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COMPLETING THE INTERNAL MARKET :  
AN AREA WITHOUT INTERNAL FRONTIERS

THE PROGRESS REPORT REQUIRED  
BY ARTICLE 8B OF THE TREATY

(presented by the Commission)

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## COMPLETING THE INTERNAL MARKET : AN AREA WITHOUT INTERNAL FRONTIERS

### THE PROGRESS REPORT REQUIRED BY ARTICLE 8B OF THE TREATY

#### INTRODUCTION

1. At the European Council at Hanover in June of this year, the Heads of Government declared that progress towards the Completion of the Internal Market, the major objective set out in the Single Act:

"has now reached the point where it is irreversible, a fact accepted by those engaged in economic and social life".

It is the bounden duty of all the institutions of the Community to ensure that this is in fact so, and continues to be so to the very point of success.

2. What is at stake is the future prosperity of Europe, the standard of living of its citizens and the employment of its people. If anyone ever doubted the immense benefits that the integration of the European Market could bring, the findings of the Cecchini Study "The European Challenge 1992: the Benefits of the Single Market" should dispel them. The prospect of a 5% growth in Community GNP, price reductions of 6% and 2 million new jobs. And if appropriate accompanying policies are adopted, a rise of 7% in GNP and 5 million new jobs, three years additional growth and a reduction of one third in the dole queues of Europe. What other policy could offer a tithe of this?

3. The completion of the Internal Market is also the foundation on which the other policies of the Community - as set out clearly and specifically in the Single Act - are based, namely cooperation in economic and monetary policy (economic and monetary union), social policy, economic and social cohesion, research and technological development, the environment, and European co-operation in the sphere of foreign policy.

In short, the completion of the Internal Market is not only the key to the Community's prosperity, it is the key to the Community's future. It is the key that will, and must, unlock the door.

4. It is not surprising that the policy has at long last caught the imagination of the people of Europe; not just the political leaders and the politicians, but the leaders and workers in industry and above all the ordinary men and women of Europe. We must not let them down. We must not disappoint their hopes and expectations.

5. The distinguishing marks of the Internal Market programme were first, as the Heads of Government recognised in Milan when the programme was first launched, that it was a "complete and effective" programme; and second, that it was set in a time frame. Both points are now enshrined in the Single European Act.

So far as the first is concerned, the Single Act defines the Internal Market as:

"an area without internal frontiers in which the freedom of movement of goods, persons, services and capital is ensured...".

So far as the second point is concerned, the Single Act says that all this is to be achieved:

"progressively over a period expiring on 31 December 1992".

6. The reason for setting the programme in a time frame was both to measure progress and impose discipline. To this end the Commission has published a regular annual progress Report. The Single Act takes up the same theme. It provides that:

"The Commission shall report to the Council before 31 December 1988 and again before 31 December 1990 on the progress made towards achieving the Internal Market within the time limit fixed in Article 8A" (viz by 31 December 1992)."

7. The date of 31 December 1988 marks the half-way point of the programme. It is therefore a crucially important point. The purpose of the Report is to enable the Council, on a proposal by the Commission, to ensure balanced progress in all the sectors concerned; but above all to take whatever measures may be needed to ensure the completion of the programme and its completion on time. Its importance can not be exaggerated. We have to maintain the confidence not only of ordinary people but also of industry. Industry is

beginning now to invest on the basis of a Europe wide market achieved by 1992. That investment will in itself provide a valuable stimulus to the European economy. We must ensure that the confidence of industry is not only sustained but reinforced.

## PART I : OVERVIEW

### A. THE POSITION GENERALLY

8. The original White Paper total of 300 proposals has been slightly whittled down to 279 by the elimination of a few proposals no longer required, and the grouping of others, partially offset by the addition of a small number of new proposals. The target set by the Commission last year, as a matter of internal administration, was that 90% of the proposals should be "tabled" by the end of the present year (31 December 1988). That target we expect to be met; and it will mean that by then the shape of Europe as it will be after 31 December 1992 will be clearly apparent virtually in all of its detail.

9. The Council has not done as well although progress is improving as the majority voting rules in the Single Act begin to bite. At present the Council has adopted one third of the total number of measures required; if one adds "common positions" - the stage of the co-operation procedure where the Council can be considered to have reached political agreement - the score rises to almost 40% (viz. 108 proposals out of 279). We would have hoped that by the year end the total, including common positions, might have reached 50%. But that figure looks unlikely to be achieved. This means that the Council has a great deal to do in the next two years. Although there are four years left before 31 December 1992, Member States must be given time to incorporate Community measures into national law to come into operation. Effectively this means that the Council must complete most of its work in the next two years.

That in turn will require a considerable acceleration in its striking rate. It is well to remember that the Council deals not only with White Paper measures but also measures not included in the 279. While these are important, and some e.g. those relating to the Customs Union can be said to have a bearing on the Internal Market, their inclusion in the total number of measures adopted by the Council can give a false impression of the rate of progress.

10. The co-operation procedure with the Parliament has in general worked well and the Parliament itself has played a helpful and constructive part. But two comments need to be made. First the Parliament has a "stock" of measures awaiting opinions. It is commendably reducing the back log,

and it is important that this should continue. Second, the co-operation procedure has itself certain defects that can only be overcome by constructive co-operation between the three institutions.

11. While, therefore, overall the positions can be regarded as satisfactory, progress remains patchy. In some areas it is very good; in others unacceptably poor. Comments on important individual areas appear below.

#### B. THE POSITION IN INDIVIDUAL AREAS

12. In some areas progress has indeed been good - particularly in relation to the removal of technical barriers to trade in goods and services and in the liberalization of capital movements. Indeed, of the Council's roughly 100 adoptions and common positions, some 70% relate to proposals linked to the technical barriers chapter of the White Paper. This progress can to a considerable extent be attributed to the carefully balanced mix of harmonisation, where essential requirements and basic rules are concerned, and mutual recognition where national legislation can be demonstrated to be directed to identical aims.

We can draw considerable satisfaction from the major advances made in several critical areas - advances which more than anything have given rise to the wide-spread feeling among economic quarters that the process is irreversible and that their planning and investment decisions must be based on the confident expectation that the programme will be completed on schedule. Details of progress in individual areas are to be found in Part II of this report, but it is worth highlighting here some of the major breakthroughs which have created the new momentum:

(a) As far as goods are concerned, the new approach to technical regulations and standards is in place and working. The major framework directives on pressure vessels, toys, construction materials and electromagnetic compatibility have been adopted or are close to adoption; and work is well advanced on the machine safety directive. Significant progress has also been made in food law;

(b) The service sector, previously the Cinderella of the Internal Market, is catching up fast. In the financial services in particular, important advances have been made or are ready to be made. For example, after years of immobility, the Council has at last



adopted the second (and far-reaching) non-life insurance directive. All the measures needed to create a European wide banking market have now been tabled (including the crucially important second banking coordination directive). Some have already been adopted. The rest are making good progress through the Council and the Parliament; on a less happy note, the Council has regrettably failed to adopt the Commission's proposal to liberalise audio-visual services, some Member States having preferred to divert valuable time and effort to seeking agreement on a Council of Europe Convention which could not in any sense be a substitute for a Community Directive;

(c) All the measures required for the complete liberalization of capital movements have also been adopted. The directive liberalizing long term capital movements is already in force. The directive liberalizing short term movements, down to and including bank accounts, has been adopted and generally comes into force in 1990; these directives need to be completed by measures, for which the Commission will soon be putting forward a proposal, in relation to fraud and tax avoidance;

(d) Work on public procurement, which accounts for such a significant proportion of economic activity in the Community, is now making good progress. Two new and important directives on public supplies and public works have been agreed in the Council; the excluded sectors proposals are on the Council table, as is the compliance directive; and the picture will be completed early in 1989 when the Commission tables its draft directive covering public procurement in the service sector;

(e) The directive providing for the mutual recognition of professional qualifications has every prospect of being adopted by the end of the year. At long last this will offer the citizens of Europe, with professional qualifications, opportunities to exercise their skills throughout the Community. The days when it took 18 years to reach agreement on a directive on architects or 16 on pharmacists are now a thing of the past.

(f) After a long period of stagnation, the past two years have seen very significant steps towards the establishing of a genuine Community market in transport services. Three measures stand out. In December 1986, the Council agreed to liberalize maritime transport between Member States and with third countries. In December 1987, the Council adopted an extensive package of measures introducing much greater market openness and competition into European air transport. And in

June 1988, the Council agreed on the total abolition by the end of 1992 of road haulage quotas within the Community.

13. In other areas, however, progress has been disappointing, in some instances to the point of raising real concern. This is true in the field of plant and animal health, where both Commission and Council alike have fallen behind; but especially so in the fiscal area and in the great range of matters relating to "Citizens' Europe", and particularly the freedom of movement of individuals.

14. The critical issue in the fiscal field is the harmonization or approximation of indirect taxation. There is simply no way that the objectives of the Single Act - particularly the removal of the internal frontiers and the controls which go with them - can be achieved without removing the fiscal reasons for frontier controls. This in turn requires a substantial measure of approximation of indirect taxation, that is the lesson of more than 30 years' experience and no one has at any time produced a viable or even plausible alternative. Despite the remit given by the European Council at Milan in June 1985, reinforced by the terms of the Single Act itself, there has been great reluctance on the part of the relevant Council to face up to the issues involved; much time has been wasted in going over the same ground again and again and in re-examining so-called alternatives which have repeatedly been rejected as often as not by the Member States themselves.

At long last some progress is being made but it is essential that this progress should not only be sustained but accelerated. Time is now very short and further delay will only make more difficult the problems to be confronted on 31 December 1992 when the internal frontiers have to go.

15. Progress on Citizens' Europe has been almost as disappointing. The one bright spot has been the Council's agreement on the directive on the mutual recognition of diplomas (professional qualifications). But elsewhere little has been achieved. The draft directive on facilitating frontier procedures for travellers has made no progress; nor has the directive on the right of residence. The problems presented by the need to find alternative and preferably more efficient means of dealing with arms, terrorism and drugs are substantial. Unfortunately Ministers dealing with these problems still seem to be wedded to their present inefficient frontier controls rather than actively seeking out new and better ways of confronting these issues. Intergovernmental co-operation has an immensely important

role to play in this area, particularly in providing the indispensable strengthening of the external frontiers. For all these reasons new instructions from the highest level and a fresh political impetus are essential. There are two points we must stress. There is a great volume of evidence that present controls are largely ineffective. What we are looking for are better controls and we believe they exist. Second the Commission has never said that frontier zones should be "no go" areas for the enforcement agencies. If evidence or reasonable suspicion exists, of course an individual can be stopped or apprehended. But what must go is the routine, mindless interference with the great mass of ordinary innocent travellers going about their legitimate business.

16. In order to meet the requirement of the Single Act that the Internal Market should be completed "in a period expiring on 31 December 1992", it is essential that the European Council should give the clearest possible direction to all the specialist Councils and Ministers involved that they must stop trying to re-open the past and must now bend their undivided attention to solving the problems and ensuring that the objectives of the Single Act are met, and met on time.

#### C. INSTITUTIONAL ISSUES AND THE DECISION-MAKING PROCESS

17. When they became aware at Milan in June 1985 of the breadth and time frame of the programme to complete the Internal Market, the Heads of State and Government concluded, on the Commission's recommendation, that the ambitious target set could only be met if institutional changes were made which would speed up the decision-making process. The Single European Act, which came into force last year, introduced important improvements both to the way in which the Council takes its decisions and the European Parliament exercises its powers. In particular the voting rules for certain key Treaty articles (notably Article 100, but also Articles 28, 57.2, 59, 70.1 and 84) were amended as a result of the Intergovernmental Conference in December 1985 to allow for qualified majority voting to replace the previous unanimity rule. The Commission, while welcoming these institutional changes, expressed its disappointment at the time that some potentially important gaps remained unfilled.

18. After a slow start, due in part to the inevitable delays involved in the introduction as part of the Co-operation Procedure of a second Parliamentary reading for a large number of Internal Market proposals, these decision-making

changes appear to be providing good results. Majority voting or the availability of such voting has produced a marked acceleration in the rate at which the necessary decisions are being taken. The Commission draws encouragement from experience so far that both the Council and the Parliament wish to put the possibilities provided by the Single Act to the best use. For its part, the Commission, helped considerably by the European Court's judgement on the "hormones" case, has applied as far as possible the principle of the single legal base for its proposals, in order to avoid the addition of articles requiring unanimity.

19. Against this generally positive background, two less satisfactory elements need to be mentioned:

(a) although the Council has demonstrated the good use to which it has put the new voting possibilities under Article 100A, there is little sign of greater flexibility in Council discussions of Commission Internal Market proposals based on articles requiring unanimity. This is particularly important in the fiscal field where, as pointed out in paragraph 14 above, there is a need for real progress;

(b) one of the major decisions taken at the Luxembourg Intergovernmental Conference which drew up the Single Act was that there was a need for greatly improved decision-making procedures especially when dealing with what were essentially management issues: and there was general agreement that this required greater delegation of powers to the Commission. Despite this, the Council has given virtually no practical effect to the declaration made by the Member States in relation to the Single European Act that they would "give the Advisory Committee procedure in particular a predominant place in the interests of speed and efficiency in the decision-making process, for the exercise of the powers of implementation conferred on the Commission within the field of Article 100A of the EEC Treaty." It has shown instead a general preference for formulae which maintain the possibility for national governments to block implementing decisions or even to ensure that decisions cannot be taken at all. In the food law sector, the Council even goes so far as to reserve implementing powers to itself. Furthermore, the extreme positions being adopted in the Council discussions of banking matters are putting progress in this vital sector at risk. The Commission cannot believe that Heads of State and governments would view this as being in conformity with the letter or the spirit of the Luxembourg Intergovernmental Conference.

#### D. THE EXTERNAL DIMENSION

20. As 1992 draws closer and the present momentum is increasingly seen to be irreversible, the external dimension of the programme to complete the Internal Market has aroused growing interest and, to some extent, anxiety. The anxiety has come from two opposite poles: on the one hand, fears have been expressed in some quarters within the Community that the main benefits of the completed Internal Market with its 320 million consumers will flow to powerful and well-prepared third country enterprises better equipped than their Community competitors to take advantage of the new opportunities. At the other extreme, certain of the Community's trading partners, without having any concrete evidence to support their fears, have voiced uneasiness that the completed Internal Market is bound to be accompanied by measures designed to exclude or at least disadvantage third country interests.

21. Since the Commission firmly believes that both these extreme views are both misguided and dangerous, it made its position clear on the matter on 19 October 1988. This position is based on the following key principles:

(a) The Internal Market will be beneficial both to European companies and to non-Community firms that will no longer have to deal with the national physical and technical frontiers it is to abolish. In addition, the economic growth expected from the completion of the Internal Market will have favourable economic consequences, both for the Community and for its trading partners. It will strengthen the Community's position as the world's leading trading power and as the one with the greatest stake in preserving and enhancing a liberal multilateral system;

(b) The Internal Market programme involves no weakening of the Community's commitment to respect its international obligations. Where international commitments, whether multilateral or bilateral, exist, they will be honoured. In sectors where no multilateral rules exist, the Community, making use of its powers at international level, will endeavour to reinforce and enhance the multilateral system. The Uruguay Round negotiations currently provide us with such an opportunity both to improve the existing arrangements and to introduce liberalizing measures in areas where no international rules yet exist; we would only hope

that our trading partners will take so clear and forthright a view of their international obligations;

(c) Pending implementation of the multilateral agreements under negotiation, it would be premature - in fields not yet subject to international obligations - for the Community automatically and unilaterally to extend to third countries the advantages of the internal moves towards liberalization. Those third countries, from whom it is reasonable to expect comparable liberalisation, will benefit to the extent that a reciprocal and mutual balance of advantages is attained in the spirit of GATT; in furtherance of this policy the Commission has written such provisions into its proposals for a 2nd Banking Coordination Directive and for a Directive extending the rules of public procurement to the hitherto excluded sectors;

(d) On a somewhat different subject completion of the internal market will require the removal or modification of a number of long standing national measures relating to imports which require the maintenance of internal border controls. The consequences of abolition where this is appropriate are now under examination in the various sectors concerned. Anyhow, the net result is bound to be a reduction in the current level of protective measures.

#### E. GENERAL MEASURES

22. Part II of this report gives details about the individual White Paper proposals and their progress.

It does not deal in depth with progress in the policy areas listed with the completion of the internal market in the Single Act. The President of the Commission may wish to cover this point at the European Council itself. It does, however, touch on some other areas, such as consumer protection and energy policy which, while not forming part of the internal market programme itself, nevertheless are related to it.

23. One general point does, however, need to be particularly stressed. It is not enough for the necessary measures to be adopted; they must also be transposed into national law, where appropriate, and fully implemented in the Member States. At the present stage, with few of the White Paper Directives yet in force, it is too early to express a

considered view on whether there are likely to be real problems of implementation ahead. However, the large number of cases the Commission has had to open against the Member States for non-respect of existing legislation and Treaty principles and the failure - in some cases on a very disturbing scale - of some Member States to implement Court judgements do not give cause for complacency. In the period ahead it will be up to the Commission to keep a strict check on the effective application of internal market measures, and to alert the political authorities if the objectives of the internal market are called into question when the commitments undertaken come to be implemented. The principle of mutual recognition between Member States implies a strengthened vigilance by the Commission of the actions of Member States. This responsibility will be in addition to that already exercised by the Commission in monitoring the application of the Treaty. Derogations need a special mention here. Article 8C of the Single Act allows for a limited use of derogations to provide certain Member States with some extra time to adapt to the pace of change. The Commission will remain sensitive to the thinking that gave rise to Article 8C and to other potentially difficult situations, while maintaining the general principle that derogations should be temporary and kept to a minimum.

#### OVERALL ASSESSMENT

24. As this report shows, there is cause for satisfaction and encouragement in what has been achieved in the three and a half years since the White Paper on the Completion of the Internal Market was presented to the Milan European Council in June 1985. We could not then have been confident that by now such an irreversible momentum would have been generated nor that the widespread feeling would have taken root both within and outside the Community that our far-reaching objective will be achieved - and achieved on time. But the report also shows that many difficult problems involving controversial areas remain to be solved. The Community cannot allow itself to duck these problems or be tempted to lower its ambitions by watering down the definition of an "area without internal frontiers". The Cecchini report makes it clear that to achieve the full economic benefits of the completed Internal Market frontier controls must be removed completely: any pretext for retaining a frontier control for a specific purpose, even if arguments could be advanced to support it if looked at in isolation, will preserve or create the machinery for interrupting the free flow of goods, services, capital and people which the Single Act commits us to achieving. Equally it will become increasingly difficult - in political terms - to explain to the citizens of Europe why such effort is being made to enable goods to move freely across frontiers while no such equivalent effort is made for people.

25. The large number of decisions that remain to be taken need to be taken within the next 2 years if Member States are to have time to transpose them into national law and make the necessary adjustments before the end of 1992. A further impulse is needed now. The European Council at Hanover already singled out a number of key sectors on which attention should focus. This report has identified three major areas on which new instructions and new attitudes are essential: fiscal matters; animal and plant health questions; and the free movement of people. And the time has also come for the European Council to give real meaning to its declaration at the time of the Luxembourg Intergovernmental Conference concerning the delegation to the Commission of greater and more efficient powers of execution.

#### THE PROSPECT AHEAD

26. The Single Act requires a further report in 1990 and provides a final opportunity for review in 1992 itself "to allow the Council to act before the end of 1992". That may be when the final - possibly even heroic - decisions have to be taken to ensure that the Internal Market is completed and completed on time. But we cannot wait until then. We must reaffirm our commitment now; we must build upon the Declaration at Hanover that "this major objective (of completing the Internal Market) has now reached the point where it is irreversible"; we must ensure that when the 1992 report is made it is a catalogue of achievement not a confession of failure; that we can stride confidently ahead into the new Europe which awaits us.

27. All the Community Institutions have their part to play in this unfolding drama: the Commission, the Parliament and the Council. It is vital that they all approach their task in a Community spirit, in a willingness to put the Community interest above their own national interests and above their institutional ambitions. The framework we have for action and achievement is far from perfect. It offers too many opportunities to the hesitant, the faint at heart and those who would pursue narrow interests and limited objectives.



But we have to rise above this. If we cannot have a perfect mechanism, we must compensate for this by strength of will. What is at stake is the future of Europe. Not sterile arguments based on a past which has long since disappeared. The Commission is the guardian of the Treaties. But we are all the guardians of the future of Europe. The people of Europe expect us to deliver. We must do no less.

## PART II. IMPLEMENTATION OF THE COMMISSION'S WHITE PAPER

### A. ABOLITION OF TECHNICAL BARRIERS

#### 1. TECHNICAL HARMONIZATION AND STANDARDIZATION

##### (a) Implementation of the "new approach"

28. Shortly after its appointment the present Commission sent a Communication to the Council and the Parliament describing how the "New Approach" would be applied to standards and technical regulations and this was approved by the Council in May 1985.

The basis on which this Communication and the subsequent decision by the Council proceeded was that Community legislation should be limited to laying down the "essential requirements". These would usually relate to health and safety but in appropriate cases other factors such as the environment or consumer protection might be covered. Once these "essential requirements" were specified the task of writing the actual standards would be entrusted to the standards-making bodies.

29. The new approach has formed the basis of most of the Commission's proposals in this field and has speeded up the decision-making process. The Council has already adopted Directives on pressure vessels and toys, reached common positions on construction products and electromagnetic compatibility and has before it the Commission's proposals on machine safety and personal protective devices.

Implementation of the Directives must go hand in hand with the preparation of European Standards. But that is still taking too long. The pace of work must be stepped up. Greater involvement on the part of the industry in this process would certainly facilitate the task.

A European system for the mutual recognition of tests and results and certificates must now be set up; the Commission will shortly be presenting the necessary proposals to the Council.

These measures are especially important in the field of telecommunications and information technology on account of the strategic role that these sectors are called upon to play in the Community's industrial development to which the ESPRIT and RACE programmes also make a valuable contribution.

As an adjunct to the directives proposed under the new approach, the Commission has put forward several proposals based on Article 118 A of the EEC Treaty designed to protect the health and safety of workers.

(b) Sectoral approximation of laws

30. In specialized sectors, the fact that the Council can now act by a qualified majority rule has given impetus to harmonization : the programmes for chemicals and tractors are thus being finalized. Work in other areas continues :

- motor-vehicles : the introduction of Community type-approval, which is essential to free movement, depends on the formulation of a common commercial policy in this sector;
- pharmaceutical products : the fundamental question of Community registration is still unsettled;
- foodstuffs : despite the progress made on adoption of the first framework directives, the implementing measures they require are subject to cumbersome decision-making procedures, which the Commission deplores.

In all the proposals put forward and the decisions adopted a balance has been struck between the need for on the one hand free circulation and on the other a high level of protection related to health, safety, environment protection and consumer protection, in accordance with Article 100 A (3) of the EEC Treaty.

2. OPENING UP PUBLIC PROCUREMENT

31. The Commission has now presented to the Council all the proposed directives (with the exception of that concerning services contracts) designed to open up public procurement, thus responding to the European Council's successive requests since 1986 ; it is now up to the Council to respond to the most recent call by the Hanover European Council for adoption of these proposals.

The adoption this year by the Council of the Directive on public supply contracts, which incorporates the Community's GATT commitments, and of the common position on public works should open the way to more significant decisions on the opening-up of other contracts in telecommunications, energy, transport and water sectors.

In addition to the legal framework to be established, it is essential to make progress with European standardization and ensure that the authorities modify their conduct and comply

with the common rules to be introduced. That is why the Commission considers that effective monitoring procedures are necessary to guarantee equity in implementing the directives within the Community.

The question of defence procurement will also need to be addressed in the light of both the provisions of the EEC Treaty and the European Cooperation provisions of the Single Act.

### 3. FREE MOVEMENT OF PERSONS

#### (a) Freedom of establishment for the professions

32. The recognition of diplomas is now in effect for architects and most of the medical and para-medical professions. For the other professions, a major step will be taken with the adoption of the Directive introducing a general system for the mutual recognition of higher-education diplomas awarded on completion of professional education and training of at least three years' duration. In the light of the experience drawn from the system, its principles should be applied as soon as possible to all professional diplomas. The Commission also intends to interpret more stringently Articles 48, 52 and 59 of the EEC Treaty, whereby the professional qualifications of any Community national should be taken into consideration by the Member State where he wishes to pursue his occupation.

Lastly, in addition to measures intended to facilitate the mobility of people, steps should be taken to facilitate that of legal persons, by harmonizing the conditions governing the collective pursuit of professional occupations in the form of professional partnerships.

#### (b) General right of residence

33. In the Commission's view the establishment of the internal market necessarily implies a general right of residence for all Community citizens. The current restriction of that right to the working population only is not in keeping with the image the Community must give to its citizens. The Commission is accordingly pressing the Council to adopt the directive which would extend the right of residence to persons not in gainful employment.

#### (c) Free movement of employed persons

34. Instruments ensuring freedom of movement have been in force since 1968. In the Commission's view however these instruments are not suited to the new demands of the labour market following the completion of the internal market. The Commission intends therefore to propose that they be

amended. In addition, the Commission will present measures concerning the transparency of the labour market for the qualifications of non-regulated professions.

#### 4. SERVICES

##### (a) Financial services

35. The decision to liberalise capital movements provides the key underpinning for the creation of a single market in financial services. The Commission has presented to the Council all the proposals in the Banking sector set forth in the White Paper.

The Commission's approach is threefold :

- Introduction of a single licensing system for financial institutions permitting both the establishment of branches and the provision of services throughout the Community;
- common rules on the supervision and regulation of financial institutions;
- the principle of home country control.

Considerable progress has already been made by the adoption of Directives on non-life insurance and the establishment of a single market for collective investment undertakings for transferable securities. Measures of great importance have been proposed to open up the market completely for credit institutions and to establish common rules for their control. The same is true of life assurance and motor-vehicle liability insurance and the introduction of common rules applicable to all investment services.

##### (b) Transport

36. Notable progress - although still inadequate in view of the objectives set out in the White Paper - has been accomplished, both in relation to sea and air transport and road transport, following the decisions adopted by the Council in December 1986 on sea transport, in December 1987 on air transport and in June 1988 on road transport. Further decisions on road transport will still have to be taken by 1992 to ensure a truly competitive market, and further steps taken to ensure conditions for fair competition.

One of the most important outstanding problems for all types of transport is the authorization for non-resident carriers to engage in cabotage. This is essential to genuine freedom to provide services in the Community.

(c) New technologies and services

37. The development of technologies is part and parcel of the boom in the services sector. The completion of the internal market has a role to play through standardization policy and research programmes. In view of the importance of telecommunications, the Commission spelt out its position on implementation of the 1992 objective by publishing a Green Paper in June 1987 on the development of the common market in services and telecommunications equipment and arranging for the market to be opened up in accordance with a precise timetable. The Council approved this approach in a resolution adopted on 30 June 1988.

In the field of information services, the Community must deal with the introduction of systems and common standards in the context of specific applications by putting into effect its research and development programmes, such as AIM, DELTA, DRIVE and the information services programme. The RACE programme in the field of telecommunications services has a similar objective.

(d) Broadcasting area

38. The establishment of a truly European broadcasting area implies first of all the introduction of the harmonized standards that the Council has already adopted for satellite broadcasting (MAC), and the definition of common strategies, notably for high-definition television, to provide the programme production industry with a coherent technological framework.

Such an area also involves freedom to broadcast, receive and retransmit radio and television programmes; the Commission presented a proposal, as long ago as 1986, with the aim of achieving that freedom. Rapid adoption of that Directive is vital also because it alone can provide the basis required to enable the Community to take part subsequently in broader moves at international level, notably within the Council of Europe.

Finally, the establishment of a European broadcasting area also implies the enhanced promotion of European programmes; that accounts for the Community MEDIA programme and the interest displayed by the Hanover European Council in a Eureka initiative in this field.

## 5. LIBERALIZATION OF CAPITAL MOVEMENTS

39. On 24 June 1988 the Council adopted the Directive liberalizing completely capital movements and a Regulation introducing a single facility for medium-term financial support of Member States' balances of payments.

The above Directive will enter into force in July 1990 with derogations for some Member States which should not extend beyond 31 December 1992. All restrictions on capital movements between persons residing in a Member State will be abolished.

Following up that Directive, the Commission will now table proposals to enable the Council to take a decision by the end of June 1989 on measures to combat risks of distortion and tax evasion and fraud caused by the differences in national arrangements for the taxation of savings.

## 6. CREATION OF SUITABLE CONDITIONS FOR COOPERATION BETWEEN FIRMS

### (a) Company law and taxation

40. The work in progress aims to promote cross-frontier cooperation.

In the field of harmonization, little progress has been made: no decision has been taken on the proposals for the fifth Directive and above all the tenth Directive which are essential to the achievement of cross-frontier mergers. Although several Member States have, over the years, raised difficulties on a package of proposals concerning the removal of fiscal barriers to cooperation between firms in different Member States, there is reason to hope that the package is now close to adoption.

Significant success has been recorded with the adoption of the statute for the European Economic Interest Grouping, which will come into force on 1 July 1989. In addition, the Commission welcomes the re-opening of discussions on the statute for a European company on the basis of the Commission's memorandum which puts forward balanced solutions on worker participation and other questions raised in the earlier discussions.

The Commission will complete this programme by submitting a Communication and draft directives on the harmonization of the basis for company taxation.

(b) Intellectual and Industrial property

41. Major decisions have been taken with the adoption of a proposal on the protection of integrated circuits and agreement on the harmonization of national trade mark law (common position).

However, adoption and rapid implementation of the Community trade mark and patent would give the green light that has long been awaited in this area; the Hanover European Council requested, moreover, that the necessary decisions be taken without delay.

The Commission has published a Green Paper on copyright, which should give rise to wide-ranging discussion and culminate in proposals, notably on the protection of software.

(c) Services promoting cooperation

42. The Commission has also made important progress in developing specific services to promote cooperation. The Business Cooperation Network (BC-NET), which permits the rapid identification of potential business partners, became operational in July. In order to promote regional development by means of business cooperation, the Commission launched an initiative entitled "Europartenariat", the first operation of which was held in Ireland in June.

**B. REMOVAL OF PHYSICAL BARRIERS**

1. THE ABOLITION OF FRONTIER CONTROLS ON GOODS

43. With the exception of the abolition of exchange controls and road transport licences, no measures have been adopted for the withdrawal of controls by 31 December 1992.

(a) Controls ensuing from national commercial policy measures

44. Some 22 products are now subject to measures of protection or surveillance under Article 115 of the EEC Treaty. These are attributable to the fact that the common commercial policy is incomplete, but it will no longer be possible to implement them when frontier controls are eliminated. The Commission is pursuing its objective of abolishing such measures through completion of the common commercial policy.



**(b) Animal and plant health controls**

45. These areas involve sensitive questions of public, animal and plant health. However, the situation in the different Member States as regards animal and plant health, or the level of health protection required, varies considerably. The goal of the single market implies endeavours to rationalize this state of affairs or to bring the essential requirements closer together. The Council has already adopted a fair number of disparate measures. But much remains to be done and both Commission and Council carry a responsibility for catching up on lost time.

In the veterinary field only controls at the production site should remain; at the marketing stage no distinction should be made as to a product's origin. With a view to attaining that aim progressively, the Commission has recently proposed abolishing frontier controls, while regulating any controls that might remain on a transitional basis at destination.

In regard to plant health, the Commission has presented the first series of proposals announced in the White Paper and outlined its new strategy in a supplementary communication. These proposals concern in particular the establishment of a Community Inspectorate, its operation and the gradual withdrawal by 1992 of import controls in Intra-Community trade. These transitional proposals must be adopted without delay; otherwise they will be to no avail.

**(c) Controls connected with road transport**

46. The gradual abolition by 1 January 1993 of the quotas for road transport, already adopted, will remove one of the major reasons for these controls.

The Commission is finalizing its proposals aimed at abolishing all controls on means of transport which now take place at frontiers.

**(d) Export controls (Cocom)**

47. The Commission is looking into the conditions under which frontier controls on Intra-Community trade in goods appearing on the Cocom lists could be abolished.

**(e) Collection of statistics**

48. By the end of this year the Commission will present its proposals for alternative methods of capturing data, with a view to eliminating the collection of statistics at internal frontiers without losing the benefit of the information thus obtained.

**(f) Abolition of monetary compensatory amounts**

49. The free movement of agricultural products is obviously also hampered by the formalities connected with monetary compensatory amounts. The Commission has therefore concluded that these formalities must be abolished as part of the broader measures in the agri-monetary field on which work is in hand within the Commission.

**2. ABOLITION OF CONTROLS ON PERSONS AT INTERNAL FRONTIERS**

50. The White Paper on the completion of the Internal Market set out a number of key areas such as drugs, firearms, asylum and visa policies in which action needed to be taken in order to achieve the goal of free movement of people within the Community.

For several years now, because of the complex nature of the issues involved, the many and varied aspects of the problems involved have been discussed in a number of different fora.

The Commission's proposal for a directive as an interim measure, on easing border controls has been so long on the Council's table and so eviscerated there that the Commission doubts the value of keeping it alive. The Internal Market Council also has before it the Commission's proposal on the control of the acquisition and possession of weapons.

51. In the fight against drugs, two United Nations conventions have brought about a considerable degree of convergence in the Member States' on drugs. Further efforts are needed within the Pompidou and Trevi groups to combat drug trafficking, to tighten-up controls at the external frontiers and to enhance co-operation between the Member States.

52. The work of the Immigration Group has contributed significantly to thinking on the granting of asylum and the status of refugees. The Commission intends to propose a draft directive to regulate these matters. The Immigration Group is also examining common conditions for the grant of visas and a package of measures on identity checks, curbs on the use of forged travel documents and organised illegal immigrants traffic, which is designed to tighten further the controls at the Community's external frontiers.

53. The Commission believes that there is a clear need to pull together the work being done in these somewhat disconnected bodies and to refocus strategy so as to keep the overall programme and each individual part of it on target.

### C. REMOVAL OF FISCAL FRONTIERS

54. Shortly after the Commission published its White Paper on completing the Internal Market, the Council of Economic and Finance Ministers established a high-level ad-hoc group of their personal representatives to examine the Commission's plans for elimination of fiscal frontiers and the approximation of indirect taxation and to consider alternative approaches. Some twelve months later the Chairman of the high-level group concluded that, if fiscal frontiers were to be eliminated, there was in fact no viable alternative to the approximation of indirect taxation as the Commission had spelled out in its White Paper. This cleared the way for the Commission to draw up its detailed legislative proposals for consideration which it presented to the Council in August 1987. It presented a package of all the proposals needed for the elimination of fiscal frontiers and the approximation of VAT and Excise Duties.

Before beginning to examine the Commission's proposals, however, the Council instructed the Economic Policy Committee to examine their macro-economic implications.

The EPC reported in June this year and, in September, Economic and Finance Ministers finally embarked on discussion of the key aspects of the Commission's proposals. Work is now going forward on the basis of these proposals. Much time has been lost. A real sense of urgency is needed to ensure that the 1992 target is met.

### D. APPLICATION OF COMMUNITY LAW

55. The actual application of Community law falls not only within the Commission's pursuit of its role as guardian of the Treaty; it is also gaining importance in steps taken by the citizens and economic operators who stand to benefit therefrom, via the appeal procedures open to them at both national and Community level.

#### 1. MUTUAL RECOGNITION (ARTICLES 30 TO 36)

56. The Court of Justice has developed this principle in its case law, notably in the Cassis de Dijon judgment. It signifies acceptance by all Member States of products lawfully and fairly manufactured and sold in any other Member State, even if such products are manufactured on the basis of technical specifications different from those laid down by national laws in force in so far as the products in question protect in an equivalent fashion the legitimate interests involved.

This principle has consistently underpinned the Commission's action on removing technical barriers to trade through harmonization, prevention (Directives 83/189/EEC and 88/182/EEC providing for an information procedure in the field of standards and technical regulations) and infringement procedures (Article 169 of the EEC Treaty).

## 2. REMOVAL OF TAX DISCRIMINATION AND CHARGES HAVING AN EQUIVALENT EFFECT (ARTICLES 9 TO 16 AND 95)

57. Following the Court of Justice's Schul judgment, the Commission has upheld the principle of prohibiting double taxation. The Commission is initiating infringement procedures systematically when such cases are brought to its attention.

## 3. RIGHT OF ESTABLISHMENT AND FREEDOM TO PROVIDE SERVICES

58. The Commission's policy is to apply the principle of mutual recognition, already well established in respect of goods, to the field of services. In its judgments of 4 December 1986 on insurance, the Court moved in that direction and further steps should now be taken to enforce the principle of mutual recognition established by these judgments.

## 4. FREE MOVEMENT FOR EMPLOYED PERSONS

59. The Commission must ensure by a rigorous interpretation of the principles of free movement that the Member States do not exclude from the benefit of the Treaty migrant workers belonging to major occupational categories. To that end, in December 1987 the Commission launched a scheme designed to bring to an end the reserving for nationals of certain public sector jobs in four priority sectors (teaching, public health, research for civilian purposes and agencies running a commercial service).

## 5. RULES OF COMPETITION

60. A strong competition policy is essential in order to maintain the unity of the internal market. The Commission will continue to apply strictly the Treaty provisions on state aid so that industry in Europe can operate on a level playing field and remain competitive. Similarly, it will ensure that restrictive practices and monopolistic behaviour both by private and state companies do not fragment the common market. In the context of the internal market, control of Community wide mergers is more necessary than

ever. The Commission will continue to apply existing competition law to merger situations pending the adoption by the Council of its proposal on merger control.

#### 6. APPLICATION OF DIRECTIVES

61. On the whole, the situation is satisfactory. However, delays by some Member States in putting the decisions of the Court of Justice into effect and the hold-ups caused by red tape are to be deplored, particularly in the field of animal and plant health controls which affect the implementation of directives in some Member States. These circumstances highlight the importance of applying directives correctly and the need to make use of the regulation as an instrument more frequently.

#### E. GENERAL MEASURES

62. An essential ingredient for communicating successfully the 1992 message has been a comprehensive information policy. Since the launch of the White Paper, the Commission, through its information and communications services in Brussels, its Press and Information Offices in the Community, and its Offices throughout the world, has embarked upon wide-ranging initiatives to ensure that all target audiences, including the European citizen, are aware of the implications of 1992.

These initiatives have been supported, particularly in the last two years, by the launch of major information initiatives at national level by certain of the Member States.

In maintaining the momentum in the run up to 1992, these diverse information and communication initiatives will be stepped up and strengthened and increasingly focused on areas where specific communications messages are required.

Information in particular is a key element for the development of enterprises in the Internal Market. The Commission is therefore pursuing its efforts to establish a decentralised information service on European matters for enterprises, in particular SMEs: in close collaboration with Member States, the Commission is preparing the extension of the Euro Info Centre Project, which has exhibited considerable success in its first phase.

63. A number of Community policies contribute to completion of the internal market, while pursuing their own particular aims.

One example is technological research and development without which Europe will not be in a position to take full advantage of the single market or to face up to the competition from third countries.

64. Consumer protection provides an example of a policy area which will take on an enhanced importance in the completed internal market. Consumers will need to be reassured that their interests are properly represented, that considerations of physical and economic safety have been properly taken into account and that access to information and justice is assured.

65. A further example is energy which has been the subject of a Commission working document: the Commission's energy policy is of special importance on account of its strategic implications (security of supply), its effect on the competitiveness of European industry as a factor of production and its fundamental role in the economic development of all Community regions. Energy must form an integral part of the internal market. The Commission identified the main problems in its working document and is committed to presenting proposals with a view to liberalisation of trade in this sector by 1992.

66. Economic and monetary policy has both a direct and an indirect bearing on the completion of the internal market. The directives providing for the liberalisation of capital movements formed an integral part of the White Paper programme and now provides essential underpinning for the establishment of a genuine internal market for financial services. Furthermore, unstable exchange rates impose barriers to the freedom of movement between national markets. There is therefore a need to reinforce the European Monetary System in order to enhance the unity of the internal market.