motion for a resolution tabled by Mr K. NYBORG pursuant to Rule 25 of the Rules of Procedure on technical and administrative barriers to trade.

At its meeting of 19 December 1979 the Committee on Economic and Monetary Affairs appointed Mr K. von WOGAU rapporteur.

On 24 January 1980 the Commission adopted a communication to the European Parliament on the removal of technical barriers to trade. At its meeting of 23 January 1980 the Committee on Economic and Monetary Affairs appointed Mr von WOGAU general rapporteur for technical barriers to trade.

The Committee on Economic and Monetary Affairs considered the motion for a resolution and the communication at its meetings of 27 March and 23 September 1980 and at the latter meeting adopted the motion for a resolution unanimously

Present : Mr Delors, chairman; Mr de Ferranti, vice-chairman; Mr von Wogau, rapporteur; Mr Balfour, Mr Beumer, Mr Bonaccini, Mrs Boot (deputizing for Mr Collomb), Mr Herman, Mr Hopper, Mr Nyborg, Mr Verroken (deputizing for Mr Schnitker), Mr Wagner and Mr Walter

C O N T E N T S

	<u>Page</u>
A. MOTION FOR A RESOLUTION	5
B. EXPLANATORY STATEMENT	7
I. The common market today	7
II. Procedure for dismantling existing barriers to trade and preventing the erection of new ones	8
III. European standards	10
IV. Treatment of third countries in the framework of GATT	10
V. Improved information for firms	10
VI. Timetable and priorities	11
 ANNEX : Motion for a resolution tabled by Mr NYBORG (Doc. 1-504/79)	 12

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The Committee on Economic and Monetary Affairs hereby submits to the European Parliament the following motion for a resolution, together with explanatory statement :

MOTION FOR A RESOLUTION

on the removal of technical barriers to trade in the European Community

The European Parliament,

- having regard to the motion for a resolution tabled pursuant to Rule 25 of the Rules of Procedure on technical and administrative barriers to trade (Doc. 1-504/79),
 - having regard to the communication from the Commission of the European Communities to the European Parliament of 24 January 1980 on the removal of technical barriers to trade¹,
 - convinced that the creation of a Common Market as envisaged in the Treaties of Rome is of advantage to all citizens of the European Community,
 - concerned that this Common Market has so far been realized only in part,
 - conscious that 'technical' barriers to trade, with their protectionist effect, are in many cases a substitute for former customs barriers,
 - having regard to the interim report of the Committee on Economic and Monetary Affairs (Doc. 1-440/80),
1. Recognizing the importance of this task and the progress already made, calls upon the Commission to accord the highest priority to the removal of the remaining technical barriers to trade; to that effect, requests the Commission to lay down priorities, giving attention first of all to those sectors which are likely to assume importance in future from the angle of economic development and having regard to the real need for harmonization and to the cost benefit angle;
 2. Requests the Commission to submit to it an annual report on the progress of work in this field which indicates the areas to which highest priority should be accorded in the following year.
 3. Draws attention to the statement contained in the Commission's communication that at present nearly 250 actions for infringement are pending, which suggests that the directives adopted by the Community are not being correctly carried over into national legislation; therefore urges the Member States to make it clear, by improving and accelerating their procedures for putting these directives into effect, that they stand by the objectives of the Treaties of Rome;

¹ COM(80) 30 final

4. Draws attention also to the need to have the 50 proposals for directives in this field at present before the Council adopted at the earliest opportunity;
5. Draws attention to recent decisions by the European Court of Justice to the effect that any product legally manufactured and sold in a Member State must in principle be admitted to the market of any other Member State; urges the Commission, without abandoning the other instruments at its disposal, to make full use of the opportunities existing under Article 30 ff., which are clearly brought out by the Court's rulings to have unjustified barriers to trade removed by bringing a case before the Court; regards this as an important opportunity to make a substantial reduction in the flood of harmonization directives;
6. Calls for a substantial increase in cooperation between the Commission, CEN or CENELEC and the standards institutions of the Community Member States; also draws attention to the possible desirability in the longer term of setting up a Community standards institution which must be more than a combination of existing national institutions; considers that reference to the standards of such an institution would be a further means of reducing the number and scale of Community directives; calls upon the Council to adopt a position as soon as possible on the Commission's proposal for a Council decision to establish an information procedure for technical standards and regulations;
7. Urges the Commission and Council to devise a plan jointly with Parliament for transferring powers to the Commission pursuant to Article 155 to expedite the removal of technical barriers to trade;
8. Emphasizes that optional harmonization is often preferable to total harmonization since it takes better account of the needs of small and medium-sized firms and allows greater flexibility; but total harmonization can be appropriate in certain circumstances because it reduces multiplicity of standards;
9. Urges the Commission to improve its provisions of information on existing means of overcoming barriers to trade and particularly to make sure that small and medium-sized firms are made fully aware of the opportunities open to them;
10. Instructs its President to forward this resolution to the Commission and Council and to the governments and parliaments of the Member States.

EXPLANATORY STATEMENTI. THE COMMON MARKET TODAY

The creation of a common market for all the citizens of the European Community was one of the fundamental goals of the Treaties of Rome. However, we are today obliged to recognize the fact that the internal frontiers of the Community continue to act as a serious barrier to the free movement of people, goods and services.

One of the main reasons for this situation lies in technical barriers to trade. These consist essentially of technical standards which exist or are introduced in different Community countries and which have to be met by certain products before they can be put on the market. These national standards are used as a way of obstructing imports of competitive products from other Community countries. Even though under the customs union it is no longer possible to protect domestic markets within the Community by means of customs duties they can still be walled off by having recourse to these technical standards.

In this way, the citizens of the Community are prevented from enjoying the full advantages of a common market. The aim of a greater market is to enable manufacturers to increase the scale of their production and thus reduce their costs. It provides a broader commercial basis for the development of new products, which are of crucial importance to the future competitiveness of European countries. Technical barriers to trade are also an obstacle to free competition within the common market, the aim of which is to provide consumers with a better and cheaper supply of goods and services.

The Commission and the European Parliament have already given considerable attention to these issues in the past. The aim is to remove existing barriers to trade through the harmonization of regulations and at the same time to prevent new barriers to trade from being erected. Although the work undertaken in this field up to now has been successful in some respects, a number of fundamental problems remain. It was for this reason that the European Parliament's Committee on Economic and Monetary Affairs set up a working party to disclose the political content of these technical directives and to bring the stagnation in this field to an end. On 24 January 1980 the Commission sent a communication to Parliament concerning the elimination of technical barriers to trade, which should help us to take stock of the situation and find new ways of combating these obstacles.

II. PROCEDURE FOR DISMANTLING EXISTING BARRIERS TO TRADE AND PREVENTING THE ERECTION OF NEW ONES

(a) Dismantling of 'justified' barriers to trade by means of directives based on Article 100

A large number of the national standards which in practice operate as technical barriers to trade are defended on safety, environmental protection, energy-saving and other grounds, which in principle are also shared by the other Community countries. Where these reasons are well founded, such obstacles to trade can only be dismantled by harmonizing the relevant provisions in all the Community countries under Article 100 of the EEC Treaty.

The Commission rightly emphasizes that this is not a matter of 'harmonization for harmonization's sake' and therefore not the result of a spurious mania for harmonization on the part of remote Eurocrats but rather a necessary step towards the goal of opening up Europe's internal borders.

The Commission points out that 120 such directives have already been adopted by the Council and that another 50 are awaiting its decision. However, the Commission communication also contains the very serious statement that 220 actions for infringement are pending, because directives have not been correctly incorporated into national law.

(b) Delegation of powers to the Commission pursuant to Article 155 of the EEC Treaty

In the past the European Parliament has complained that the basic political objective underlying work on technical barriers to trade, namely the creation of a genuine internal market, has been obscured by a mass of isolated technical provisions, making it difficult for Parliament to provide the appropriate political impetus.

In an effort to streamline the procedures, Parliament called for the Commission to be given greater powers, under Article 155, to issue implementing provisions. The Commission did in fact take up the suggestion and asked the Council for wider powers in its proposal on building materials. However, this directive is still blocked in the Council.

The argument put forward against the delegation of powers under Article 155 is that the legitimate interests of individual Member States might not then be taken into account. The Committee on Economic and Monetary Affairs takes the view that the extent of the powers to be delegated to the Commission should be specified more clearly in the framework directives than has been done in the past. However, Parliament still believes that it cannot be its responsibility, or that of the Council of Ministers, to issue all implementing provisions; the transfer of responsibility for laying down directives on implementation would enable the European legislative bodies to concentrate on their true role.

(c) Optional or total harmonization

When adopting directives on harmonization a choice must be made between optional and total harmonization. Total harmonization requires all manufacturers in the Community to produce to European standards, while optional harmonization leaves open the opportunity for production to continue in a Member State in accordance with its national standards. The latter alternative can be of great importance to small and medium-sized companies desiring merely to sell their products on their own national and regional markets. There is no reason to compel such firms to produce to European standards. One should always remember that harmonization is not carried out for its own sake but that its purpose is to open the markets of one member country to another. If a manufacturer does not intend to make use of this opportunity to market his products throughout Europe, there is no justification for compelling him to adjust his production in line with European directives.

(d) Unjustified barriers to trade (Articles 30 ff EEC Treaty)

National provisions which at present or in the future may obstruct intra-Community trade either directly or indirectly contravene the provisions of Articles 30 ff of the EEC Treaty except where they are justified for reasons of security, health, etc. Recent rulings by the European Court of Justice demonstrate that these provisions of the Treaty may be used by the Community as an important weapon against the erection of new barriers to trade. However, instead of embarking on the time-consuming procedure of drawing up Community legislation under Article 100 of the EEC Treaty, the Commission has recently made greater use of the possibility of removing obstacles which arise more swiftly by invoking Articles 30 ff. Parliament urges the Commission to make even greater use of these possibilities in the future.

III. EUROPEAN STANDARDS

Closer cooperation between the standards institutes of the Member States and more progress towards the approximation of national standards are necessary. In its report the Commission points out that even where standards are not legally binding they may be used as obstacles to trade. However, Parliament continues to hold the view that the greatest danger and main target for action lie in those national standards which, having been given the force of law, obstruct imports of goods which fail to meet these standards.

Parliament welcomes the Commission's intention to work towards closer cooperation between the national standards authorities and to strive towards an intensification and improvement of the work of the European Committee for Standardization. Efforts must also be made to avoid duplication of efforts in the future by establishing European standards before national standards. Such European standards, to which European legislation could then refer, could relieve the European legislative bodies of much of the detailed technical work.

IV. TREATMENT OF THIRD COUNTRIES IN THE FRAMEWORK OF GATT

The dismantling of trade barriers in the Community also entails advantages for third countries which trade with the Community. Once remaining trade barriers have been eliminated, authorization of a product in a Member State would mean that the same product could also be marketed in all the other Member States. The GATT standards are based on the principle of reciprocity. The Community must find an appropriate procedure for enforcing such reciprocity without, however, using this as a pretext for erecting barriers to trade with third countries.

V. IMPROVED INFORMATION FOR FIRMS

It can be seen time and again that it is precisely small and medium-sized firms which are least able to cope with those trade barriers which still exist in the Community and that they are very poorly informed about ways of overcoming such barriers. Parliament calls on the Commission to set up an information centre for these firms and to conduct an intensive campaign to tell them about the courses of action open to them.

VI. TIMETABLE AND PRIORITIES

Parliament welcomes the Commission's intention to rethink its priorities for the dismantling of trade barriers. At the moment, work in a number of important fields is at a standstill owing to the inaction of the Council, as a result of which activity is often concentrated on less important areas. Together with the Commission, Parliament will do everything in its power to ensure that work is focussed on fields of genuine importance and that progress can be made. A clear timetable must be laid down for the elimination of technical barriers to trade since otherwise it is to be feared that only the grandchildren of the members of the Commission and of Parliament at present working in this field will actually live to see the Common Market become a reality.

MOTION FOR A RESOLUTION (Doc. 1-504/79)

tabled by Mr NYBORG pursuant to Rule 25 of the Rules of Procedure on
technical and administrative barriers to trade

The European Parliament,

- whereas only very few small and medium-sized undertakings have the capacity to overcome, without help from the Commission, the numerous administrative and technical provisions in the various Member States which have developed in such a way as to form a much more serious barrier to trade than that previously constituted by customs duties,
 - whereas only very few cases of 'concealed protectionism' are referred to the Commission,
 - whereas many undertakings hesitate to appeal to the Commission,
1. Calls on the Commission to carry out an information campaign to inform undertakings that the Commission can help them to overcome the concealed protectionism which often lies behind technical and administrative barriers to trade;
 2. Repeats¹ its wish that the Commission should set up a 'complaints office' to which trade organizations and private individuals could appeal if they feel that they have experienced instances in which the principle of free movement has not been complied with;
 3. Instructs its President to forward this resolution to the Council and Commission.

¹ OJ No. C 108, 8.5.1978