

Single Market News

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New Directive on Defence Procurement

Interview with the Czech Presidency: Breaking down hidden barriers to the Single Market

New Internal Market Scoreboard
SOLVIT Report
CSS Report

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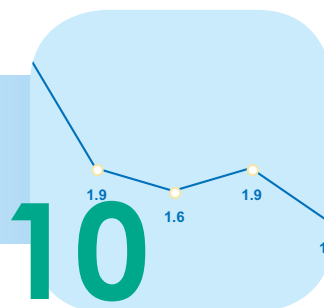
EUROPEAN COMMISSION



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Adoption of Directive on Defence Procurement



New Scoreboard, SOLVIT and CSS reports



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Dati Bendo and the European Commission



Jörgen Holmquist
Director General for Internal Market
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The current economic and financial crisis is a decisive and testing time for the Single Market. We are convinced that an open Single Market can contribute strongly to overcoming this crisis and will improve the economic potential for the EU in the medium and longer term. The Single Market is one of Europe's engines for growth and employment. Indeed, the Czech Presidency, in their interview with Single Market News (p.16), could not be more correct in saying that this is precisely the time that Europe needs to work on "breaking down hidden barriers to the Single Market". This is why we take any signs that Single Market freedoms could be restricted very seriously e.g. the area of postal services (p.26) and potentially in the area of cross-border investment (p.20).

The Commission has continued its targeted response to the financial crisis in 2009, with a new Community programme to support specific activities in the field of financial services, financial reporting and auditing, from which key European and international bodies will benefit (p.14). In the next Single Market News we will look at the Commission's new vision for improving EU financial supervision in light of the crisis, which will feed into the European Council in March and the London G-20 summit in April.

In critical areas, the Commission is contributing to enhancing the Single Market. Significant progress has been made in setting new EU-wide accounting standards for listed companies (p.21), while the CESAME group reports further achievements in tackling problems in cross-border post-trading arrangements for securities (p.15). 2009 also started with an important step forward for Europe's defence market, with the European Parliament's adoption of the Directive on Defence Procurement (p.6). This will set specific EU-wide rules for an area which up until now has been excluded from European integration.

There is progress too on Member States' performance in implementing Single Market rules, according to the latest Internal Market Scoreboard (p.10). Only 1% of Single Market rules for which the implementation deadline has passed are not currently written into national law, which is an excellent result. However, the report warns that there is still much room for improvement in the way rules are applied on the ground. To solve their problems in the Single Market, citizens and businesses are increasingly turning to the EU's problem-solving and advice services rather than formal complaint procedures, as shown by the SOLVIT and Citizens Signpost Service annual reports.

This edition of Single Market News guides you through a range of policy areas where, step by step, Single Market barriers are being removed. Ensuring that the Single Market will continue to be the motor of European prosperity and recovery is our highest priority.

A handwritten signature in black ink, appearing to read 'J. Holmquist'. The signature is written in a cursive, slightly slanted style.

News in Brief



EU economic forecast: slowdown sharpens but growth expected to return by 2010

GDP growth in the European Union is expected to fall by 1.8% in 2009 before recovering moderately to 0.5% in 2010. Economic and Financial Affairs Commissioner Almunia presented these Interim Forecast figures on 19 January. The fall in GDP is largely the result of the impact of the financial crisis on the real economy, the downturn of manufacturing output and world trade as well as, for some countries, corrections on the housing market. The unemployment rate meanwhile is expected to increase to 8.75% in the EU in 2009, and 9.25% in the euro area. The Commission expects, however, that government consumption and private investment will provide some relief in 2009. In addition, the steady decline in commodity prices over 2008 has eased inflationary pressures somewhat.



Commission tackles bank secrecy

Member States are to share more information on the savings of their citizens and cooperate better on tax evasion and tax fraud. In a Commission proposal for an overhaul of taxation rules, presented by Commissioner Kovacs for Taxation and Customs Union on 2 February, Member States should no longer be able to invoke bank secrecy on savings information when another Member State is assessing the tax situation of one of its resident taxpayers. Austria, Belgium and Luxemburg are the only EU countries that have bank secrecy rules. According to economic literature, tax fraud accounts for approximately 2 to 2.5% of GDP, or between €200 and €250 billion.

Commission sets out proposals for global climate change pact

On 28 January, the Commission came with proposals for an ambitious global agreement to tackle climate change. The pact is due to be concluded in December at the United Nations climate change conference in Copenhagen. In order to keep the temperature increase below 2°C, the proposals set out that developing countries should receive more funding from the developed world to help them to reduce their emissions. The proposals also include the creation of an OECD-wide carbon market by 2015. In order to reduce global emissions, the Commission estimates that the net additional investment worldwide will need to rise to around €175 billion per year by 2020, and that more than half of this should come from developing countries.



Harmonised rules on enforcement for road transport

Truck drivers should no longer receive different fines in different Member State for not respecting resting and driving times. A Commission Directive of 30 January is to end this discrepancy by categorising all possible infringements of the rules on driving hours and rest periods for professional drivers into three categories for all 27 Member States: minor, serious and very serious. Tachograph fraud for example is classified as "very serious". The Directive is a response to concerns voiced by the road transport industry.

EU and China step up fight against fake goods

China and the EU have signed an action plan to strengthen cooperation on the protection of intellectual property rights. The action plan covers, among others, a better exchange of information on counterfeit products, operational cooperation between key ports and airports and developing partnerships with the private sector to better target suspect shipments. China is by far the EU's largest source of counterfeit products, accounting for 60% of all such products seized at EU borders. The action plan was part of Chinese President Wen Jinbao's visit to the European Commission on 30 January. In total nine agreements were signed during the visit, on education, civil aviation, health and safety and illegal logging amongst others.



Consumers: energy, banking and urban transport are underperforming

Consumers in the EU are dissatisfied with the services provided by banking, energy and public transport companies. According to the European Commission's annual report on the EU consumer scoreboard, less than 60% of consumers are satisfied with these services, particularly in the area of pricing, complaint handling and safety. In response, EU Consumer Commissioner Meglena Kuneva announced that the electricity retail market will be a target sector for investigation in 2009. "Consumers deserve better," she said.

Antitrust: marine hose producers fined €131 million

On 28 January, the Commission fined five groups €131 million for participating in a cartel for marine hoses. Marine hoses are used to transport crude oil to and from ships for transportation from production sites. Between 2004 and 2006, the market for marine hoses was worth 32 million per annum in Europe alone. The cartel – composed of Bridgestone, Dunlop Oil & Marina Continental, Trelleborg, Parker ITR and Manuli – was active between 1986 and 2007 as it fixed prices for marine hoses, allocated bids and markets and exchanged commercially sensitive information. The cartel also had a sixth member, Yokohama, who was however not fined because it revealed the existence of the cartel.

Commission proposes €5 billion for energy and broadband internet infrastructure

In support of the €200 billion EU recovery plan, the Commission proposed on 28 January to invest €5 billion of the unspent 2008 EU budget in key energy and internet broadband infrastructure projects. The Commission expects that the package will not only deliver a much-needed stimulus to the EU economy, but will also contribute to strategic goals such as energy security and high-speed internet coverage for all.



Adoption of new Directive brings defence and security procurement into the Single Market

2009 started with an important step forward for Europe's defence market: On 14 January, the European Parliament adopted the Directive on Defence Procurement. Together with the Directive on intra-Community Transfers of Defence Products, adopted last December, the new Procurement Directive constitutes the legal cornerstone of a truly European defence market. The Defence Procurement Directive sets specific Community rules for an area which has up until now been excluded from European integration. With the adoption of this new Directive, defence and security markets are formally recognised to be "different", but nevertheless part of the Single Market.

The Defence Procurement Directive is the fruit of several years of preparation, which started in September 2004 with the Green Paper on Defence Procurement. In their response to the Green Paper, stakeholders confirmed that the existing Public Procurement Directive 2004/18/EC was ill-suited for many defence contracts. Developed for civil purchases, its rules and procedures did not sufficiently take into account the specificities of defence contracts, which are often particularly sensitive and complex. As a consequence, Member States systematically invoked Article 296 of the Treaty to exempt almost all their defence purchases from Community rules.

In order to deal with this problem, the Commission put forward a proposal for a defence-specific Procurement Directive in December 2007. The new Directive contains a number of new elements tailored to the specificities of defence contracts. Awarding authorities may use the negotiated procedure with prior publication as a standard procedure, giving them the flexibility to negotiate all details of the contract. They may also require specific commitments from candidates on security of information (in order to protect classified information) and on security of supply (in order to ensure delivery is always on time, even in times of crisis). Moreover, specific provisions on research and

cooperation, particularly important in the field of defence, have been included.

The new directive will not only apply to the area of defence, but also to sensitive security procurements. This approach is in line with today's security environment, in which transnational asymmetric threats and new technologies have blurred the dividing line between military and non-military, internal and external security. Public procurement cannot ignore these developments; today defence and security equipment have in many cases been developed on the basis of the same technology and have been produced by the same companies. Moreover, armed forces and security forces increasingly work together to fulfil the same missions. For example, the equipment used by police forces for border protection, often has characteristics similar to those of defence equipment, in particular in terms of their confidentiality requirements. For these cases, it seems only logical to make the same procurement instruments available.

However, once the Directive applies, Member States will still have the possibility to use Article 296 of the Treaty to exempt themselves from defence contracts, notably for those cases where it is necessary to protect essential security interests.



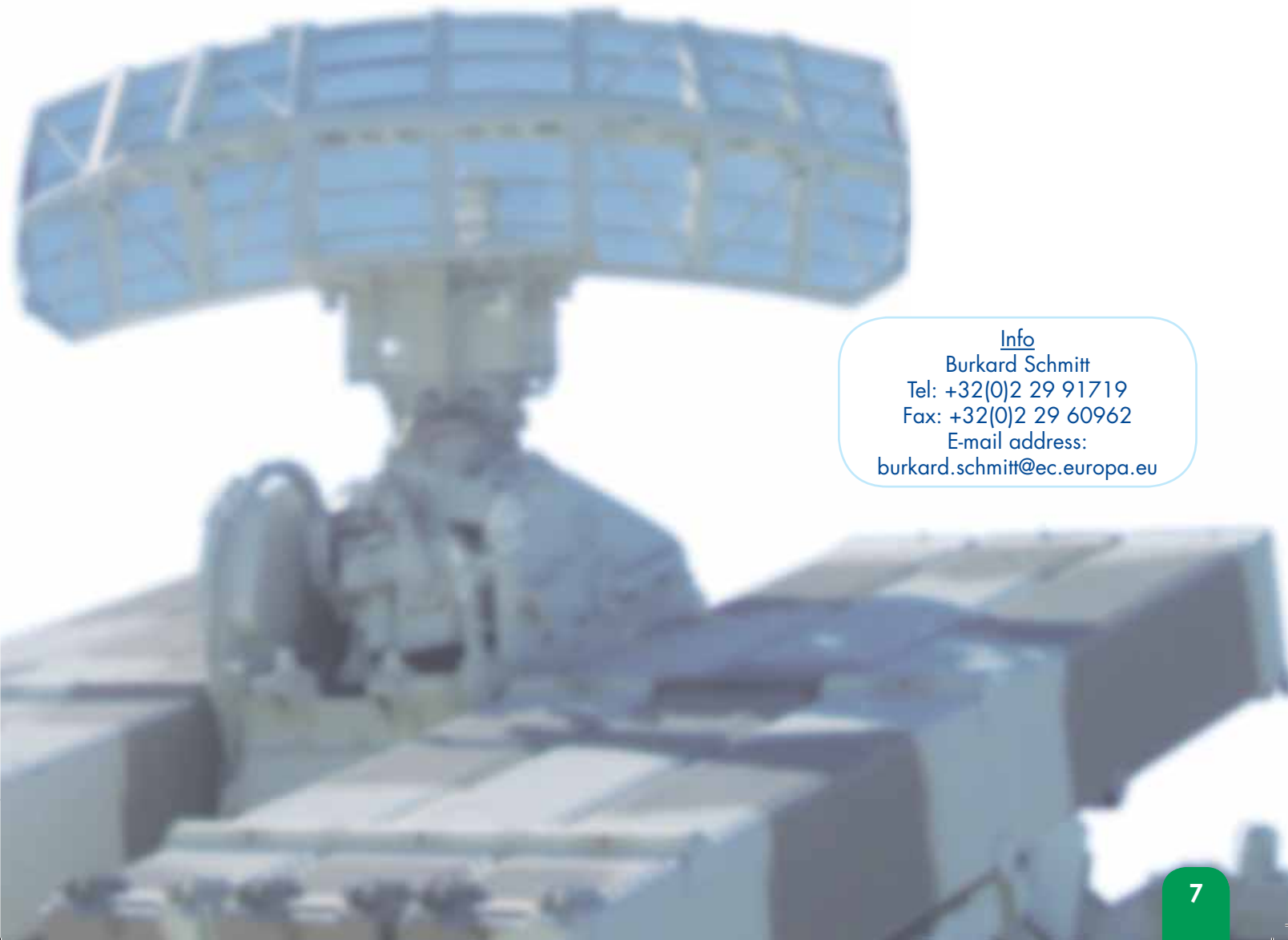
This could be the case, for example, when contracts are so sensitive that even their very existence must be kept secret. In most cases, however, Member States should be able to use the new Directive without any risk to their security. This has several advantages:

- The use of Article 296 can be limited to truly exceptional cases, as is stipulated by the Treaty and the Court. This will enhance legal certainty for awarding authorities;
- National procurement rules will be coordinated, which streamlines the regulatory patchwork in these fields and reduces industry's administrative costs;
- The principles of the Treaty, in particular transparency, non-discrimination and openness, will be implemented in defence markets. This will improve the efficiency of defence spending and lead to better value for money.

It is remarkable that a proposal, which a few years ago was considered by many as politically taboo, has now been adopted by the Council and Parliament in first reading, within little more than 12 months. This is a good illustration

of the extent to which the debate on Europe's defence market has evolved in recent years: Member States have in fact increasingly come to acknowledge that the current market fragmentation must be overcome if Europe wants to maintain a viable defence industry and if it wishes to remain in a position to equip its armed forces adequately. At the same time, Member States recognise that purely intergovernmental arrangements may not have been sufficient to open up national defence markets.

Last but not least, the Commission, in maintaining a continuous and close dialogue with all stakeholders over several years, has actively participated in the debate and consequently prepared its initiative with a great emphasis on openness and transparency. The Commission has thus established itself as a recognised player in this sensitive area and has been able to generate broad support for the idea of using Community instruments for the establishment of a European defence market. The next challenges for the Commission are twofold: supporting Member States in the transposition process and developing a stringent and coherent enforcement strategy.



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The Single Market Review: one year on



According to a recent Commission report on Single Market policy, the November 2007 Single Market Review played a vital role over the course of 2008 in the Commission's response to the economic downturn.

This Commission Staff Working Document, entitled "The Single Market Review: one year on", outlined a series of measures that aim to create the conditions to relaunch the European economy in general, while focusing in particular on the needs of citizens, consumers and small and medium-sized enterprises (SMEs). Stronger contractual rights, the removal of unjustified obstacles to cross-border buying, the introduction of effective redress when things go wrong and the availability of clearer and better information for citizens about their Single Market rights are among the initiatives which are underway. Safer financial products – bank accounts, savings, investment products and payments – were also prioritised in 2008.

For companies, and particularly SMEs, the report noted that Single Market policy had prioritised lower costs and administrative burdens, simpler company rules and better access to markets in other Member States. The Commission has also tabled a proposal for a simple, single company statute. SMEs will soon be able to obtain payments from their debtors more promptly, use electronic procedures instead of paperwork and deal with administrative formalities through one contact point. The report also stressed the need to advance a "social Europe" – through following up on the actions set out in the 2008 Renewed Social Agenda – at a time when there will be a bigger strain on social systems.

The report reiterated the ways in which the Commission proposes to carry out the Single Market initiatives - namely through evidence-based policy-making on the basis of current market monitoring work, and through closer partnership with the Member States. In the context of partnership, the report announced the presentation of a Commission Recommendation in June 2009 on joint management of the Single Market with the Member States.

In launching "The Single Market Review: one year on", Internal Market and Services Commissioner Charlie McCreevy said: "The Single Market is Europe's most valuable asset, which can help reverse the downward economic slide. The economic crisis has vividly demonstrated the value of the new approach we set out in the Single Market Review, and the importance of a level playing field for companies. It has also added a new sense of urgency to further implement this new approach."

The Commission report will be considered by the Competitiveness Council on 5 March, with conclusions from that meeting due to be transmitted to the 19 March European Council. Reactions to the Commission report from all stakeholders are very welcome.



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Solvency II: better protection, more stability



The Solvency II Directive Proposal was adopted by the Commission in July 2007. The aim of Solvency II is to introduce new solvency requirements for insurers that are more risk-sensitive and more sophisticated than in the past, in order to ensure the financial soundness of insurance undertakings and thus protect policyholders (consumers and businesses) and the stability of the financial system as a whole. Following the recent financial turmoil it has become clear to everyone that we need Solvency II more than ever and as soon as possible.

Positive vote in the Parliament

Discussion in Parliament has proceeded smoothly with a positive vote on Rapporteur Peter Skinner's report on 7 October in the Economic and Monetary Affairs Committee. The report, whilst introducing a number of amendments, remains broadly aligned with the Commission's original proposal. In particular, the report is in line with the Commission's original proposal on the two key issues to have emerged from discussions in the Council: the group support regime and the treatment of equities.

Group support regime

The Solvency II Directive Proposal would substantially modernise and simplify group supervision. In particular, the Proposal introduces an innovative regime which seeks to facilitate more efficient capital management by groups, essentially by a) allowing under certain conditions a parent undertaking to use declarations of 'group support' to meet part of the SCR (Solvency Capital Requirement) of its subsidiaries; and b) introducing limited derogations to some rules on solo supervision.

Although groups would have to meet specific requirements before they can take advantage of this 'group support' regime, the new provisions have been opposed by a significant number of Member States, as they fear it would inappropriately reduce the role of the supervisor of local subsidiaries. Conversely, other Member States believe that the group support regime will ensure that group supervision is carried out at the right level(s) and more efficiently and as a consequence will mean that supervision of groups will become more robust.

Treatment of equity risk

Under the current EU insurance rules, there is no explicit capital requirement for the volatility of assets held by

insurers, such as equities. Under the new regime, this will no longer be the case.

Instead, equity investment along with all other assets will be subject to a capital requirement corresponding to the level of risk of the asset.

Some Member States fear that insurers may change their investment behaviour as a result of these new rules, and in particular that they may reduce the amount of their equity investments and that this could be detrimental for the economy as a whole. On the other hand, other Member States believe it is important that more capital is held against more volatile assets such as equities, in order to ensure that policyholders are properly protected.

Economic and Financial Affairs Council (ECOFIN)

At ECOFIN on 2 December, Finance Ministers accepted a general approach as a basis for opening negotiations with Parliament by a qualified majority that included the deletion of the group support regime and the inclusion of a specific approach to the treatment of equities often referred to as the "duration approach". The application of the duration approach results in lower capital requirements for equities, when they are held by insurers with long-term liabilities.

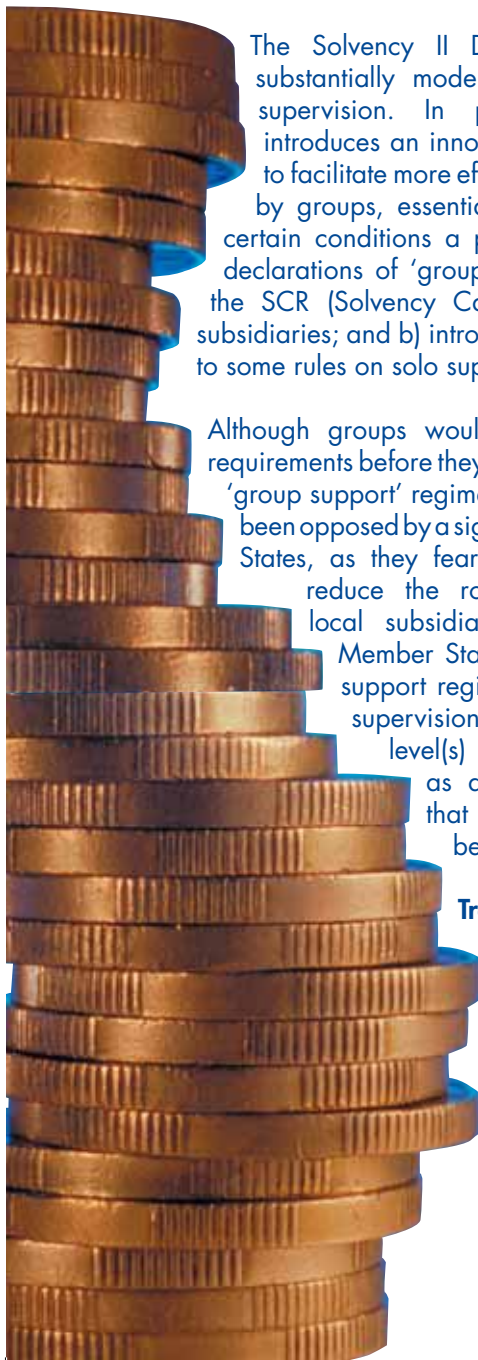
The general approach proposed by the French Presidency was opposed by Commissioner McCreevy at ECOFIN because of the deletion of the group support regime.

Since the beginning of the CZ Presidency, work has been progressing at an impressive pace within the Trilogue (Council, European Parliament, Commission). Regular meetings have allowed the Institutions to advance rapidly on many of the technical issues raised by the Solvency II Directive Proposal. Intensive discussions are now also devoted to the most sensitive differences in the outcome of the votes in the Parliament and the Council (including the group support regime and the treatment of equity risk).

All parties remain confident that an acceptable compromise can be found that will enable the Parliament to vote before the elections in June, which would allow the Solvency II Proposal to be adopted in first reading and the work on future level 2 measures to progress as planned with a view to allowing the entry into application of the new system in 2012.

[Info](#)

http://ec.europa.eu/internal_market/insurance/solvency/index_en.htm



Internal Market Scoreboard December 2008 Citizens Signpost Service Report - SOLVIT Report

Improving the way Internal Market rules are applied on the ground

The Commission launched its latest Internal Market Scoreboard (IMS), providing EU-wide statistics on the transposition of internal market legislation, infringements and economic integration. Linked and in many ways complementary, SOLVIT and the Citizens Signpost Service (CSS) issued their annual reports on the practical problems they were asked to solve by citizens and businesses, in order to make the Internal Market deliver for them.

This latest IMS confirms that most Member States are performing better in transposing Internal Market legislation into national laws. The "transposition deficit" has been brought down to an EU average of 1%. However, merely transferring Internal Market law into national law is not the end of the exercise. Only the correct application of laws will make the Single Market work as intended, for the benefit of EU citizens and businesses. Also in line with the recommendations in the Single Market Review¹, to monitor the degree of real market integration achieved, this "Scoreboard", more than in previous issues, focuses on enforcement and proper application of Internal Market rules and provides more information on Member States' track-record in applying EU law. As in this Scoreboard, in future editions, the Commission may identify some more specific sectors where Member States appear to face particular difficulties in complying with EU law.

However, already from these three reports, a clear picture emerges on the many legal and practical challenges the EU is facing in its attempt to complete the Single Market. Recognising this, Commissioner McCreevy commented: "I am confident that the Internal Market Scoreboard will prove useful to highlight challenges and support efforts in

Member States to make the Internal Market a reality for all. Issues signalled by SOLVIT and CSS will help us identifying areas where we need to act to make the Single Market a reality."

Internal Market Scoreboard December 2008:

17 out of 27 of Member States already consolidated the new 1% Target Transposition Deficit

Twice a year since its first edition in 1997, the Internal Market Scoreboard has published the results on Member States' transposition deficit targets - the percentage of Internal Market Directives that have not been implemented into national law in time. The December 2008 Scoreboard shows that 17 out of 27 Member States have already consolidated the new 1% transposition deficit target, set by the European Council for 2009. In line with the target of 1.5%, the Czech Republic showed the biggest improvement over the last year, and together with Belgium, Italy, the UK and Estonia is now under the 1.5% deficit. Others such as Cyprus, Greece, Portugal, Poland and Luxembourg performed less well and still show deficits above 1.5%.

What is the difference between the IM Scoreboard, SOLVIT and CSS ?

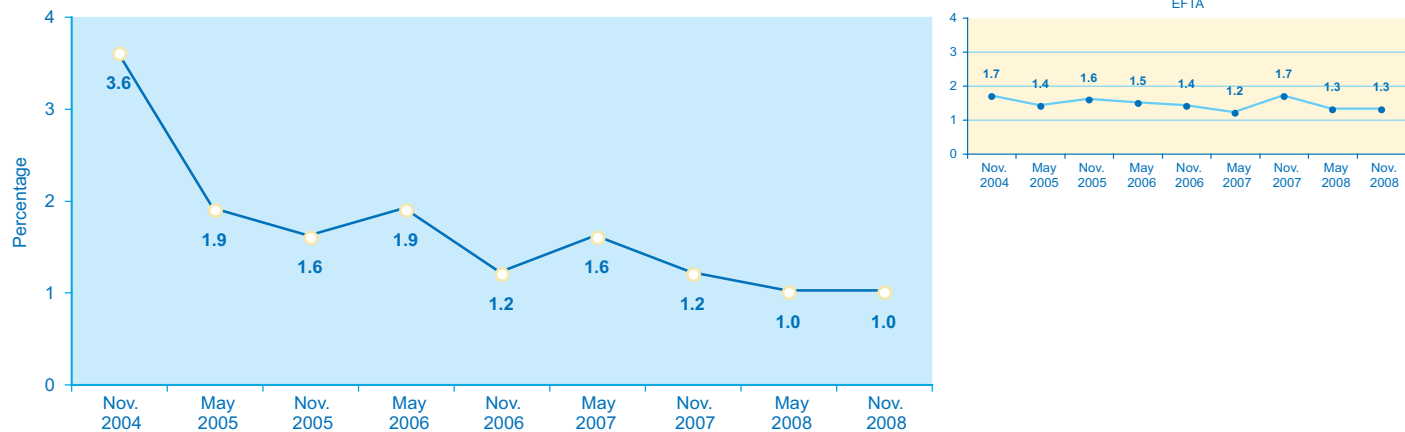
The IM Scoreboard looks at the rulebook, It looks at whether rules are transposed into national legislation and at how the rules are applied. SOLVIT steps in for citizens when those laws are not being applied properly. The Citizens Signpost Service provides personalised advice on EU rights.

The IM Scoreboard, SOLVIT and CSS share the aim of making the Single Market work for citizens and businesses

¹ http://ec.europa.eu/internal_market/economic-reports/docs/bkground_en.pdf

Average transposition deficit in November 2008

Figure 1: The new 1% target is well consolidated



The transposition deficit shows the percentage of Internal Market directives not yet communicated to the Commission as having been transposed, in relation to the total number of Internal Market directives which should have been notified by the deadline. The current Scoreboard takes into account all notifications of directives with a transposition deadline until 31 October 2008 which have been notified by 10 November 2008. As of 31 October 2008, 1611 directives and 278 regulations relate to the Internal Market as defined in the EC Treaty.

An EU average transposition deficit of 1% translates into 92 Internal Market directives not having been transposed into national law in all the EU-27 Member States, despite the deadline for transposition having passed. Among those 92 directives there are 22 directives for which the transposition deadline expired more than 2 years ago.

High number of Infringements for Internal Market Procedures

Whereas the average transposition deficit has improved remarkably in recent years, little has changed in the area of correct application of Internal Market legislation. The EU average number of infringement cases per Member State remains almost unchanged at 49. Within that average, the number of Internal Market infringement procedures remains relatively high, and they take too long to resolve - often more than two years.

Economic integration – new Member States most open to EU imports

New in this Internal Market Scoreboard is the inclusion of economic data to show the degree of integration achieved inside the Internal Market. It shows how enlargement and

the euro have enhanced a more integrated market.

On average, EU trade in goods inside the Internal Market is more than twice as large as trade with the rest of the world, which reflects the outcome of many years of integration efforts. Enlargement can be seen as the major driver for further integration within the Internal Market. This can clearly be read from the fact that many of the new Member States are among the most integrated countries in terms of imports. New Member States' intra-EU imports account for 40 to 50% of their GDP (Gross Domestic Product). The average EU-27 ratio is around 17% of GDP. The integration of the Internal Market has been also aided by the euro - trade has increased by 5 % since its introduction.

Surprising and giving cause for concern is that, although services account for 70% of gross value-added and employment in the EU-27, intra-EU trade in services is limited to only 5% of GDP. Compared to intra-EU trade in goods, accounting for nearly 17% in 2007, it clearly demonstrates that there still is considerable scope for further integration and that many barriers to cross-border services remain.

SOLVIT 2008 Report

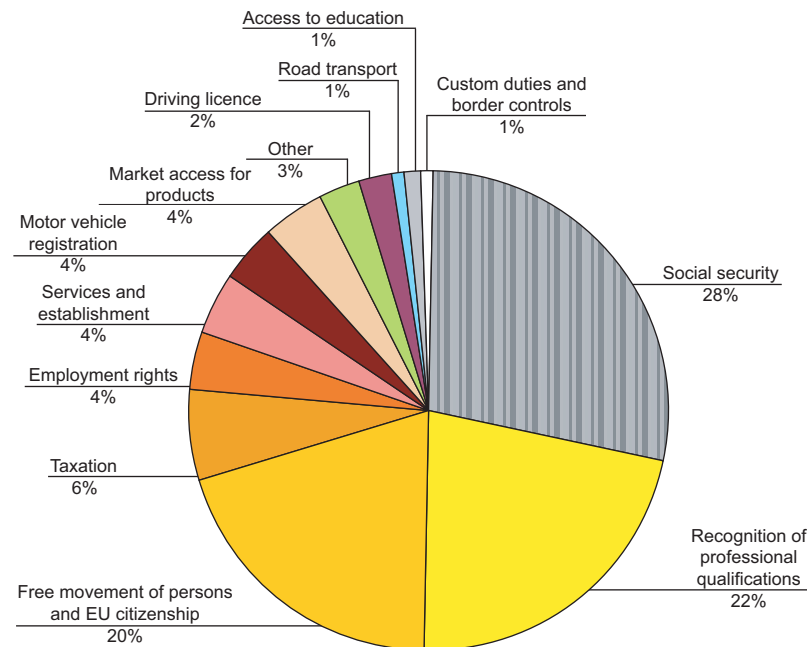
SOLVIT is a network created by the Commission and the Member States, with the aim of solving problems that arise for individual citizens and businesses as a result of the misapplication of Internal Market law by another national administration. All of the EU and EEA Member States have set up national SOLVIT centres.

Milestone of 1000 cases reached

After the sharp increase in case flow in 2007 (75% more cases than in 2006), the volume of cases handled by the network in 2008 continued to grow - albeit less rapidly - at a rate of 22%. In 2008, for the first time since the creation of SOLVIT in 2002, the number of cases submitted in one year to the system increased to one thousand.

Considerable increase in problems related to professional qualifications and residence rights

For each of the three main policy areas in which SOLVIT cases occur, there has seen a substantial increase in 2008: social security increased by 20%, recognition of professional qualifications by 43% and residence rights by 93% (included under free movement of people's part of the chart below). More than two thirds of all problems reported to SOLVIT fall within these three areas.



Cases handled in 2008 according to problem areas

More SOLVIT Centres engaged in solving structural problems

SOLVIT's main task is to solve problems caused by the misapplication of EU law. However, sometimes it appears that the problem is not the result of a simple misapplication of the rules, but requires a change in national law, guidelines or other formal implementing provisions. Despite the fact that SOLVIT's mandate does not stretch this far, more and more SOLVIT centres are determined to cover these so-called "SOLVIT+ cases" too. In this way, SOLVIT not only resolves complainants' individual cases, it also prevents a reoccurrence of similar problems in the future.

The European Parliament has reiterated its strong support for SOLVIT and has increased its budget from 200,000€ for 2008 to 800,000€ for 2009.

Example of a SOLVIT CASE

SOLVIT helps Portuguese entrepreneurs to start a business in Luxembourg

Three Portuguese citizens working in Luxembourg as employees of a company dealing with construction and public works wanted to establish their own company in Luxembourg. The Luxembourg authorities required them to present an official document certifying their professional experience. After several unsuccessful attempts to obtain the requisite document from the Portuguese authorities, they decided to contact SOLVIT Portugal, who persuaded the relevant authority to provide the papers.

Solved within two weeks

Report on the Citizens Signpost Service in 2008

The Citizen Signpost Service (CSS) is a fast and free service for European citizens created by the Internal Market DG of the European Commission, that provides citizens with personalised advice on their rights. The CSS is open to all citizens of the 27 EU Member States, plus the European Economic Area (EEA). It enables people to exercise and benefit from rights and opportunities in the Single Market

by providing practical tailor-made replies in response to individual enquiries about free movement and other citizens' rights within the EU and the EEA. Within three working days, the CSS gives direct advice to citizens and "signposts" them to a body (official or independent, at EU, national, or local level) which is able to help them further.

Example of a case handled by CSS Concerning consumers' rights

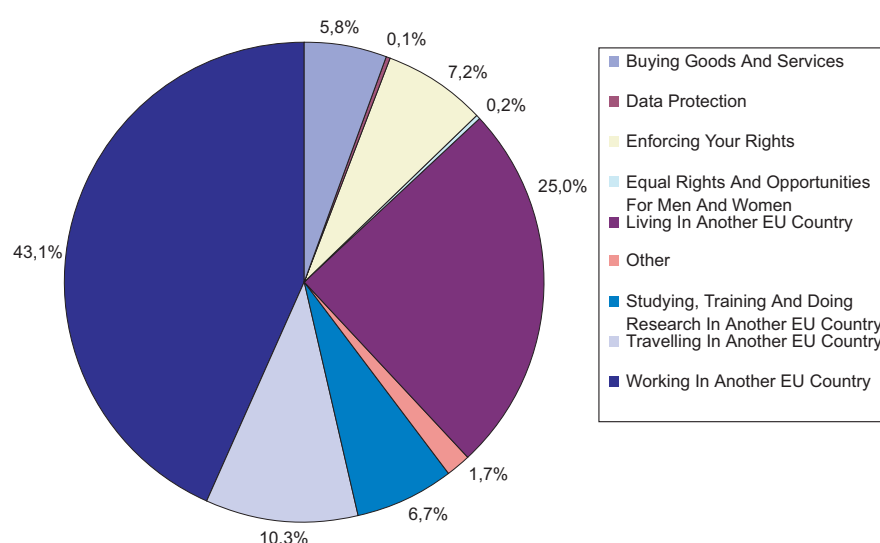
A British citizen residing in another EU country approached CSS with the complaint that he had been overcharged by the national telecom operator who failed to inform him that they had changed the supplier, and asked CSS about redress.

CSS informed him of the relevant EU legislation, namely of Council Directive 93/13 on unfair terms in contracts, and "signposted" him to the local European Consumer Centre and other relevant private consumer organisations for further assistance.

The citizen later wrote to express his satisfaction with the answer provided by CSS: "Through your help we have been able to recover 429€ from our telecom operator".

Since the Citizens Signpost Service was restarted in July 2002, the service has handled over 55,000 enquiries of which nearly 42,000 were eligible. Issues related to working in another EU country account for over two enquiries in

every five, and those related to living in another EU country amount to a quarter. Most questions are asked about the right of residence and social security, followed by questions on recognition of qualifications and taxes.



The future: streamlined assistance services

Over time, the European Commission has created a whole series of information and assistance tools. Some of them are of a general nature such as Your Europe, Citizens Signpost Service (CSS) or SOLVIT. Others are more specialised such as the European Consumer Centres Network (ECC-Net), the Financial Dispute Resolution Network (FIN-Net) or the Enterprise Europe Network. Most of these assistance services are operated by different Commission services and have developed different working methods. After a

true mushrooming of user-friendly Commission assistance services, it is time to bring them into line with each other and give clear directions to people wishing to seek assistance from them.

For this reason, DG Internal Market has set up a task force engaged in reinforcing cooperation and coordination between the existing assistance services. Their tasks will range from streamlining services and finding ways to optimise working methods, to making websites more transparent and user-friendly for their users.

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International Auditing Conference with Third Countries - Better cooperation between public oversight systems

Participants from 50 countries, 23 of which from third countries, attended the Commission's international auditing conference on 10 December 2008. The debate centred around the challenge raised by the 2006 Statutory Audit Directive, which states that with regard to third country auditing, the Commission needs to make a strategic choice whether to rely on equivalent public oversight bodies in non-EU countries or whether it should leave auditors and companies subject to the domestic regulations and oversight of the EU Member State concerned. Questions such as: "What would be the practical challenges for setting up an independent public oversight body for the audit profession" and "What do third countries understand by equivalence?" formed the subjects of in-depth discussions.

Opening the conference, the Director General for Internal market and Services, Jörgen Holmquist, highlighted that the current financial crisis reinforced the need to build co-operation, including on overseeing auditors. The conference brought together a prominent range of speakers and panellists, including the Chairman of the Public Company Accounting Oversight Board (PCAOB), Marc Olson, the chairman of the International Forum of Independent Audit Regulators (IFIAR), Paul Boyle, John Hegarty from the World Bank, and representatives from public oversight entities such as the Director of the Japanese Financial Services Agency, Toshitake Inoue and the President of the French "Haut Conseil du Commissariat aux Comptes", Christine Thin.

The conference provided participants with the opportunity to discuss practical issues concerning existing auditing models in EU Member States and on the basis of these, cooperation with the authorities of non-EU countries. At present, for some third countries, non-EU auditors are

subject to systems of independent public oversight, which the European Commission has assessed as equivalent to those in the EU. Cooperation with these countries is based on a system of mutual reliance. Accordingly, audit firms from countries with equivalent systems do not have to be inspected by European audit regulators. The conference helped to illustrate what EU Member States have already achieved in concrete terms as regards cooperation between different auditing systems and clarified to non-EU countries what they could expect from the EU.

In concluding the day's event, David Wright, Deputy Director General in DG Internal Market and Services reminded participants that the conference should be seen as a starting point for ongoing dialogue with non-EU countries towards establishing high quality independent public oversight systems all over the world.

[Info http://ec.europa.eu/internal_market/auditing/relations/10122008_conference_en.htm](http://ec.europa.eu/internal_market/auditing/relations/10122008_conference_en.htm)



CESAME report reveals today's victories and tomorrow's challenges for the post-trading of securities in Europe

The European Commission's 'Clearing and Settlement Advisory and Monitoring Experts Group' ('CESAME') report reveals its achievements in harmonising cross-border post-trading arrangements, the result of four years of joint effort by the Commission and industry. It also shows which challenges still have to be met in order to create a truly integrated European market in financial services.

The CESAME Group's report focuses on its work on removing industry-related barriers to the cross-border clearing and settlement of securities transactions. The report is based on transparent monitoring of standards set. It aims to explain the complex issues of this arcane field in plain words to the non-specialist, while providing a wealth of information for post-trading professionals on progress achieved so far.

Post-trading refers to the process which ensures that securities and corresponding payments are effectively exchanged after the buyer and seller have agreed to a transaction. Transactions fall into three different categories: clearing, settlement and custody. While domestic transactions are usually processed smoothly, today's cross-border post-trading arrangements are less efficient, due to the existence of discrepancies between different national systems. This diversity hampers the creation of a truly integrated European market in financial services and increases cost and risk. Against this background, the Commission's Financial Services Action Plan of 1998 had already earmarked post-trading as a key field for further work. The discrepancies were mapped in detail in 2001 by an Expert Group lead by Alberto Giovannini, hence the description 'Giovannini barriers' for the fifteen barriers identified by this group. In their report of 2003, the Giovannini Group identified who could best address these barriers, and split them into two categories: 'industry-related' barriers (six) and 'public-sector' barriers (nine).

The CESAME group, created in 2004, focused on standard-setting for industry-related barriers. However, the important task of supervising the work on identifying barriers in the public sector, carried out by other working groups, was also delegated to the CESAME group. Hence it monitored the work of FISCO (Fiscal Compliance expert group), created to propose solutions related to transaction tax and withholding tax procedures, and the LCG (Legal Certainty Group), set up to focus on solutions to legal barriers.

The significance of the work that CESAME has delivered lies in its substance as well as in its procedure. With regard to the latter, it sets an example of how stakeholder consultation may work in the framework of better regulation. Throughout, CESAME provided a high rate of transparency via its website. Its open discussion of important ongoing initiatives such as the industry's Code of Conduct for Clearing and Settlement, was exemplary and fostered an intensive substantive debate.

The CESAME report highlights substantial progress on the removal of barriers. One example is the complete removal of Barrier 8, concerning differences in the timely issuing of securities numbers in different national markets. Progress was also made on Barrier 1; soon the negative effects of diverging IT platforms will be reduced, due to an agreement on a standard protocol.

However, the CESAME report also reveals the challenges for future harmonisation: the full implementation of some common standards, although agreed, still requires time. Likewise, switching from specific domestic market practice to harmonised standards implies technical and procedural changes, which come at a cost, depending on the existing national set-up and the type of business, as well as on industry participants' investment cycles. Furthermore, new market developments will have to be discussed and previously unseen details of certain barriers will need to

be explored further.

Today, the CESAME report is the most up-to-date and complete point of reference available on the state of the Giovannini barriers, plainly setting out the results achieved so far. Therefore, not only is this report a milestone on the path of market harmonisation, it also proposes the route for future work, in particular for CESAME's successor, the "CESAME2" Group which had its first meeting in October 2008.



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Czech Presidency: Breaking down hidden barriers to the Single Market



Interview with Jana Reinišová, Deputy Permanent Representative of the Czech Republic to the EU.



The Czech Republic assumed the EU's six-month Presidency from France on 1 January 2009. Led by two women for the first time in EU history, Milena Vicenová, the Czech ambassador to the EU, and Jana Reinišová, Deputy Permanent Representative, the Czechs are ready to meet the challenges ahead. Milena Vicenová told the press: "We feel ready for the Presidency. Our priorities are well prepared". With a snappy video clip featuring Czech celebrities playing with a sugar cube, the Czechs launched their campaign with the promise to "make Europe sweeter". Their key priorities are: Economy, Energy and Europe in the World.

Single Market News talked to Jana Reinišová, Deputy Permanent Representative of the Czech Republic to the EU, about the Czech approach to the EU presidency.

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This seems to be the first time in history when the EU Presidency is managed by two women, including yourself and Ambassador Milena Vicenová. I am sure you must be eager to be managing such a challenge, how do you feel about it?

The fact that we are women is not important. What matters are the capabilities of the people that do the work. Having the right people for the job is the issue. We are happy to have a good team here and in Prague for the challenging task that is ahead of us.

The motto of Czech presidency is "Europe without barriers". Do you feel that the EU has fulfilled its mission to dismantle its barriers? How do you look at the Czech EU membership so far?

We chose this motto because we still feel there are some barriers within Europe. Some barriers are more visible than others. The invisible ones are more important to us; those that you only come across when doing business or studying in another Member State. Too many things are still easier dealt with at home than abroad. This uncertainty is felt for instance by consumers who are purchasing goods abroad. Europeans are still not too sure about the rules of another EU country when something goes wrong. If you scan all areas related to the Internal Market, I am sure you will come upon many things not working properly.

The Single Market is supposed to have been fully functioning since 1992, and indeed much progress has been made in free movement of goods. However, we still find ourselves in transitional periods for free movement of workers and of services. We hope that these transitional periods will soon come to an end both for the countries that acceded in 2004 as well as for Romania and Bulgaria.

On services, there still remains a lot to be done. We can see it as a success that the Services Directive was adopted, but we need to keep in mind that everything that is adopted comes with a compromise. Certain areas were kept out of the Services Directive, like health care or services of general economic interest. We believe that we need to keep the debate open on how these areas can also become part of the Internal Market. During our Presidency, we want to uncover protective measures in individual member states that hamper a proper functioning of the internal market. We need to draw a line between national interests and economic interest of the EU as a whole.

The Czech Government made its citizens aware of the incoming presidency by a video clip in which several famous Czechs play with a sugar cube. Is the sugar cube a Czech invention?

I think so, but we do not have a patent on it!

The sugar cube, however, seems to have various implications, not always positive, in the EU context in this clip. What message does the clip intend to give according to you?

One way of interpreting the sugar cube video is to see it as an example of Czech humour. It can also be seen as the Czechs posing a provocative question; one that can be answered in various ways and that forces people to reflect. You can interpret the video as showing Czech celebrities, who, despite difficulties, rose to the top, and you can equate their journey to the challenge of European integration. Alternatively, you can see the sugar cube as symbolising the Czech nation, in danger of being “dissolved” in the EU. In whatever way you interpret the video, it is supposed to fuel thought and debate, something the Czechs are very fond of doing.

According to the latest Euro barometer survey’s results published in June 2008, the majority of Czech citizens see the Czech Republic’s membership in the EU mostly as advantageous. Almost two-thirds of Czechs are convinced of its benefit. However, the Czech Republic in general has recently been seen and pictured in the media as Euro sceptic. What do you think is the reason behind this discrepancy?

I think Czech people are well aware of the advantages of being a member of the EU. Everybody recognises that we cannot stay outside the Union, we cannot do anything separately. On the other hand, we have to take into account our historic experience. We are not a nation that accepts “given facts” without hesitation or reflection. We are not inclined to think: “This comes from the EU or this comes from the USA, so we’ll accept it”. The Union is a great success, but nothing is perfect and there is room for improvement everywhere, also in the EU. There are still quite a lot of issues that bother our citizens or that are not clear to them. Our role is to listen to those concerns. If one compares our polls with those of other countries, you will find that we are not so different from others. Unfortunately, the press tends to pick up negative vibes more easily than positive ones.

Do you foresee any problems with the ratification of the Lisbon Treaty?

The Czech Parliament has postponed a vote until after a thorough debate in the plenary. The reason was that the original date came too soon after the November ruling of the Constitutional Court, which had been asked its opinion on the compliance of the Lisbon Treaty with the Czech constitution. The opinion was positive, it was in compliance. It will now be discussed in parliamentary committees before it goes back for a vote in the plenary again. We are a democratic country, we need time for discussions and politicians need to be briefed properly. Only then will they be ready to take a well considered decision on the Lisbon Treaty.

What is the Czech Presidency’s vision for Single Market policy?

Our vision is ‘Europe without barriers’. As I have already said, we have identified two crucial barriers – transitional periods in the areas of free movement of workers and services and imperfect functioning of the freedom to provide services. Apart from existing barriers, our vision is to prevent the building of new ones. The Internal Market must be seen as the biggest, but continuously evolving European project with new



challenges to respond to and new problems to tackle. We would like to put the Single Market on top of the agenda again.

Our vision is to improve the governance of the Single Market and support evidence-based Single Market policy. New measures should be based on economic evidence. Proper market monitoring mechanisms must be a tool for this “new approach” in Single Market policy.

We should also bear in mind that the Single Market is a rather horizontal issue related to other policies, like competition policy, employment policy and consumer protection. For instance, when Meglena Kuneva was presenting the new proposal for a Directive on consumer rights, she was in fact mainly speaking about the problem of market fragmentation. Therefore, when putting any new agenda related to the Single Market on the table, we should keep these Single Market principles in mind.

Furthermore, the implementation of better regulation should be mentioned as one of our main priorities. This is not only important for the Commission, but also for the Member States. We will encourage reflection on this and try and find ways to go further in adopting legislation more quickly. As I said earlier, we are interested in a better functioning of the Single Market and look at better regulation in this context.

What would you like to achieve in the first annual follow up to the 2007 Single Market Review at the Spring Summit of March 2009?

We intend to progress the debate on how further liberalisation and market opening should deliver new market opportunities for our businesses, more competitive pricing and greater choice – and therefore growth, jobs and prosperity, and tangible benefits to our businesses and citizens. In this context, we will call for timely, correct and coherent implementation of the Services Directive and consideration of how to achieve liberalisation of those services not covered by the Directive.

The Single Market Review will be also focused on fostering confidence to access markets, especially by SMEs, as we are fully supporting the “Think Small” principle. Market access should be eased by keeping the better regulation principles that I have mentioned. Future Single Market policy should be more evidence based and impact driven; market monitoring and quality impact assessments remain essential.

Last but not least, our follow-up to the Single Market Review will focus on improved governance of the Internal Market. The Czech Republic fully supports the principle that the Single Market will only be able to maximise its potential if all Member States transpose, implement and enforce Single Market rules effectively. A swift adoption of the Single Market Assistance Service (SMAS), and individual development of the tools which fall under it, are essential for fulfilling these goals, and for achieving greater consistency across Member States.

Will there be any particular Single Market related events or conferences in the Czech Republic during your Presidency?

We have planned two major high-level conferences: one on services and another on the benefits of EU enlargement. The first event, called Future of Services in the Internal Market took place on 2 February in Prague and focussed on three topics: the Services Directive as a milestone on the road to a Europe without barriers, Services Directive – Transposition challenges, and the future of services in the Single Market. The other event, called ‘5 years after’, takes place a month later and will examine the 2004 enlargement to demonstrate the economic benefits of open markets and enlargement. Evidence is a particularly important tool against protectionist measures.



Another major point on our agenda is the discussion that will take place in the informal Competitiveness Council in the Czech Republic in May.

What do you consider to be the benefits of the Single Market for the EU10?

I am not sure whether we should speak about the EU10, we need to see Europe in its entirety and look at the benefits of enlargement for the old as well as the new Member States. Life completely changed for us in 1989, politically, economically, and for society as a whole; and the primary focus was on profound reforms. The accession to the EU came later. It meant that we could travel and study abroad without difficulties and, with



a few exceptions, work and do business wherever we wanted. It opened Europe up to us and presented a host of new opportunities to our people. However, it equally opened us up to Europe. New opportunities arose for the old Member States, for whom accession meant they could benefit from having our markets available.

Counterfeiting is a problematic issue for the Czech government. Do you have any ideas on how to overcome the counterfeiting problems in the EU as well as on your own borders?

I think we know what to do in theory. That is to have good legislation, to have good enforcement and to punish those who violate the law. However, none of this will be effective if we do not change the minds of people. Society needs to recognise counterfeiting as a crime before it can be adequately tackled. Piracy is still seen as acceptable practice by many. "It is cheaper, so why not" seems to be the overriding mindset of people.

This cannot change from one day to another. We will need to work on giving more information, more explanation and create more awareness among people. Alongside better legislation, better enforcement, better punitive practice in place, we also need more cooperation, especially in border areas, which are often the stage for cross border trade in counterfeited goods. I think it is a very good thing that we are soon to adopt the "Action plan to combat counterfeiting and piracy" and that an observatory will be established for an exchange of best practice. We need to continue our efforts in this way, but remain aware that no quick solutions exist.

Finally, your Presidency will be a challenging one, especially due to its timing - just after a very ambitious French Presidency, and with less than the usual six months left for the real work due to the EP elections. Keeping this in mind, what would you like to be the achievement that you'll be remembered for?

It will certainly not be easy to get into the president's chair after France. It is true that the European Parliament is going to be focused on the elections in the latter half of our term, so we need to use our time as efficiently as possible. We cannot afford to hang around, we need to get started immediately, which is why in 2008, we already put a lot of preparation in for our meetings with the Parliament. Of course we are not operating on our own; it is not just the Presidency that has to find solutions. We count on the cooperation of other Member States and hope to find the right compromises during our Presidency. We would like to be seen as a "fair Presidency" that was tough in dealing with difficult issues, but successful in coming up with compromises that would work, carry weight and make a difference for Europe.

A sweeter Europe?

Certainly!



Clearing and settlement: agreement on better protection for cross border trade in securities

Better protection in cross-border trade in securities and more market liquidity will be the results of an agreement reached between the Commission, the European Parliament and the Council on amendments to the following directives: the Settlement Finality Directive (1998/26/EC) and the Financial Collateral Directive (2002/47/EC).

As reported in last year's Single Market News (N° 50, 2008-II) the Commission proposed to bolster financial settlement systems as one of the measures to address the problems in financial markets. Now, less than one year later, some critical amendments that will facilitate cross-border transactions have been agreed upon.

Settlement Finality Directive

The Settlement Finality Directive (SFD) gives protection to both national payment and securities settlement systems in case of default of a participant in those systems. In the amended directive, it will continue to do so, but protection has been extended to 'interoperable systems', i.e. those that involve the cross-border execution of transfer orders. This change was necessary because systems are operating more and more on an international basis, not least because of MiFID - the Markets in Financial Instruments Directive (2004/39/EC) - and the industry's Code of Conduct on Clearing and Settlement (see ec.europa.eu/internal_market/financial-markets).

In the amended SFD, national authorities and supervisors have to ensure that the operators of the systems establishing the interoperable systems have agreed on common rules on the moment of entry of a transfer order into the interoperable systems. This is important because a lack of coordination may expose participants, or even the system operator in one system, to the spill-over effects of a default in the other system. Such a systemic risk is precisely what needs to be avoided.

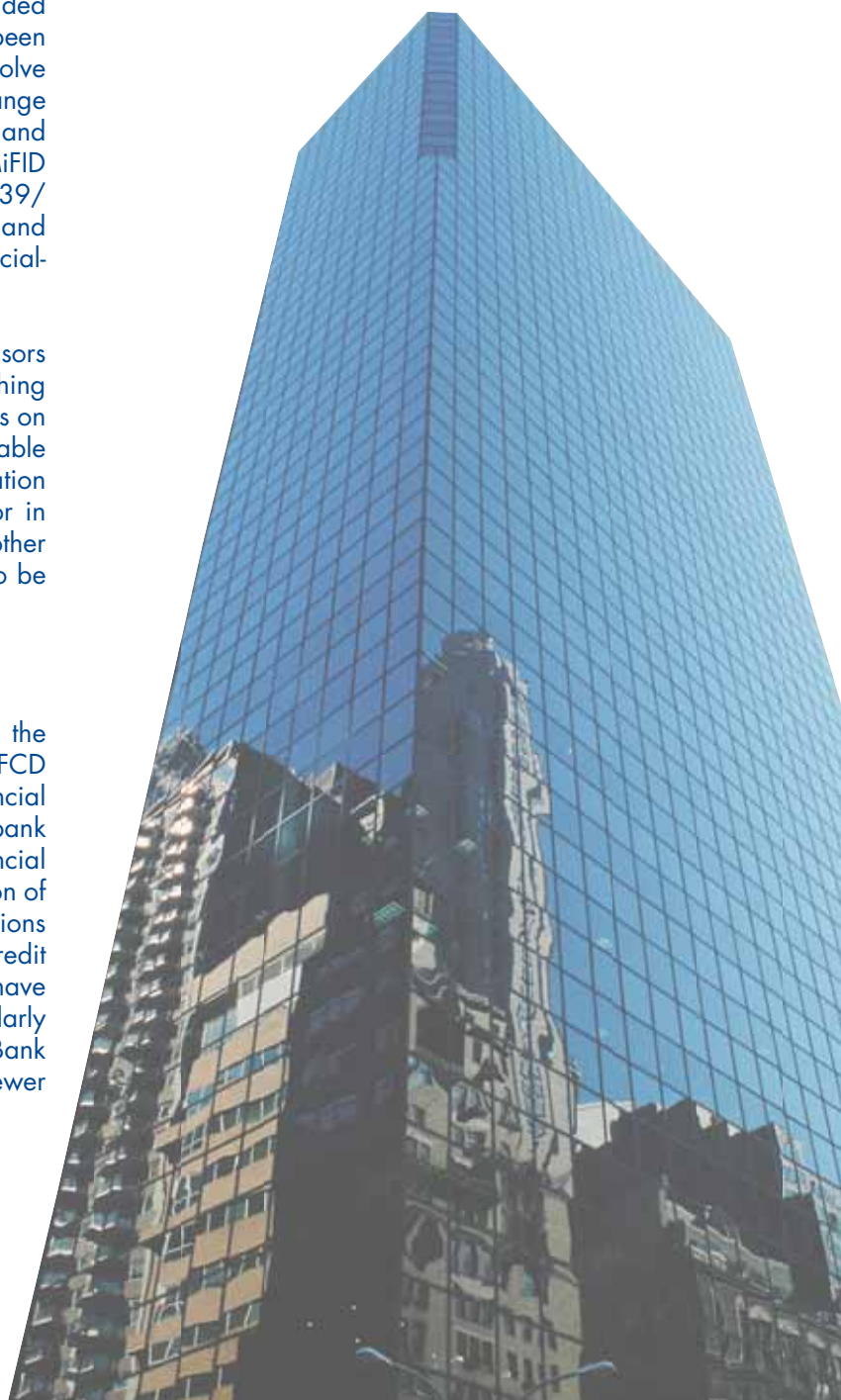
Financial Collateral Directive

The Financial Collateral Directive (FCD) regulates the cross-border use of financial collateral. So far, the FCD only protected financial instruments or cash as financial collateral. In the amended FCD, credit claims - or bank loans - have been included as a third category of financial collateral. It has been made easier to prove the provision of credit claims as financial collateral. The existing obligations in some Member States, where each provision of a credit claim has to be registered or notified to the debtor, will have to be partly dropped. These changes will be particularly beneficial for the operations of the European Central Bank as well as other central banks, as they will face fewer formalities.

When addressing the European Parliament on 16 December 2008, Commissioner McCreevy said "My services started preparing the Commission proposal already in early 2007, before the onset of the ongoing financial turmoil, but I believe the changes we have proposed are vindicated by the challenges which the turmoil has raised. The establishment of a harmonised legal framework for the use of credit claims as collateral in cross-border transactions will further enhance market liquidity, which is so badly needed in the present environment."

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Major steps forward in EU accounting rules

The last few months have witnessed some significant developments in the field of financial reporting.

Accounting and the financial turmoil

Following the urgent adoption, on 15 October, of the amendments to International Accounting Standard (IAS) 39 and International Financial Reporting Standard (IFRS) 7, the Commission met with stakeholders on 21 October. At this meeting the need for proper guidance on the use of fair value (during periods of illiquid markets) was well recognised and, in addition, three other accounting issues (*Reclassification of financial instruments out of the Fair Value Option*, *Clarifications in respect of embedded derivatives*, *Impairments of Available for Sale items*) were found to have become problematic in the current climate of market turmoil. The Commission therefore wrote to the International Accounting Standards Board (IASB) asking it to address these.

The IASB duly issued guidance on the application of fair value. The IASB has also started considering these three other accounting matters. They were discussed during the three roundtables organised by the IASB, which took place on 14 November (in the UK), 25 November (in the US) and on 3 December (in Japan). In view of the complexity of the issues involved no decisions have as yet been taken.

Equivalence of third-country accounting standards

On 12 December, following favourable opinions by the Member States in the European Securities Committee (ESC), the European Parliament and the Council, the Commission adopted the proposals to grant equivalence to the Generally Accepted Accounting Principles (GAAPs) of certain third countries as from next year.

This is a major achievement and the culmination of many years of important work and deliberations with Member States and Parliament.

The proposals which are made under the Prospectus Directive and Transparency Directive determine that the GAAPs of US, Japan, China, Canada, South Korea and India are found to be equivalent to International Financial Reporting Standards (IFRS) as adopted by the EU.



The Commission will review the situation of some of these (China, Canada, South Korea, India) by 2011 at the latest.

The EU is committed to the objective of a global common set of high-quality accounting standards for listed companies. For the short term, a key part of this strategy is to eliminate existing costly and burdensome reconciliation requirements between the EU and its key trading partners.

Consolidation of IFRS as adopted by the EU into one single document

The Commission Regulation which consolidates the IFRS (adopted by the EU over the last few years into one single document) was adopted on 3 November and published in the Official Journal L 320 of 29 November. This is an important contribution to the overall simplification exercise. The consolidated version puts together all IFRS endorsed to date, including the latest modification that was endorsed on 15 October 2008. It will enable constituents to refer to only one single legal document. All cross-references and subsequent amendments have also been updated. At the same time, the Commission has carried out a complete overhaul of linguistic versions, which ensures high quality and consistency of all 22 language versions.

The text (in all linguistic versions) can be consulted on the Internal Market website.

[Info](#)

http://ec.europa.eu/internal_market/accounting/contact_en.htm

Funding for key bodies in financial sector



Commission proposes to establish a Community Funding Programme for key bodies in financial supervision, financial reporting and auditing

On 23 January, the Commission put forward a proposal to the European Parliament and the Council to establish a Community programme, aiming to support specific activities in the field of financial supervision, financial reporting and auditing. Key European and international bodies will benefit from the funding of this programme. The proposal is linked to the discussions that have taken place at the summit of the Euro Area countries of October 2008, the European Council of October 2008 and the G20 of November 2008.

Over the last decade, financial markets have gone through considerable changes. The EU financial services framework has been reinforced by the creation of a number of committees that have enhanced supervisory cooperation and convergence. Audit regulation has been strengthened, while in the field of accounting, the International Financial Reporting Standards (IFRS) have become mandatory for listed companies in the EU. The global nature of financial markets has increasingly required co-operation and convergence at EU level as well as internationally.

However, the financial crisis has shown that notable gaps and weaknesses still exist in the institutional architecture for the regulation and supervision of our financial markets today, both in Europe and at the international level.

As a result, at the summit of the Euro Area countries of 12 October and at the European Council of 15-16 October, Member States agreed that supervisory convergence should be further enhanced. They stated that cooperation in the field of financial services and in the area of financial reporting and auditing should be given high priority. At the international level, the G20 Summit Declaration indicated that it was essential to strengthen international coordination among financial supervisors. Furthermore, international standards should be agreed upon to improve the governance of the international financial system.

In this context, the Commission put forward a proposal on 23 January to establish a Community programme to support specific activities in the field of financial services, financial reporting and auditing.



The programme, now for consideration at the European Parliament and the Council, will enable direct contributions from the Community budget to the funding of the following bodies:

- The three legal support structures whose aim is to provide administrative support to the three European Committees of Supervisors, namely the Committee of European Securities Regulators (CESR) Committee of European Banking Supervisors (CEBS) and Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS), the aims of which include enhancing supervisory convergence and cooperation at EU level in the field of securities, banking and insurance.
- The International Accounting Standards Committee Foundation (IASCF), which is the umbrella organisation of the International Accounting Standards Board (IASB) and the International Financial Reporting Interpretations Committee (IFRIC). The objectives of those bodies include developing international accounting standards, which then become directly applicable in EU law.
- The European Financial Reporting Advisory Group (EFRAG), which provides input to the standard-setting process of the international accounting standards, with a view to ensuring that the European needs and interests are properly reflected in International Financial Reporting Standards (IFRS). EFRAG also advises the Commission as to whether IFRS issued by the IASB comply with the requirements for endorsement in the EU.
- The Public Interest Oversight Board (PIOB), which oversees the process leading to the adoption of international standards for auditing developed by the International Federation of Accountants and to ensure that this adoption complies with the requirements set out in Article 26 of Directive 2006/43/EC.

These European and international bodies play a key role in the completion and operation of the Internal Market. The proposed Community programme will ensure stable, diversified, sound and adequate funding to ensure they can accomplish their mission in an independent and efficient manner. Additionally, it will strengthen the contribution of the EU to the implementation of the action plan, as set out in the G20 summit declaration. The proposed budget for the Community programme amounts to EUR 36.2 million. The programme is scheduled to start on 1 January 2010 and will last until 31 December 2013. The text is currently being discussed at the Council and the Parliament with the aim of a speedy adoption.

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Commission strengthens EU financial supervisory arrangements by adopting new Decisions establishing the Committees of Supervisors

The Commission has adopted Commission Decisions replacing the three Commission Decisions establishing the three Committees of Supervisors in the financial services area, namely the Committee of European Securities Regulators (CESR)¹, the Committee of European Banking Supervisors (CEBS)² and the Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS)³.

The Committees of Supervisors are independent advisory bodies set up by the Commission. They are made up of national supervisors competent in the field of securities, banking and insurance in each Member State. Their mandate is threefold. First, they act as independent bodies for reflection, debate and advice to the Commission in the above-mentioned fields. Second, they contribute to the consistent and timely implementation of Community legislation in the Member States. Third, they contribute to the convergence of supervisory practices throughout the Community and promote cooperation between supervisors, for instance via the exchange of information.

The purpose of the new Decisions is to enhance the Committees' contribution to the cooperation and convergence of financial supervision in the EU. Additionally, the new Decisions will enhance the role of the Committees as regards the safeguarding of financial stability. In parallel, the Commission has put forward a proposal for a European Parliament and Council Decision establishing a Community programme to support the activities of the Committees (see page 22).

The financial crisis has demonstrated the need to strengthen EU financial supervisory arrangements. An important step in this direction is to clarify and reinforce the role of the Committees of Supervisors. To this end, the new Decisions contain a non-exhaustive list of tasks that the Committees are expected to perform, such as promoting the exchange of information between supervisors, reviewing the practical application of the non-binding guidelines, recommendations and standards issued by the Committee and contributing to developing high-quality and common supervisory reporting standards.

Furthermore, the current financial turmoil has proved that EU financial stability arrangements need to be strengthened. The Committees of Supervisors are well placed to play a role in this respect. Accordingly, the new Decisions request the Committees to monitor and assess developments in the banking, insurance and securities sectors respectively and, if necessary, inform the Commission. The Committee ensures that the finance ministries and the national central banks of Member States are informed about potential or imminent problems.

In order to improve the decision-making process of the Committees, the Decisions have introduced qualified majority voting when consensus cannot be reached. Members who do not follow measures adopted by the Committees should be prepared to present their reasons for this choice.

The revision of the Decisions establishing the Committees of Supervisors are, in the main, a follow-up to the Commission Communication on the review of the Lamfalussy process of November 2007 (COM (2007) 727 final) and a response to the invitation of the May 2008 ECOFIN Council. In the Communication on the review of the Lamfalussy process, the Commission stressed the importance of the Committees of Supervisors in an increasingly integrated European financial market and the need for a clear framework for the activities of the Committees in the area of supervisory convergence and cooperation.

The Commission considers the reinforcement of the role of the Committees of Supervisors as an important step towards enhanced supervisory convergence in the EU. The financial crisis has however shown that reflection is needed to improve the EU supervisory arrangements in the longer term. The Commission will present its views on this in the course of 2009 (see box).

Ongoing work to strengthen EU financial arrangements

- In the Commission Communication of 29 October 2008 "From financial crisis to recovery: A European framework for action" (COM (2008) 706 final), the Commission stressed the need to re-define the regulatory and supervisory model of the EU financial sector, particularly for the large cross-border financial institutions.
- The Commission established in October 2008 a high-level expert group under the lead of the former Governor of Banque de France, Jacques de Larosière, to look at how financial supervisory arrangements could be strengthened. The Commission acts as the secretariat for the Group.
- The Group is requested to make proposals to strengthen European supervisory arrangements covering all financial sectors, with the objective of establishing a more efficient, integrated and sustainable European system of supervision. The group should provide the Commission with a report by the end of February 2009.
- The Commission will present its initial views to the Spring European Council on the response to the financial crisis in the light of the recommendations of the de Larosière report and other work underway.

1 <http://www.cesr-eu.org/>
2 <http://www.cebs.org/>
3 <http://www.ceiops.org/>

The importance of maintaining open capital markets to avoid a deeper economic crisis

The Economic and Financial Committee report on capital movements reveals that 2007 was a record year for international capital movements. However, investment indicators for 2008 already suggest reductions in capital flows of 20% and more in the OECD (Organisation for Economic Co-operation and Development) area. This is of great concern given the importance of international investment for job creation and growth. This downturn in investment is one of the results of the sharp and deep slump in economic activity. Close monitoring by the Commission is needed to make sure that this situation is not followed by a trend towards protectionism, which could generate further negative effects and contribute to deepening the crisis world-wide, which would be extremely costly for the EU economy.

The Economic and Financial Committee produces a report every year on EU capital markets. The 2008 report shows that world-wide foreign investment, driven by strong merger and acquisitions activity, peaked with an all-time high of \$1.7 trillion foreign direct investment (FDI) outflows. In the EU, outflows of FDI to the rest of the world reached \$ 1.2 trillion while inflows accounted for \$ 850 billion; over 2.5 times more than the annual average of the 1995-2000 period. While intra-EU investment flows remain the largest component of FDI in the EU27, at € 469 billion in 2007, outflows from the EU27 rose sharply by 53% and reached almost € 420 billion in 2007. Inflows from the rest of the world grew even more markedly, by 90% to € 319 billion in 2007.

Over the last year, Sovereign Wealth Funds (SWF) have attracted much attention, having perhaps become the most striking new phenomenon in these markets. Presented by some as "locusts" that might target the most cherished assets of Western economies, these publicly owned and foreign reserve-funded investors have grown bigger in recent years, reaching an estimated \$3 to 3.5 trillion in market capitalisation in 2008. They are very diverse in nature and strategy and have their origins in many different continents, although the main ones come from oil-exporting countries and East-Asian commodity-exporting economies.

The Commission has been actively involved in the international debate on sovereign funds. In February 2008, a Communication¹ set out a clear policy approach that received the support of the European Council in March. Following the recommendations of the March European Council, teams from a number of Commission departments have worked intensively on supporting international activities led by the OECD and supported by the IMF (International Monetary Fund). Together they worked on developing principles for both investors and recipient countries of SWF investments, to help remove all concerns and misperceptions that had come to surround SWF as they attracted more and more public attention.

These principles are now in place and need to be implemented. This will now be a responsibility shared by countries sponsoring SWF and those receiving SWF.

The outlook for international investments in 2009

Investment indicators for 2008 already suggest reductions in capital flows of 20% and more in the OECD area. This is not surprising in the context of the current economic crisis. Mergers and acquisitions, green-field and portfolio investments are more expensive to finance in the middle of a credit crunch and offer less attractive prospects of profitability given the fall in world demand. In addition, market risks, foreign exchange risks and operations risks are much greater now than at any other time during the last two decades.

Investment in general and international investment in particular will be important for economic recovery. To reactivate the world's economy, confidence in the functioning of financial markets must be restored once they have been stabilised and capital flows should resume in an open and competitive global economy. Economic recovery would be delayed if protectionist measures discourage foreign investment. Protectionism on a global scale remains a serious concern. According to UNCTAD (United Nations Conference on Trade and Development), while the number of measures perceived as negative for global investment in the period 1998-2002 averaged 8.5 per year, this average has increased to 38 during the last five years.

Several Member States are currently considering an update of their legislation on foreign investments and capital movements. The Commission is working closely with these Member States to ensure that their legislation is proportionate and fully compatible with EU law in order to maintain a high level of openness to capital movements. The Commission is fully aware of Member States' needs to attend to perfectly legitimate national objectives such as security and public order.

Foreign investment represents about 15% of employment in the EU, with extra-EU investment and intra-EU investment representing a similar weight. In addition, investment increases productivity and fosters trade and further integration.

Cross-border capital movements are very important for the EU economy and we have too much to lose if this crisis results in putting up new protectionist barriers against these types of investment activities.

¹<http://www.eubusiness.com/Finance/sovereign-wealth.01>

Internal Postal Market - yet to be delivered



4th Report on the application of the Postal Directive:

We are one year on from the adoption of the 3rd Postal Directive¹, which sets a deadline for full market opening of postal services for the great majority of all Member States by the end of 2010. The Commission recently issued its "4th Report on the Application of the Postal Directive"², which concludes that Member States that have restructured postal markets already feel the benefits of higher quality postal services. Business users in particular, generating three quarters of mail volumes, have seen prices come down. Postal services for the general public are beginning to improve too, albeit at a slower pace. Having a wider choice is beginning to have an impact on customer satisfaction. However, there is still a long way to go, the report warns. The adoption of the 3rd Postal Directive, in itself, does not guarantee that all Member States will follow the principles and achieve the objectives envisaged. In some countries, protectionist tendencies are having the opposite effect.

Following recommendations concerning close market monitoring in the Single Market Review³, this 4th report focuses on the application of the Postal Directive by Member States. It monitors the effects postal reform has on consumers and businesses, tracks developments in national legislation and looks at the market positions of both current providers of postal services as well as those of competitors trying to enter the market.

"The battle is not yet won"

Although 16 Member States have committed themselves to full market opening by 31 December 2010 (representing 95% of the EU postal market)⁴, the report notes that many barriers to full competition still exist. Apart from the "reserved area" component of the Directive, which was expected to play a large role in protecting current universal service providers⁵, other barriers to competition have appeared before and during the reporting period of 2006-2008, still blocking the road to full liberalisation.

To mention a few: VAT exemptions for universal service providers, no access to letterboxes for competitors and the existence of prohibitive authorisation and licensing procedures that make venturing into the market by anyone else virtually impossible. "The battle is not yet won"⁶, Commissioner McCreevy warned at a recent conference for the Postal Users Group.

Tentative delivery in Member States

In January 2008, Germany became the fourth EU Member State to fully open its postal market. The liberalisation of the German postal market, however, coincided with the introduction of a statutory minimum wage in the postal sector in Germany. According to a recent study carried out by ECORYS⁷, the statutory minimum wage, which is significantly higher than the wages currently paid by alternative postal operator(s), could well have an adverse effect on the development of competition.

The UK fully liberalised its postal market on 1 January 2006. More upstream competition has resulted in a better quality of service and more choice for customers. However, the ECORYS report clearly shows that even in countries such as the UK, where there is open competition, there still is a long way to go before the beneficial effects for pricing and quality of services can be felt by all customers, i.e. not only by business customers, but also by small and medium mailers.



¹Directive 2008/6/EC of the European Parliament and of the Council of 20 February 2008 amending Directive 97/67/EC with regard to the full accomplishment of the internal market of Community postal services, OJ L 52.

²Report from the Commission to the Council and the European Parliament on the application of the Postal Directive [Directive 97/67/EC as amended by Directive 2002/39/EC]{SEC(2008) NN}.

³COM(2007) 724 final, p. 11 (box. 5).

⁴The remaining Member States, namely the Czech Republic, Greece, Cyprus, Latvia, Lithuania, Luxembourg, Hungary, Malta, Poland, Romania and Slovakia may liberalise their postal markets by 31 Dec 2012.

⁵Letter mail under a certain weight and under certain price limits can only be handled by those operators who are bound by universal service obligation. Universal service obligation means that providers need to ensure that universal postal service is available or accessible everywhere and to everyone under the same conditions.

⁶<http://www.fedma.org/commissioner-mccreevy-and-mep-ferber-receive-postal-users-group-inaugural-awards.4524566-60022.html>.

⁷http://ec.europa.eu/internal_market/post/doc/studies/2008-ecorys-final_en.pdf.



Customer surveys in European countries: benefits of competition

Country	Subject of the Question	Survey Result
United Kingdom (2007) 1,804 participants	Business customers' view about realised benefits from competition in the mail market	Choice improvement (54% agree) Improvement in Royal Mail service (39%) Price reduction (15%)
United Kingdom (2007) 1,804 participants	Expectation of improvement in the quality of service delivered by mail providers (overall services) as a result of competition	57% of those that had not yet seen an improvement in Royal Mail service, expect an improvement in postal service provision in general as a result of competition

Source: ECORYS

Moreover, in most Member States a large part of the addressed mail market is still reserved for the incumbent postal operators. In the Netherlands, where full market opening was originally envisaged for 2008, liberalisation has now been postponed without further notice.

Close monitoring and strong partnership needed

Close market monitoring is essential for the establishment of an internal postal market, particularly when market entry barriers are emerging.

"If the vision of an internal market with sustainable and

efficient postal services is to become a reality, (...) market barriers have to be dealt with efficiently and removed. This is the joint responsibility of the Commission and the Member States as well as all stakeholders", the report concludes.

The Commission, therefore, calls on Member States to strengthen their National Regulatory Authorities (NRA's) as endorsed in the 3rd Postal Directive. "NRA's have a crucial role in establishing common rules, taking action against strategic barriers to entry and ensuring that tariffs are cost oriented", the report reads. Moreover, the Commission urges Member States that in order to successfully fulfil their tasks, they should increase the expertise and staffing of NRA's.

The importance of postal services and their changing role

Postal services are a significant industry in the EU economy. In 2004, postal services in the EU earned about 90 billion EUR or approximately 1% of EU GDP. The postal services sector is also an important employer with around 1.6 million people employed directly by postal operators in 2006, while indirect employment reached the figure of 5 million people.

Postal services are considered a service of general economic interest. Postal services provide social benefits which cannot be quantified in economic terms. They are an important means by which individuals can communicate with each other and receive information.

The postal sector is one of the most preferred and trusted communication channels of European citizens and businesses. To adjust to modern demands, structural changes are needed for mail handling processes, which should result in new products and concepts. Fierce competition from electronic means of communication can only be expected to increase over time, which should be seen as an opportunity for postal services providers.

From Traditional Mail to Hybrid Mail

Physical mail is increasingly being supplemented by multi-channel delivery and tailor-made solutions for customers. One example of this is the development of hybrid mail services which are now offered by most postal operators. Some postal operators even go a step further and are entering adjacent markets through developing IT services for their customers.

Realising that e-substitution poses a major threat to their business, postal operators are stepping up their services, incorporating and availing of the very same e-technology themselves, in order to provide faster and more efficient customer-friendly operations.

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Countdown to Services Directive

The IMI network - connecting administrations, building trust, helping to deliver the benefits of Single Market legislation



Services play a key role in the EU economy, accounting for around 70% of GDP and employment, yet only around 20% of cross-border trade within the EU. By 28th December 2009, the Services Directive, which aims to get rid of barriers to the freedom to provide services anywhere in the EU, has to be implemented by all Member States. To support administrations in working together to overcome these barriers, the Commission has been preparing the launch of a new tool: the **Internal Market Information System (IMI)**: an electronic network designed to help colleagues in EU public administrations exchange information on service providers.

IMI pilot project in 2008 - a success story

In 2008, the Commission ran an IMI pilot project designed to help national, regional, and local competent authorities implement the Professional Qualifications Directive¹. In its Communication of November 2008², the Commission concluded that the pilot project had shown IMI to be a very useful tool with a lot of potential. The Commission is now ready to launch a large scale operation in support of the Services Directive at an IMI awareness raising conference in Brussels, on **25 February 2009**³.

Background to IMI – responding to the need to communicate better

The Single Market offers everyone in the EU – individuals, consumers and business - many attractive opportunities by lifting barriers and simplifying existing rules. But the Single Market can only deliver its benefits to 480 million EU citizens and to its businesses, if the legislation is properly implemented.

Member States are responsible for ensuring that legislation is applied in an effective and consistent way. But a lack of trust and confidence in each others' systems sometimes prevents the smooth functioning of the Single Market. So Member States need to co-operate closely and to build mutual trust in order to ensure efficient enforcement of the rules.

The Internal Market Information System has been developed in response to the need to improve communications. IMI is an electronic information network that helps Member State competent authorities to overcome important practical

barriers to communication such as differences in administrative and working cultures, different languages and a lack of clearly-identified partners in other Member States. It provides a platform for the exchange of information, helping Member States to improve day-to-day co-operation with each other.

IMI: “finding your counterpart at the touch of a button....”

IMI makes it easy for authorities to get in touch with each other. Member States can send requests for information through IMI in their own language - the IMI technology ensures that the country receiving the request can read it in its own language. At the end of 2008, Member States had registered some 425 competent authorities with over 900 users. To date, more than 340 information requests have been sent through IMI. 75% of questions were answered within 15 days.

Feedback on the system is encouraging and IMI is already delivering results. Competent authorities say that they are able to take informed decisions more quickly and to provide a better service to professionals, thus reducing the costs associated with delays. “With some countries we would often wait around three months to get an answer to our requests; with IMI it takes two days. It is wonderful. This is a very big improvement”, said Dr. Jackie Ahr of the Ordre national des Médecins in France. The example of doctors, whose competent authorities have been the most intensive users of IMI during the pilot, illustrates the benefits that the system can deliver. Thanks to IMI, professionals wishing to practice in another European Member State will find that their application is dealt with much faster than before.

¹ Limited to four professions: doctors, pharmacists, physiotherapists and accountants, seven more professions were added in November 2008. – Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on recognition of professional qualifications, OJ L255 of 30.9.2005, p.22.

² http://ec.europa.eu/internal_market/imi-net/docs/progress_report_en.pdf

³ http://ec.europa.eu/internal_market/imi-net/imi_awareness_raising_conference_en.html

Andreas Zsigmond, a user of IMI working for the Office of Health Authorities and Administrative Procedures in Hungary, confirmed that: *"IMI has made communication much easier, because we can now ask questions in our local language and the other competent authorities can read the request in their own language. So it is much easier to understand each other. As a result, our cooperation is much closer than it was before."*

Amanda Shields, an IMI user at the Irish Department of Education and Science, adds: *"You can use the system to find out who your counterpart is in any of the European countries. And you have all their contact details there at the touch of a button."*

Based on this kind of positive evaluation of the IMI pilot project, a decision was taken to extend the use of IMI to seven more professions in November 2008⁴. And for the recognition of professional qualifications, IMI is no longer a pilot project – it is now considered to be an operational network.

IMI is a partnership project – and its success relies on the commitment, investment and input from all parties involved: the Commission, Member States and competent authorities. It is already clear that the main challenge will not be technical but organisational. The most important long-term success factor is the organisational investment needed to set up the system - in particular training and support for existing users and awareness-raising for potential users.

Administrative cooperation vital for European services sector

Administrative cooperation between Member States is an essential element in creating a borderless Single Market. It contributes to ensuring effective supervision of service providers and helps to avoid the multiplication of controls that many citizens and businesses encounter. One of the most important aims of the Services Directive is to provide for administrative simplification and co-ordination. That is why the Services Directive requires Member States to supply the information requested by other Member States by electronic means and within the shortest possible period.

The key priority for IMI in 2009 is to provide the information network for a large scale pilot project in support of the

Services Directive. Initial focus will be on services for construction, catering and tour operators. More sectors will be phased in during 2009 so that by the end of the year the system will be fully operational. Improved cooperation between Member States will be a key factor in facilitating and encouraging cross-border service provision. The objective is for cross-border services to be as easily accessible for consumers and as easy to provide by service providers as they would be within a single Member State.

The implementation deadline for the Services Directive is 28th December 2009. By then the Member States, in close cooperation with the Commission, are required to have set up a fully operational network for administrative cooperation. This is an important and challenging task requiring a significant level of investment from all actors involved. To kick start the process and as part of its efforts to assist Member States, the Commission is organising a major IMI awareness raising conference for the Service Directive on 25th February 2009.

Further expansion possible

IMI has been designed as a single integrated system with the potential to cover many different pieces of Single Market legislation. A successful start was made with the Professional Qualifications Directive. The next major milestone is the roll-out of the IMI Services Directive module. Though this will remain the major priority for 2009, discussions are already underway on the use of IMI in support of administrative cooperation in other areas of Single Market legislation.

Info: http://ec.europa.eu/internal_market/imi-net/index.html



4 Nurses, midwives, dentists, radiographers, veterinary surgeons, architects and secondary school teachers

Single Market News and website revamped, launch of e-bulletin

DG Internal Market and Services covers a broad area of responsibilities related to the Single Market. Consequently, the information is relevant to a cross-section of people. You could be a citizen wanting to know more about your rights, or an entrepreneur wishing to establish your business abroad. Or you could be a banker wanting to acquaint yourself with the latest directives on financial instruments, or a lawyer trying to work out what ramifications our legislation has for your clients. In all these cases and in many more, our modernised website and newsletters are there to give you the lead.

Aware of the potential information overload today, DG Internal Market and Services tries to simplify the output of information, by helping you find just the information you need. We have done this firstly through launching our improved policy website in September 2008 and secondly through our newsletters: Single Market News and our new 'e-bulletin'.

Single Market News

Available online and in paper version, our quarterly publication Single Market News (SMN) has been revamped. Not only have we opted for a new look and layout, making for easier reading, we also aim to offer you a livelier variety of content. In easy-to-read short articles, SMN attempts to give you an overview of main developments in our policy areas, covering the activities of all of our 8 Directorates¹. As before, we will be covering news together with background and analysis. And as before, for those of you who wish to dig deeper, links to our website are given at the end of each article. We will increasingly include interviews and stakeholders' views, making sure we cover all our policy areas. SMN will still be produced in three languages: English, German and French and will remain free of charge.

e-bulletin

Whereas Single Market News provides you with news and background, our recently launched e-bulletin provides you with news that is "hot off the press". A short editorial will feature our main news, while other short pieces will flag further important news items, accompanied by web links to relevant press releases, reports, consultations and events. Once you have subscribed, you will automatically receive the e-bulletin in your inbox, every two weeks. Past issues will be archived on our webpage.

We sincerely hope that our new and revamped publications will help you find the information you need. To know more about you as a reader, we would invite you to take two minutes to re-register yourself by filling in our new registration form for both newsletters (SMN and e-bulletin).

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¹ Thematic sections are: free movement of services, including postal services, financial services and capital markets, professional qualifications, company law and financial reporting, public procurement, intellectual property, dialogue with citizens and enterprises via online services.



Infringements

Nationality requirements for notaries: Netherlands

The Commission has decided to bring legal proceedings against the Netherlands before the Court of Justice for not yet having adopted the Dutch Government's proposed law abolishing the nationality requirement applicable to those wishing to take up and practise the profession of notary. In the Commission's view, this nationality requirement is contrary to the freedom of establishment provided for by Article 43 of the EC Treaty and is not justified under Article 45, which exempts activities connected with the exercise of official authority. According to Court of Justice case law, such a connection must be direct and specific. The Commission takes the view that this is not the case here because a notary cannot impose a decision against the wishes of a party he is advising. In other words, he does not give rulings and therefore does not exercise authority on behalf of the state.

Anti-money laundering: France, Poland and Spain

The Commission has decided to refer France and Poland to the European Court of Justice over non-implementation of the 3rd Anti-Money Laundering Directive. Reasoned opinions will also be sent to Poland and Spain for not laying down effective, proportionate and dissuasive penalties in national law as required by the Regulation on payer information accompanying transfers of funds. The transposition deadline for the Directive and for notifying the penalties laid down in national law under the Regulation was 15 December 2007.

Establishment of biomedical laboratories: France

The Commission has decided to start proceedings before the European Court of Justice concerning the incompatibility of French legal restrictions on the ownership of capital in biomedical laboratories with the freedom of establishment guaranteed by Article 43 of the EC Treaty. French legislation states that a non-biomedical firm may hold no more than one quarter of the shares of a company operating biomedical laboratories and prohibits any natural or legal person from holding shares in more than two firms set up in order to jointly operate one or more biomedical laboratories. The Commission considers that these restrictions limit the scope for partnerships, especially with legal persons in other Member States, and the freedom of establishment in France of laboratories which are established in other Member States but do not fulfil the criteria imposed by French legislation.

Procurement of waste disposal services by the city of Rostock: Germany

The Commission has decided to send a reasoned opinion to Germany concerning the award of waste disposal contracts by the city of Rostock to the Entsorgungs- und Verwertungsgesellschaft mbH Rostock (EVG) and to the Stadtentsorgung Rostock GmbH (SRG) without carrying out tender procedures. The contracts with EVG concerned the conclusion in 1998 and subsequent modification in 2004 of a contract with a duration of 25 years and a contract value of approximately 150 million Euros. The contracts with SRG in 2004 and 2007 concerned the modifications of previous contracts with an annual contract value of more than 10 million Euros per year.

Discriminatory legislation on award of certain service contracts: Portugal

The Commission has decided to send a reasoned opinion to Portugal regarding its legislation on the award of certain public service contracts, which in the Commission's view is not conform to the Public Procurement Directives. This legislation favours legal persons over individuals in the award of public services contracts for certain specific tasks ("tarefa") and for the continued provision of liberal profession services ("avença").

Transparency obligations of listed companies: France, Italy and Poland

The Commission has decided to pursue infringement procedures against three Member States for failure to implement into national law, certain Directives regarding transparency obligations of listed companies. Poland will be referred to the European Court of Justice over non-implementation of the Directive on transparency obligations of listed companies. The transposition deadline for the Directive was 20 January 2007. A reasoned opinion will be sent to France and Italy over non-implementation of the general implementing measures to the Transparency Directive supplementing the EU legal framework. The transposition deadline was 8 March 2008.

More information on infringement proceedings relating to the Single Market is available at:

http://ec.europa.eu/internal_market/infringements/index_en.htm

The latest information on infringement proceedings concerning all Member States is available at:

http://ec.europa.eu/community_law/index_en.htm

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