CONTENTS

Editeur responsable
Anthony Dempsey
European Commission
DG Internal Market and Services
Unit A-4
B - 1049 Brussels
Tel: (+32 2) 295 73 57
Fax: (+32 2) 295 43 51

Editor
Nigel Griffiths
Tel: (+32 2) 298 65 11

Subscriptions
Anita Haase
DG Internal Market and Services
SPA2 1/002
B-1049 Brussels
Fax: +32 2 295 43 51
E-mail: Markt-smn@ec.europa.eu
www.ec.europa.eu/internal_market/smn.htm

Layout:
Unit A4

Online
http://ec.europa.eu/internal_market/smn.htm

For further information
http://ec.europa.eu/internal_market/index_en.htm

Your Europe
http://ec.europa.eu/youreurope

Photographs for this edition were supplied by:
Grifco Communications and the European Commission.

EDITORIAL

Jörgen Holmquist
Director-General
DG Internal Market and Services
European Commission

This is a particularly fascinating and challenging time to be taking over as Director-General of DG Internal Market & Services. The shape of future Single Market policy is under the spotlight as never before.

Indeed the development of the Single Market is widely recognised as one of the Union's great achievements. In promoting the four freedoms of movement – for goods, services, people and capital – an estimated 2.5 million new jobs have been created since 1993 and more than 800 billion euro generated in extra wealth. The removal of national restrictions has enabled more than 15 million Europeans to go to another EU country to work or spend their retirement.

Since 1993 the work of extending and deepening the Single Market has continued and a great deal has been accomplished. But with the core elements now in place, where should we go next?

Over the past year an extensive consultation process has been conducted on this which culminated in a public hearing in November. We have received high quality input from many quarters both favourable and critical which is helping us focus future strategy.

It has helped galvanise our thinking about the guiding principles for the Single Market in the 21st Century: it should be to the benefit of citizens and consumers, contribute to developing an integrated and knowledge-based economy, and lead to a better-regulated and sustainable Europe.

In order to realise this vision of a more mature Single Market new approaches are needed, which we will translate into concrete proposals for action in autumn this year:

• Single Market policy should be more impact-driven and results-oriented: the EU should act when markets do not deliver and where it will have maximum impact;

• To be most effective it should employ a more diverse and flexible mix of instruments, finding the right balance between harmonisation and mutual recognition of rules, and other tools such as self- and co-regulation;

• It needs to be more decentralised and network-based: Brussels cannot and should not deliver alone. This requires greater cooperation between national and EU levels;

• It must be more responsive to the global context in order to exploit globalisation to Europe's advantage, and enable its companies to compete in the global market place.

I look forward to working with all concerned in further developing the Single Market to the benefit of all.

Public Hearing prepares ground for the Single Market of the 21st century

The Public Hearing in Brussels, 29 November on future Single Market policy brought together more than 300 participants representing strategic players from all sectors of the community who engaged in a constructive and informative debate on the good and bad points of Single Market policy. Whilst recognising the creation of the Single Market as one of the EU's greatest achievements, participants said the Commission could do better in many areas and offered many suggestions for improving methods of consultation, policy development and implementation.

The public hearing on future Single Market policy was organised as part of the Commission's review of the Single Market. The hearing was a follow-on from the recent consultation on future Single Market policy and focused on those issues that have attracted particular comments, debate and criticism in stakeholder replies.

Consultation

The first panel of the Public Hearing which was chaired by Jacqueline Minor, Director for Horizontal Policy Development in DG Internal Market and Services, focused on the Commission's consultation policy and on how the Commission could more effectively reach out to all Single Market stakeholders.

The panel discussion and the interventions from the audience revealed that the Single Market was sometimes seen as irrelevant or approached with suspicion.

The Commission was called upon to put more thought into drafting and preparing its consultations and make them more user-friendly. Consultations should contain a one-page non-technical introduction explaining the aim of the consultation and sectors affected to make it easier for stakeholders to judge the relevance of the consultation. It was also suggested that the Commission should make greater use of 10-minute online consultations.

According to trade unions, the Commission's ability to listen was a more of a cause for concern than its ability to reach out to stakeholders. In particular, post-consultation feedback was stressed as very important. The Commission should publish all replies, provide adequate feedback on views received and explain to stakeholders why their concerns were not taken into account.

Thought-provoking input for Commissioner Charlie McCreevy and acting Director-General Thierry Stoll.

Better involvement in policy-making

The Commission was called upon to ensure balance between various interests on its advisory groups - in particular, industry and consumers. It was also encouraged to increase the level of funding to consumer organisations to enable them to participate more fully in policy-making. DG Internal Market's Working Party of Financial Users made up of 25 national consumer representatives was cited as a good example of best practice.

Engaging SMEs

The engagement of small business (SMEs) in policy-making was said to be limited by difficulties in accessing information. The blame for this was put on the existence of a plethora of entry points at EU level such as IPM, EBTP, Your Europe etc. and at national level with Innovation Relay Centres, European Information Offices etc., which at worst led to confusion and at best did not make those networks sufficiently visible.

The establishment of a one-stop-shop system was recommended so that there would be one professionally organised, well-funded and recognisable point of entry consolidating all the currently available websites.

Consultation questionnaires were not considered to be the best way to contact small businesses. Instead, a more

active and direct approach was necessary. For instance, it was suggested that an SME envoy should be established in each Commission delegation in Member States to translate all Single Market related rules into 'SMEs' terms' and that more use should be made of the links between small and big businesses whereby the latter could play the role between the former and the EU institutions.

Internal consultation

It was suggested that a common consultation procedure be applied regardless of which Directorate-General launches a consultation and that the same deadlines be given to stakeholders in all consultations. The Commission was also called on to ensure better coordination between its Directorates-General and to encourage mutual involvement in their respective stakeholder consultations.

Impact Assessments

The Commission was called to improve and make better use of impact assessments. These should verify whether a specific policy was going to improve competition for consumers and make them net beneficiaries. They should also more rigorously assess the effect on SMEs and take better into account the impact on jobs and workers.

Alternative policy toolkit

The second panel focused on what tools, apart from regulation, the Commission should use in shaping modern Single Market policy. The retail financial services sector was used as a case study to discuss which alternative tools have already been developed and whether they could be applied in other areas. The discussion also focused on the perspective of consumers as main users of retail financial services.

The panel, which was chaired by Irmfried Schwimann, Head of Unit for Financial Services in DG Competition, presented different perspectives on the tools available for implementing Single Market policy.

The Public Hearing brought together more than 300 participants representing strategic players from all sectors.

Legislative measures

Regulatory effort was still seen as necessary to encourage services providers to take risks on a cross-border basis and persuade consumers to invest their savings abroad by providing them with adequate protection and information. For instance, legislative measures were the preferred approach for providing better access for intermediaries and ensuring their independence and liability; and for harmonising rules on investment protection for investors and the advertising of commercial practices for financial services.

At the same time, it was stressed that legislation should be flexible, adhere to Better Regulation principles and utilise efficient and straightforward procedures for the benefit of consumers.

The regulatory phase in the financial services area was seen as a success thanks to the Lamfalussy process whereby implementing measures were adopted according to a transparent and flexible procedure which encouraged the maximum input of technical expertise.

Non-regulatory tools

Analysis and a clearer evidence-base about how retail financial markets work was seen as an important means to be able to choose the right tools and keep pressure on the markets.

Enforcement was seen as crucial to increase consumer confidence, through, out-of-court affordable settlements, the development of networks (e.g. FIN-net or under CPC Regulation) and self-regulation.

Monitoring of the markets was also said to have an enforcement effect as has been seen with the example of the work of the 'Financial Sector Monitor' within the Netherlands' Competition Authority. This market monitoring service identified barriers to competition, researched their causes and provided guidance, and in this way increased awareness about the need to enforce competition rules and stimulate compliance by the industry.

To ensure a unified application of rules across the EU, supervisory effort is necessary through active cooperation between the national authorities concerned. In the area of financial services this is accomplished through supervisory bodies for securities (CESR), insurance and occupational pensions (CEIOPS) and banking (CEBS).

The retail financial services sector was used as a case study to discuss which tools apart from regulation could be applied in other areas.

Moral persuasion and pressure of possible further legislation were also quoted as useful parts of the toolkit to encourage industry to make progress through self-regulation. As a good example of this, the cooperation between banks for meeting SEPA requirements through self-regulation and the work of the European Payment Council were cited.

Finally many speakers stressed the importance of communication and ensuring that information about major initiatives (e.g. SEPA) reaches consumers and users. The participation of consumers in shaping the measures under the Lamfalussy process was seen as a weak point and the Commission was asked to increase funding to strengthen consumers' involvement.

Enforcement of the law

The focus of the third panel was the proper application of Single Market rules and ways of providing effective redress where application problems arose. The discussion was chaired by Claus-Dieter Ehlermann, WilmerHale.

The panellists agreed that the Single Market was indeed a great achievement but stressed that it did not yet function as well on the ground as it could.

It was stressed that the Single Market legislative framework is mostly in place (in particular, given the final stages of adoption of the Service Directive) but that the Commission needs to ensure active follow-up of legislation, not only through its transposition into law, but in particular its proper implementation.

As the Guardian of the Treaties, the Commission was called upon to actively take up its responsibilities for ensuring the application of EU law. However, it was acknowledged that the Commission cannot alone be responsible for enforcement and that it was time for Member States to take on a greater responsibility for the correct application of the rules they have jointly adopted.

Preventing and solving problems

It was suggested that Regulations are preferable to Directives as a Single Market legal tool, given that they are not subject to interpretation and leave less room for possible conflict. It was recommended that an Internal Market Task Force, initially a Danish proposal, be created in each Member State. Its main objective would be to screen existing national legislation to find out whether any rules created barriers to trade and to identify the nature and force of those barriers.

Speakers pointed out that there were still too many infringement proceedings which demonstrated that penalties were insufficient and not administered quickly enough. DG Internal Market was called on to better prioritise infringements and apply a fast-track procedure to the priority ones. A suggestion was also made that the level of fines should continue to increase until the number of infringement cases decreased significantly.

There was agreement that the Commission needed the cooperation of Member States to prevent 'gold plating' and needed cooperation of the national courts to improve the implementation record.

It was stressed that national judges should compare whether national law is in compliance with European law and give precedence to the latter and citizens should be able to rely on national judges to properly enforce the EU law. In that context, good training was seen as very important and it was recommended that the training of national judges be strengthened at Member State level. SOLVIT was praised as a good non-legal tool for problem-solving but was said to be insufficiently promoted and underfunded.

Communication as top priority

The final panel under the chairmanship of John Wyles, Senior Partner in GPlus Europe, took at look at how the Commission's current information and communication policy could be improved. The discussion in the panel and interventions from the audience showed that the Commission faces real communication challenges whilst reporting on the Single Market, because it involves selling a highly technical topic to the non-specialised media whose basic aim is to entertain their public. At the moment it seems that "Europe is a badly sold product".

The panellists stressed that communication should be seen as a number one priority. The Commission was warned that the opponents of the Single Market will not fight fair and will use propaganda and false myths and therefore, it was important to be ready with a good communication strategy backed up with necessary resources. This should include providing information phrased in a clear and positive way and sending a coherent message from the Commission. Some speakers also stressed that the Commission Representations in Member States should be more involved in bringing European policy closer to the general public.

The results of the Public Hearing and the consultation will feed into a report to be published by the Commission on the Single Market for the 21st century in the course of 2007.

info
Tom Diderich
TEL: +32 (0)2.296 17 59
FAX: +32 (0)2.295 76 13
Markt-B1@ec.europa.eu

info http://ec.europa.eu/internal_market/strategy/index_en.htm#hearing

Cross-border euro payments now significantly cheaper

Consumers are now paying significantly less for cross-border transfers in euro, following the EU's 2001 Regulation, according to a new report. And charges for domestic transfers were not negatively affected, as was initially feared.

The Commission has undertaken a study to evaluate whether and how the EU Regulation on cross-border euro payments, which was adopted in 2001, has affected bank charges for national payments.

The report shows that a 100 euro cross-border transfer, which would have cost on average 24 euro before the rules were introduced, now costs on average just 2.50 euro. The study found that the rules have also provided banks with an incentive to develop and invest more in an EU-wide payments infrastructure, which in the longer term should help to reduce costs for all consumers.

To make a low-cost cross-border payment in euros, consumers need only to provide the International Bank Account Number (IBAN) and Bank Identifier Code (BIC) of the recipient.

Evaluation of effectiveness

The report is the first step towards an evaluation of the overall effectiveness of the 2001 Regulation.

In line with the Commission's commitment to better regulation, any future modification of the Regulation would be determined by this full review, as well as by the Payment Services Directive, which is currently before the Council and European Parliament for adoption, and industry-led initiatives to create the Single European Payments Area (SEPA).

Cross-border euro payments

Even after the full introduction of the euro, cross-border euro payments were costing considerably more than an equivalent domestic payment. Payment systems were organised by banks nationally and the infrastructures for cross-border payments were inefficient and slow.

In order to improve this situation, the EU introduced rules (in the form of Regulation 2560/2001) giving consumers a guarantee that when they make a payment in euro to an account in another Member State, it would cost the same as it would to make a payment within their own Member State.

To make the payment consumers need only to provide the International Bank Account Number (IBAN) and Bank Identifier Code (BIC) of the person they would be transferring the money to.

The ceiling for payments benefiting from this regime was set at 50,000 euro as of January 2006. The Regulation covers payment card transactions and withdrawals from cash machines since 1 July 2002 and credit transfers since 1 July 2003.

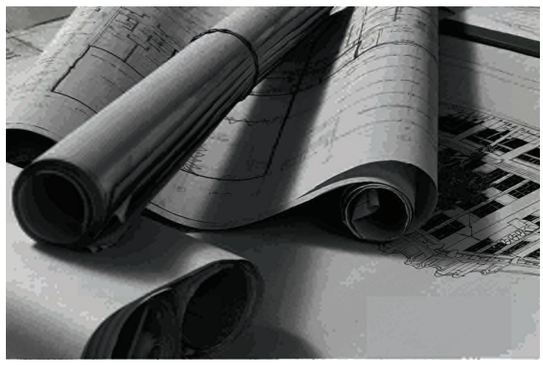
"This EU action has brought real benefits to consumers," stressed Commissioner for Internal Market and Services, Charlie McCreevy. "The price of cross-border payments has reduced dramatically in many countries, but - contrary to what had been feared - the price of domestic payments has not gone up. The banks' reaction has been very positive," he added. "They have set up an ambitious project to create a Single Euro Payments Area (SEPA) that will treat all euro payments as though they were domestic. By using fully automated payment systems that are of lower cost, this project has enormous potential to bring about huge savings and we fully support it."

The report is available at:

info http://ec.europa.eu/internal_market/payments/crossborder/index_en.htm

Green light for the Services Directive - a challenging road lies ahead

The Services Directive which aims to remove obstacles to providing cross-border services was adopted in December by the European Parliament and the Council. The final text adopted by Parliament sets out to achieve a balance between a functioning Internal Market for services and the protection of general interest objectives. Member States have a maximum of three years to implement the provisions of the Directive which should have a highly beneficial impact on the EU economy.



After almost three years of negotiation, the Services Directive* was finally adopted on 12 December 2006 by the European Parliament and the Council. The negotiations have been long and difficult and, although some of the elements of the initial proposal (notably in terms of its scope of application) have been abandoned, the outcome is generally regarded as well-balanced with the potential to generate real added value for the Internal Market for services.

Boost for EU economy

The Services Directive is one of the most important European-level contributions to the Lisbon Strategy and thus an essential element in the Commission's efforts to boost the European economy and unleash the potential of the Internal Market for services. Moreover, it is to be seen under the framework of the "Better Regulation" strategy, in particular regarding the reduction of administrative burdens.

> EU Member States will no longer be able to introduce extra requirements for foreign businesses or self-employed service providers, such as computer experts, electricians or consultants.

The main aim of the Directive is to achieve a genuine Internal Market in services by removing legal and administrative barriers to the development of service activities and thus facilitating the freedom of establishment and the freedom to provide cross-border services. It will be supported by legally-binding obligations for effective administrative co-operation between Member States.

Equally, the Directive aims at strengthening the rights of consumers as users of services, introducing a general non-discrimination clause and information rights. The text adopted will provide real added value to the Internal Market in terms of cutting red tape, removing barriers and improving legal certainty for business and consumers. Business will be able to set up and to offer services free from unnecessary administrative burdens. Customers will enjoy more choice and greater competition.

Scope of application

The Directive follows a 'horizontal' approach and covers services provided as an economic activity, as defined by the European Court of Justice, both to consumers and/or businesses. It covers a wide variety of activities including business services, such as management consultancy, certification and testing, facilities management, including office maintenance, advertising, recruitment services and the services of commercial agents.

Also covered are services provided both to businesses and to consumers such as legal or fiscal advice, real estate services such as estate agencies, construction, including the services of architects, distributive trades, the organisation of trade fairs, car rental and travel agencies.

The Directive also caters for services provided to consumers, such as those in the field of tourism, including tour guides, leisure services, sports centres and amusement parks and, to the extent that they are not expressly excluded from the scope of application of the Directive, household support services such as help for the elderly. Those activities may involve services requiring close proximity of providers and recipient, services requiring travel by the recipient or the provider, and services which may be provided at a distance, including via the Internet.

The Directive does not cover financial services, transport, matters covered by the 2002 telecommunications package,

gambling, audiovisual services, health services, temporary work agencies, private security services, the services of notaries and bailiffs and certain social services. Needless to say that for the sectors which are excluded, the EC Treaty and the fundamental freedoms in particular still apply.

Modernisation of authorisation and licensing regimes

The Services Directive requires Member States to undertake a process of administrative simplification which will facilitate the freedom of establishment and the creation of new business. This is seen as crucial for fostering entrepreneurship and for promoting growth and jobs. As a result of the Directive, service providers can be confident that they are dealing with justified, fair and transparent authorisation regimes and swift and simple procedures. They will be able to obtain information and to complete administrative formalities through points of single contact in any Member State and, in addition, in electronic form. Moreover, Member States will have to carry out a screening process of national authorisation procedures and other requirements. This process will simplify, accelerate and reduce the cost of setting up a new business and will do away with unjustified and obsolete requirements.

The implementation phase will be a complex and challenging task both for Member States and for the Commission.

Facilitating the provision of services across borders.

Member States are obliged to ensure free access to, and free exercise of, a service activity within their territory. They will be able to apply their own requirements to incoming services only to the extent that these requirements are non-discriminatory and proportionate and only if they are necessary for reasons relating to public policy ('ordre publique'), public security, public health and the protection of the environment.

This provision aims to strike a fair balance between guaranteeing that service providers can effectively provide services across borders and thus truly benefit from the freedom to provide services, whilst not hindering Member States' ability to invoke – in certain clearly-defined circumstances – their most essential requirements. To implement this provision, a screening process of national requirements has been established.

Rights of recipients will be better protected.

The Directive introduces an obligation of non-discrimination on grounds of nationality or place of residence of the customer, to be respected by national authorities and by private operators. Likewise, customers will be better informed by providers and better assisted by authorities.

The Directive provides a framework for the development by stakeholders of voluntary measures, such as European codes of conduct, standards, quality labels or certification.

Establishing effective administrative cooperation

Importantly, the Directive is underpinned by obligations on Member States to co-operate and assist each other to ensure that businesses are properly and efficiently supervised across the European Union, while avoiding duplication of controls. To put this mechanism in place, Member States and the Commission will rely upon a specific electronic system for the exchange of information, the Internal Market Information System (IMI).

Over the coming years, the Commission's main objective in this area will be to ensure early, coherent and effective implementation of the Directive. The Services Directive is not just a list of legal provisions which simply need to be reflected by Member States in national legislation, it also represents a dynamic process of simplification, screening and modernisation of national requirements and procedures applicable to service providers. The implementation phase will be a complex and challenging task both for Member States and the Commission. A common approach is required, and the Commission consequently intends to work closely with Member States and provide guidance throughout the implementation period.

With successful implementation of the Services Directive a real difference in the EU's economy will be felt over the coming years.

info
Maria Martin-Prat
TEL: +32 (0)2.296 51 57
FAX: +32 (0)2.296 77 12
Markt-E1@ec.europa.eu

* Directive 2006/123/EC on services in the internal market published in the OJ L 376 of 27.12.2006

info http://ec.europa.eu/internal_market/services/services-dir/index_en.htm

Public procurement: new Commission guidelines on defence contract tenders

The Commission has issued guidelines on how to apply EU law in the field of defence procurement. This is a first step in a process of creating greater competitiveness, openness and efficiency in EU defence markets and a move towards the creation of a European Defence Equipment Market.

Defence procurement accounts for a large share of public procurement in the EU. The defence budgets of the Member States are together worth about 170 billion euro, which includes more than 80 billion euro for procurement in general and 30 billion euro for the acquisition of new equipment in particular.

Member States exempt *de facto* the majority of defence contracts from EU rules which are instead awarded on the basis of national procurement rules, which differ widely throughout the EU. This can potentially limit market access for non-national suppliers thereby creating extra costs and inefficiencies that could have a negative impact on the competitiveness of Europe's defence industry.

The Commission has drawn up for Member States guidelines on when defence contracts can legitimately be exempt from EU rules requiring competitive bidding. The Commission sees these guidelines, which are set out in an 'Interpretative Communication', as a necessary first step towards greater competitiveness, openness and efficiency in EU defence markets.

The Commission sees these guidelines, which are set out in an 'Interpretative Communication', as a necessary first step towards greater competitiveness, openness and efficiency in EU defence markets.

In addition, the Commission is currently assessing the impact of a possible new Directive that would offer new, more flexible rules addressing the specific features of defence procurement. These initiatives were first outlined in December 2005 and are based on responses to a Green Paper on how to open defence procurement to greater transparency and efficiency.

Green paper

Article 296 of the EC Treaty gives Member States the possibility to derogate from Internal Market rules on public procurement when this is necessary for the protection of their 'essential security interests'. According to the Green Paper consultation of 2004/05, Member States use the exemption extensively mainly because the field of application and the conditions for the use of Article 296 are not clearly defined.

In addition, current EU public procurement rules are considered ill-suited to many defence contracts, since they do not take into account some special features of those contracts.

As a result, many Member States are reluctant to use the EU rules for defence procurement even if the conditions for the application of Article 296 are not met. A new Directive adapted to the specificities of the defence sector could solve this problem and make it easier for Member States to use the exemption under Article 296 in a restrictive way.

The Interpretative Communication sets out to deal with this problem and to prevent possible misinterpretation and misuse of the Article 296 exemption in the field of defence procurement. In particular, it explains the principles of the exemption, and clarifies the conditions for its use in the light of European Court of Justice case law.

Internal Market and Services Commissioner Charlie McCreevy commented: "These guidelines should improve the way current EU law on defence procurement is applied. The next step is to propose new legislation that will increase competition, deliver better value for money to taxpayers in defence procurement, and give the European defence industry a much-needed boost."

info http://ec.europa.eu/internal_market/publicprocurement/dpp_en.htm

International regulatory dialogues

The growing need to talk

Over the past years, a series of regulatory dialogues has been developed by the Commission with the EU's main trading partners - notably the United States, Japan, China, India and Russia. Indeed, international regulatory dialogues have also become an essential plank in the relationship which DG Internal Market and Services has with other third countries. And these dialogues are steadily growing in importance.

Regulatory relations with these countries generally focus on financial markets issues. The most developed dialogue in this context is the EU-US informal Financial Markets Regulatory Dialogue. Promising regulatory contacts also exist dealing with government procurement and with intellectual and industrial property with several of these countries.

Boundaries become blurred

In today's world, business has gone global and markets have merged. As a consequence, regulatory and supervisory issues have gained significantly in importance in international economic relations. This is particularly the case in the transatlantic relationship, but it is also true with respect to other third countries. The financial services industry is a good example: new moves towards global markets can be witnessed almost daily.

The dramatic changes in global economic relations have blurred distinctions between 'internal' and 'external' policies and regulation. For instance, any new rules for financial markets or corporate governance in the EU or the US have immediate and inevitable repercussions on the other side of the Atlantic and on other parts of the world. The EU learnt that to its cost over the US Sarbanes Oxley Act on corporate governance, which the US adopted in the wake of the Enron scandal.

At the same time, supervisory and enforcement processes are becoming increasingly difficult to manage at national or even European level both in terms of complexity and efficiency in view of the increasingly global operation of business. Regulators and supervisors thus need to be much more outward-looking than in the past.

EU can take the lead

These steadily evolving scenarios render it imperative that the Commission, governments and regulators take an integrated, coherent approach to today's challenges, making sure that rules and systems function effectively, at home and in the global business context. Indeed the EU can play a leading role in this context, guiding developments at the international level and sharing best practices, globally and with like-minded countries, in line with EU law. Because of its long and deep experience of dealing with differing regulatory systems, the EU might even have a 'comparative advantage' in the new world of global regulation.

> "Regulators and supervisors need to be much more outward-looking than in the past."

This is also acknowledged in the Commission's recent Communication on 'Global Europe: competing in the world' which addresses the external aspects of Europe's competitiveness in the light of the global economy. The Communication puts a strong focus on regulatory issues, notably through announcing the negotiation of a new generation of Free Trade Agreements (FTAs) with deeper regulatory commitments.

These negotiations – on trade and investment, intellectual property or on financial markets – are important in order

to improve market access or to do away with significant regulatory barriers. However, today's globalised world requires additional mechanisms to allow for informal and non-confrontational cooperation between regulators internationally.

Wide-ranging issues

Regulatory dialogues have therefore been developed by the Commission with its main trading partners, and notably with the United States, Japan, China, India and Russia.

The regulatory relations with these countries cover a wide range of financial markets issues, from company law and accounting standards to banking, insurance and the supervision of financial institutions, and, in some cases, macro-economic issues. All of these countries have or will have important capital markets and in many cases their financial sector is undergoing major changes and reforms (especially in the banking sector, securities markets and accounting). There is thus considerable interest in intensifying regulatory contacts and seeking mutually acceptable solutions on issues of common concern. The most developed dialogue, the EU-US informal Financial Markets Regulatory Dialogue, was set up by the Commission in the wake of the Enron scandal.

Promising regulatory contacts with several of these countries also exist relating to government procurement and to intellectual and industrial property. The Commission is, of course, also engaged with regulators in other countries, such as Switzerland and Canada, and will always remain open to new strategic alliances where sufficient economic and regulatory interest exists.

Benefits of dialogue

Experience has shown that this new approach to cooperation can be highly effective in problem-solving or prevention. It tends to help foster mutually acceptable solutions to regulatory issues, avoiding negative spill-over of regulation on other jurisdictions. This in turn helps to reduce unnecessary compliance costs and adjustment costs for industry active in several countries. Regulatory dialogues might not have the power to conclude negotiations like trade negotiators do, but neither do they have to carry the often formalistic burdens of traditional trade negotiations.

In the medium to long term, international dialogues also offer a valuable means of promoting the convergence of regulatory and supervisory principles and systems towards best standards and practices. It also reinforces the EU's influence on the global stage by, for example, encouraging partners to adopt regulatory standards close to those of the EU. At the same time, in an increasingly interdependent world economy, dialogues facilitate the monitoring of the overall developments in the economies of our key trading and financial partners.

"All these benefits are particularly important for the internal market. The benefits of the internal market may indeed unravel, if its framework is not adequately attuned to external markets, and vice versa," says Commissioner Charlie McCreevy.

Achievements and challenges - Capital Markets

Thanks to the excellent cooperation between regulators in the informal EU-US Financial Markets Regulatory Dialogue, the negative impact for European companies of the US Sarbanes-Oxley Act has been reduced. Since the start, the emphasis has gradually shifted from regulatory repair to discussing regulatory developments upstream, before they become law.

"And considerable progress is being made on a number of issues under discussion," McCreevy stresses. "Notably on accounting standards, we are working hard and successfully with the US and also with other players such as Japan to facilitate the use of GAAP and IFRS in each other's jurisdictions and to promote progress on the convergence of accounting standards internationally."

United States – the EU's closest economic partner

The EU-US relationship is the largest bilateral trade and investment relationship in the world and economic ties are increasing every year. It encompasses 600 billion euro of trade in goods and services each year, large flows of investment – up to 1.5 trillion euro - and provides employment for as many as 14 million people on both sides of the Atlantic.

Both economies generate a combined total of almost 60% of world GDP, covering almost 80% of the world capital markets and account for more than 40% of world trade. Strengthening the transatlantic relationship further could translate into huge economic benefits and make both economies more competitive and dynamic.

At the 2005 EU-US Summit, leaders on both sides agreed to enhance transatlantic economic integration further and to strengthen global partnership – notably through the so-called '2005 EU-US Economic Initiative', which has been followed up by an ambitious Action Plan, which lists the most significant issues in the EU-US economy. Regarding DG Internal Market issues, this includes closer cooperation on capital markets, intellectual property protection, government procurement and professional qualifications. Since then both sides made significant progress on many of these issues.

Other issues on the transatlantic agenda are the implementation of Basel II accord on international capital adequacy standards; the supervision of financial conglomerates; getting rid of the collateral requirements for EU reinsurers in the US; and proposed rules to facilitate foreign firms' permanent exit from the US Securities and Exchange Commission's registration and reporting regime.

Furthermore, both sides are in close contact on upcoming challenges and opportunities such as modernised insurance rules (Solvency II), encouraging an open investment climate on both sides of the Atlantic and on potential transatlantic mergers of stock-exchanges.

"In view of the deep EU-US investment links and the steadily integrating transatlantic financial markets - it is crucial to continue on this successful path," McCreevy emphasises. "Given the strong economic interdependence, we are best served when we work together towards a favourable business climate and to tackle global challenges."

Indeed, a new challenge for both players today is coming from rapidly growing economies such as China and India. The ever more global arena has shifted transatlantic interests from purely bilateral concerns to issues of wider importance, such as adequate global rules on accounting standards, auditing or on banking capital requirements.

Intellectual and Industrial Property Rights

Another key area requiring close collaboration internationally is intellectual and industrial property (IPR), with a priority on enforcement. Indeed, globalisation cannot deliver its full potential if efficient protection of creativity and innovation is not ensured. In this context, an effective fight against counterfeiting and piracy is crucial – not only in relation to China and Russia where counterfeiting and piracy remain widespread, but in other countries as well.

The EU and the US have thus agreed to enhance collaboration on promoting enforcement of IPR, and a joint strategy was drawn up in the summer of 2006 focusing on practical aspects to improve border enforcement cooperation, to help the private sector to enforce their rights and to assist third countries in fighting counterfeiting and piracy.

"But if we want to convince countries such as China or Russia to make serious efforts to enforce their rules," McCreevy stresses. "We need them to also subscribe to the raison d'être of intellectual property." For this reason the Commission is also engaged in an IPR dialogue with China and is preparing similar steps with Russia.

Joint work on intellectual property – with the US, but also with Japan and others – also covers important regulatory issues, such as the best way forward to improve efficiency and effectiveness of patent protection and patent granting procedures at global level – another stepping stone for a dynamic and innovative business climate.

Government procurement

Regarding government procurement, bilateral work with countries such as the US and Japan aims at facilitating better understanding of our respective systems – this is especially important in view of the ongoing review of the World Trade Organisation's Government Procurement Agreement (GPA) - to identify and solve differences in implementing the Agreement and to facilitate cooperation on technical issues, such as e-procurement.

With China, India and Russia work focuses on enhancing their respective government procurement systems towards increased transparency and openness and on preparing the ground for future market access talks.

Japan is back

With a GDP of 3,674 billion euro in 2005, Japan is the world's second largest national economy, accounting for 2% of the world population and around one eighth of world GDP. Japan is a rich country: it has the greatest savings of any nation and the second largest foreign currency reserves in the world (over 650 billion euro in 2005). After a decade of stagnation, "Japan is back". The revitalisation of the Japanese economy is important for the EU, being Japan's major investor and one of its main trading partners. The EU and Japan represent together around 40% of world GDP.

With Japan, regulatory co-operation takes place in several fora. Among them, the Regulatory Reform Dialogue (RRD) and the High Level Meeting on Financial Issues cover a large range of topics tied to Internal Market policies. The Regulatory Reform Dialogue is a two way process in which Japan and the EU present proposals for regulatory reform to each other. It covers all issues of EU-Japan cooperation, of which a large number are DG MARKT issues (company law, IPR, public procurement, accounting/auditing and financial services). The EU-Japan Dialogue on Financial Issues focuses specifically on banking, insurance, securities and accounting/auditing issues.

Keys to success

The Commission's dialogues succeed primarily due to the close communication between the parties involved, the transparency of the process, the issue-driven agenda and the informal nature of these dialogues.

This implies that both parties are free to discuss potentially contentious topics in an open manner – without the fear that they end up in the press the next day.

Most important, however, is the mutual interest in finding as early as possible acceptable solutions to problems and common challenges that reduce compliance costs for our respective businesses and eliminate duplicative assessments, inspections and requirements, while taking due account of the differences in the respective regulatory structures.

China – growing responsibilities

Since 1980 China has enjoyed on average 9% annual average growth and has seen its share of world GDP expand tenfold to reach today 5% of global GDP. China's growth has resulted in the steepest recorded drop in poverty in world history, and the emergence of a large middle class, better educated and with rising purchasing power and choices. The 2008 Olympic Games in Beijing and the 2010 World Expo in Shanghai will focus the world's attention on China's progress.

EU exports to China increased by over 100% between 2000 and 2005, much faster than its exports to the rest of the world. EU exports of services to China expanded six-fold in the ten years to 2004. China's foreign exchange reserves now stand at an astonishing 1 trillion USD - the largest in the world. China has now more than 100 million internet users. Also, one million Chinese tourists visit Europe every year; 170,000 Chinese students studied in 2005 in the EU.

Main events in the Commission's regulatory cooperation are the EU-China Regulatory Dialogue in financial matters and the EU-China Roundtable on Financial Services and Regulation with financial industry. Both events deal with issues of banking, insurance, securities and accounting/auditing, corporate governance and anti-money laundering issues. Furthermore, an EU-China Public Procurement Dialogue and an EU-China Dialogue on Intellectual Property have been set up to promote mutual understanding.

Way Forward

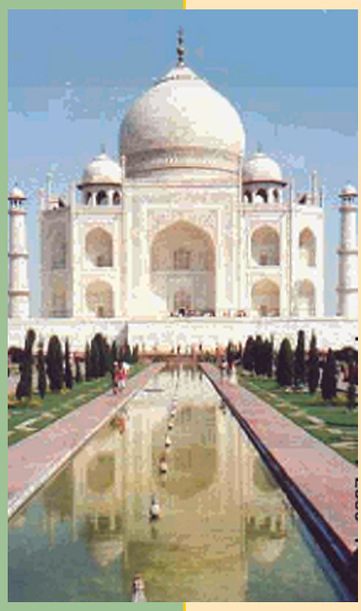
In today's world, regulatory dialogues have gained significantly in importance and Brussels is being accepted as a serious and reliable partner in this context.

Russia, an 'emerging partner' for dialogue

With a GDP of 577 billion euro in 2005 (comparable to the GDP of India, but with a population seven times smaller – 143 million compared to 1.1 billion for India), and an average growth of 6.8% over the past 5 years, Russia has become a key world trade player and a major emerging economy, boosted by the record-high oil price. Russia is the EU's third largest trading partner and EU-Russia bilateral trade (export and import) increased by 20% in 2005. Foreign Direct Investment (FDI) inflows into Russia grew by 39% in 2005 compared to 2004, which reflects both improvement in the business climate and a better economic outlook for Russia.

A number of regulatory dialogues have been launched over the past months between the EU and Russia under the Common Economic Space Roadmap. The EU-Russia Dialogue on Intellectual Property Rights (IPR) was launched in April 2006, focusing on enforcement and on the new IPR legislation currently being discussed in the State Duma. A dialogue on government procurement issues was launched in July 2006, focusing on the recently adopted Russian procurement legislation and on e-procurement. Last but not least, the EU-Russia dialogue on financial services was launched in June 2006, with participation from the Ministry of Finance, the Financial Markets Federal Service and the Russian Central Bank. The launch of these three dialogues has proved to be very timely, given the growing interaction between the EU and Russian markets and the raft of legislative reforms currently being carried out by the Russian authorities.

The Commission's dialogues with the US and Japan, and, more recently, China, Russia and India are good examples of positive, pragmatic and evolutionary work, assisting in providing the appropriate regulatory framework for European companies and markets to compete in the EU and on a global scale.



There is scope and interest to do more. At the same time, establishing priorities is essential as good dialogues require significant commitments. In this context, the Commission will continue to give priority to those regulators and issues where regulatory interdependence and challenges are highest and where inefficiencies or frictions are most likely to cause damage.

DG Internal Market and Services thus intends to continue its financial markets regulatory dialogues with the US, Japan, China, India and Russia, and step them up where appropriate. The same applies to key issues regarding intellectual and industrial property and government procurement.

"What we need to do," McCreevy is convinced, "is to strive for fewer – better quality – more compatible rules and supervisory models to offer internationally, helping to improve the international regulatory climate and notably the parameters for innovation, competitiveness and economic growth. We must live up to these challenges if we want to reap the rewards of globalisation."

India

India, the largest democracy in the world, is a market of 1.1 billion consumers that has been growing by 8% in recent years. India is a high-tech powerhouse with 5 million new telephone lines each month that excels not only in software but also in biotech, spaceflight and the peaceful use of nuclear energy. Furthermore, India is a top destination for European outsourcers – especially in the field of services.

In 2005, EU and India adopted a bilateral Action Plan which calls for the launch of a dialogue on financial services regulatory policies, banking systems and accounting/auditing standards. Subsequently, the '1st EU-India Dialogue on Financial Services Regulation' took place in June 2006. Under the Indian roadmap to 2009, foreign bank ownership as well as investment funds and pension funds will be the main issues for future meetings between finance regulators from both sides.

An important outcome of the seventh EU-India summit of October 2006 was its positive political statement urging both sides to start preparations for negotiating a 'broad-based' bilateral trade and investment free trade agreement (FTA). Issues like for instance IPR, Public Procurement, the right of establishment and the free flow of capital will be dealt with in the FTA.

Continuous monitoring

The best way forward on regulatory dialogues may change over time. The Commission therefore continuously monitors their work with a view to ensuring intelligent, targeted and forward-looking cooperation. In this context, plurilateral events, such as roundtables with regulators of strategic countries might also be an option.

One thing, however, always remains valid: in a fast changing global economy, with new, dynamic players emerging, the interaction between the internal market and the outside world is constantly increasing. This makes permanent international cooperation with our partners not an optional extra – it is an economic, political and regulatory necessity.

info
Birgit Weise-Montag
TEL: +32 (0)2.296 60 63
FAX: +32 (0)2.295 66 95
Markt-B4@ec.europa.eu

info http://ec.europa.eu/internal_market/ext-dimension/dialogues/index_en.htm

UCITS: Commission sets out its vision for modernising the EU investment fund market

The Commission has adopted a White Paper which sets out a programme of reforms to the UCITS* legislation affecting investment funds in the EU. These reforms aim to improve the economic efficiency of the fund business and strengthen investor protection and transparency.

In a White Paper the Commission has set out its vision for the modernisation of the EU framework for investment funds. The proposed improvements would modernise the current Directive on investment funds to ensure that investors receive useful cost and performance disclosures when selecting funds, and to make it easier for the industry to achieve cost savings and specialisation benefits across the single market. The investment fund market affected represents a pool of some 5,700 billion euro of professionally managed assets.

Following further studies on cost-effectiveness and investor protection, the Commission plans to propose these changes in autumn 2007, in the form of amendments to the current Directive. Meanwhile the Commission will also look at whether there is a need to create a similar framework for other fund products, especially real estate funds, that are not covered by the current EU framework.

White Paper

The White Paper proposes targeted changes to the current EU framework for retail-oriented investment funds (the 'UCITS Directive'). This framework no longer adequately reflects the challenges facing the industry today.

The changes would:

- simplify the notification procedure;
- create a framework for the cross-border merger of funds;
- introduce a management company passport;
- create a framework for asset pooling;
- enable fund managers to manage funds domiciled in other Member States;
- improve the quality and relevance of the key disclosure documents to the end investor; and
- strengthen supervisory cooperation to monitor and reduce risk of cross-border investor abuse.

The White Paper also proposes to review options for establishing a European 'private placement regime', allowing financial institutions to offer investment opportunities to qualified investors across the EU. Finally, it commits the Commission to analyse the options of a single market framework for non-harmonised retail products.

Consultation and debate

The Commission has developed the White Paper on the basis of extensive consultation and debate with consumers, industry practitioners and policy-makers over a period of two years. It builds on responses to the Green Paper of July 2005 and on three reports from specially constituted expert groups. It also responds directly to the important concerns raised in the March 2006 report of the European Parliament on asset management. The steps proposed in this White Paper have been the object of rigorous impact assessment.

Four-fold growth

Investment funds are an important pillar of the European financial system. This business has grown four-fold over the last decade. Its importance is set to grow as many European investors use them as one means to save for a prosperous retirement. They have also become a key investment tool for institutional investors such as pension funds.

> "The growth of the European investment fund industry has been spectacular. But it still has massive untapped potential."

The market is increasingly organised on a pan-European basis. In 2005, cross-border fund sales represented some 66% of the total net industry inflows. The 'UCITS' model is considered as a 'gold standard' both inside and outside the EU.

With 5,700 billion euro under management – equivalent to more than 50% of the EU gross domestic product – 'UCITS' represent 75% of the investment funds market in Europe.

Vibrant European industry

The UCITS Directive has provided the focal point for the development of a vibrant European fund industry. It has provided a common regulatory concept and a single market passport.

A sound and efficient regulatory environment is a precondition for the continued successful development of the market. However, the current legislative framework no longer allows the fund industry to adapt effectively to structural change. The sub-optimal functioning of existing provisions and a lack of flexibility in the Directive give rise to unnecessarily high compliance costs. This translates into missed business and investment opportunities for industry and investors.

Targeted amendments

The White Paper on investment funds commits the Commission to come forward with proposals for targeted legislative amendments to UCITS in autumn 2007. A paramount consideration is the need to ensure better outcomes for investors. This is why the White Paper places so much emphasis on informing investors and ensuring that they receive objective and impartial assistance from fund distributors.

Certain non-harmonised collective investments are or are perceived to be too complex and risky to be marketed to the retail public. A private placement regime is seen as a useful route for integrating the market for such products.

The White Paper commits the Commission to review the remaining barriers and options for establishing an effective private placement regime. This would allow financial institutions to offer investments to qualified investors across Europe.

Regulatory architecture

There are also additional questions regarding the scope and regulatory architecture of the UCITS Directive. Prescriptive investment rules exclude some classes of fund which are available to retail investors at national level. Detailed 'product regulation' also renders the UCITS framework ill-equipped to cope with constant financial innovation.

The impact assessment which was undertaken reveals no case to amend the scope or architecture of the Directive at this stage. Rather than premature and ill-prepared action, the White Paper proposes careful study as a basis for a better informed policy debate.

A structured review of non-harmonised investment funds and the costs and benefits of possible EU-level action will be undertaken. This will culminate in a report to the Council and European Parliament in mid-2008.

"The growth of the European investment fund industry has been spectacular. But it still has massive untapped potential. These changes will unlock this potential by creating a barrier-free market for investment funds in the EU - meaning more choice and lower costs for investors," commented Commissioner for Internal Market and Services, Charlie McCreevy.

"We will continue working in an open and transparent way and publish an exposure draft in early 2007. We look forward to discussing our evolving proposals with Member States, industry, investors and all interested stakeholders to ensure cost effective solutions."

info
Uwe Eiteljoerge
TEL: +32 (0)2.299 83 69
FAX: +32 (0)2.299 86 30
Markt-G4@ec.europa.eu

* UCITS - Undertakings for Collective Investments in Transferable Securities

info http://ec.europa.eu/internal_market/securities/ucits/index_en.htm

Commission proposes widening the scope of the Financial Collateral Directive

Since its introduction three years ago, the Financal Collateral Directive has made the use of financial collateral and the enforcement of collateral obligations simpler and more efficient., according to a new report. The Commission is proposing to further widen the scope of the Directive.

An evaluation report published by the Commission on the impact of the Financial Collateral Arrangements Directive concludes that the Directive has made the use of financial collateral and the enforcement of collateral obligations simpler and more efficient. Overall, Member States have adequately implemented the Directive.

"The past few years have seen a spectacular increase in the cross-border use of financial collateral, making EU financial markets even more liquid and integrated."

The Commission has proposed an extension of the Directive's scope to include certain credit claims that, as of 1 January 2007, will be eligible as collateral for Eurosystem credit operations.

About the evaluation report

This Financial Collateral Directive (FCD) creates a uniform EU legal framework for the cross-border use of financial collateral and thus abolishes most of the formal requirements traditionally imposed on collateral arrangements.

Under Article 10 of the Directive, the Commission was required to present a report on the application of the Directive before 27 December 2006.

The report shows that most Member States implemented the FCD provisions in their national laws after the deadline for implementation set by the Directive, while nine Member States did so only in the course of 2005. As a result, market experience with the use of the Directive is relatively recent and it is premature to make a final assessment of the impact of the Directive. However, the overall impression is that the FCD is functioning well and has made the use of financial collateral and the enforcement of collateral obligations simpler and more efficient.

As of 1 January 2007, the European Central Bank accepts certain credit claims as an eligible type of collateral for Eurosystem credit operations. The Commission considers that this will help provide further liquidity in EU financial markets and it is therefore open to extending the material scope of the Directive.

The report also addresses the three opt-out provisions contained in the Directive and the need to improve the provisions on close-out netting* and conflicts of law.

Loss minimisation

Financial collateral are the assets provided by a borrower to a lender to minimise the risk of financial loss to the lender in the event of the borrower defaulting on its financial obligations to the lender. Collateral is increasingly used in all types of transactions, including capital markets, bank treasury and funding, payment and clearing systems and general bank lending. The collateral provided is most often in the form of cash or securities.

Internal Market and Services Commissioner McCreevy commented: "The past few years have seen a spectacular increase in the cross-border use of financial collateral, making EU financial markets even more liquid and integrated.

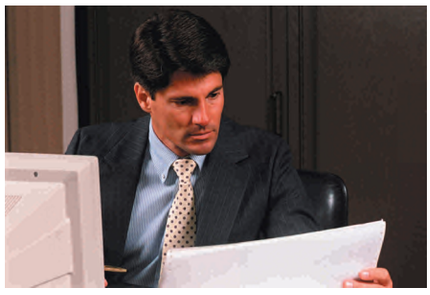
"Investors can now access funds more efficiently, and credit institutions can provide lending more efficiently. The introduction of the Financial Collateral Directive three years ago has contributed to this success, which is why I am now open to extending its scope to include other types of collateral."

* when, following default or termination event, all the termination values, together with any unpaid amounts, are reduced to a single net amount owed by one party to the other.

info http://ec.europa.eu/internal_market/financial-markets/collateral/index_en.htm

Commission consults on the regulation of non-EU audit firms

A significant number of non-EU audit firms operate within the European Union and the Commission has launched an industry-wide consultation to explore ways of ensuring they are effectively regulated in ways that do not adversely affect EU capital markets.



The Commission has launched a public consultation on its future strategy and priorities on statutory audit covering non-EU countries ('third countries'). The Commission wants to know the business community's views on how third-country audit firms could be supervised and on how the EU could cooperate with third countries.

The consultation should assist the Commission in finding pragmatic and consistent solutions within the framework of the Directive on Statutory Audit. Interested parties are invited to submit their contributions by 5 March 2007.

220 firms affected

The 2006 Directive on Statutory Audit (2006/43/EC) applies not only to EU auditors and audit firms but also to audit firms from third countries. It requires third-country audit firms to register in each EU Member State where their clients' securities are admitted to trading (Article 45).

Preliminary estimates indicate that approximately 220 audit firms auditing issuers from about 63 third countries will be affected by these rules.

Whilst the implementation of the Directive is primarily a matter for EU Member States, the Commission wishes to obtain views on action it might take to facilitate the implementation of the Directive and to avoid market fragmentation.

info http://ec.europa.eu/internal_market/auditing/index_en.htm

Auditors' liability:

Commission consults on possible reform of liability rules in the EU

The Commission has launched a public consultation on whether there is a need to reform rules on auditors' liability in the EU and on the possible ways forward.

This follows an independent study by London Economics on the economic impact of current auditors' liability regimes and on insurance conditions in Member States (see SMN43).

The Commission has drawn up four possible options for reforming auditors' liability regimes in the EU and invites stakeholders to give their views on the issues involved by 15 March 2007. The 2006 Directive on Statutory Audit (2006/43/EC) expressly allows the Commission to issue a recommendation to Member States. On the basis of the replies to the consultation, the Commission will consider if and what kind of recommendation to give to Member States.

The four possible options for reforming auditors' liability are:

- The introduction of a fixed monetary cap at European level, but this might be difficult to achieve.
- The introduction of a cap based on the size of the audited company, as measured by its market capitalisation.
- The introduction of a cap based on a multiple of the audit fees charged by the auditor to its client.
- The introduction by Member States of the principle of proportionate liability, which means that each party (auditor and audited company) is liable only for the portion of loss that corresponds to the party's degree of responsibility.

In addition, the Commission has published an overview of the legal situation in Member States.

More information is available at:

info http://ec.europa.eu/internal_market/auditing/liability/index_en.htm

Commission proposes automatic review of Trade Mark fees

The Commission has published a Communication about the long-term management of the financing of the Office for the Harmonisation in the Internal Market (OHIM). The Commission proposes a regular and automatic fees review to guarantee that in the future a reasonable equilibrium in the OHIM budget will be achieved under all financial circumstances.

The OHIM, located in Alicante, Spain, was set up by the 1994 Community Trade Mark Regulation. Since it became operational in 1996, more than 330,000 trade marks have been registered and since it began processing Community designs in 2003, over 180,000 designs have been successfully processed.

As a self-financing EU agency whose budget is independent from the Community budget, OHIM is subject to the requirement that the revenue and expenditure in its budget shall be balanced. The budget of OHIM is mainly funded by the fees that businesses have to pay for its services.

Growing volume of trade mark applications

OHIM is generating substantial cash reserves arising from several causes including steadily rising numbers of trade mark and design applications, increased productivity and improved efficiency of the Office, as well as growth in eBusiness.

Despite recent fee reductions these cash reserves are expected to grow further in the coming years. By the end of 2005 cumulative cash reserves reached more then 130 million euro and cumulative reserves could easily reach 375 million euro by the end of 2010 and nearly 700 million euro by the end of 2016. A significant annual surplus which causes structural year-on-year increases in the accumulated cash reserves is not acceptable in the long run.

Commission role

The Commission has a specific responsibility because it is in charge of setting the fee levels. It proposes therefore to introduce a method of regular and automatic review of the trade mark fees based on the OHIM's financial perspectives.

A regular fees review should be applied both in circumstances of budget surpluses as well as in situations of budget shortages, making use of a standard approach in which the most important fees would move upwards or downwards as necessary. Following political agreement on this approach, such a formula could be automatically applied, for example, on an annual basis. In the short term this would lead to further fee reductions for business.

The pre-determined formula should not put at risk the OHIM's high level of performance. A recent independent users' survey showed an overall satisfaction with the performance of the agency, but OHIM is working on initiatives to further improve its performance in to achieving better decisions, simpler procedures and increased processing speed in key parts of its operations.

The fee reform should also not prevent optimum cooperation between OHIM and the trade mark offices of the Member States. Technical cooperation partnerships could be further developed in areas such as training, information technologies, promotion and information services.

The Commission intends to present proposals for an amendment of the Commission's Trade Mark Fees Regulation in the Spring of 2007.

info
Harrie Temmink
TEL: +32 (0)2.298 56 12
FAX: +32 (0)2.299 31 04
Markt-D2@ec.europa.eu

info http://ec.europa.eu/internal_market/indprop/tm/index_en.htm
http://oami.europa.eu/en/default.htm

Supplementary health insurance provided by private sickness funds: Belgium

The Commission has decided to send a formal request to Belgium to submit its observations on Belgian private sickness funds that provide supplementary health insurance (i.e. on top of the basic social security cover) in competition with commercial insurance providers. In Belgium, private sickness funds operate under specific national rules and are not subject to EU rules relating to the solvency, supervision and funding of insurance providers. The Commission is concerned that this could result in differing levels of policyholder protection and market distortions.

The Commission is not questioning in any way the structure of the Belgian social security system or the right of private sickness funds to provide supplementary health insurance. The Commission's request takes the form of a 'letter of formal notice'. Belgium is asked to send its reply within two months. Depending on the analysis of this reply, the Commission will decide whether or not to issue a "reasoned opinion" formally calling on the Belgian Government to amend the relevant legislation.

Posting of workers from the new Member States: Netherlands

The Commission has decided to issue a formal request - in the form of a reasoned opinion - to the Dutch authorities to revise the rules in force concerning the posting to Dutch territory of workers from certain new Member States in the framework of the provision of services.

The Dutch authorities have not responded to the Commission's supplementary letter of formal notice of July 2006, calling for Dutch legislation to take the reasoned opinion of July 2005 into account in the course of the procedure.

Public procurement: Austria, Germany, Greece, Poland and Spain

The Commission has decided to refer Greece to the European Court of Justice (ECJ) over the tendering procedure for a railway project in Thriasio and over the award procedure for construction of a thermoelectric plant in Atherinolakkos, Crete. The Commission has also decided to send formal requests to Austria concerning a contract for supply and maintenance of software to Germany relating to rescue transport services, and to Poland concerning the procurement of automated radar coastal surveillance equipment. The Commission has also sent Spain two formal requests, one to end its practices regarding the use of discriminatory technical specifications for the purchase or lease of computer equipment, and the other regarding a public works contract for the construction of a vegetable waste processing plant in Motril, Granada. These requests take the form of "reasoned opinions".

Professional qualifications: France, Germany, Portugal and Spain

The Commission has decided to refer the following Member States to the ECJ under Article 226 of the EC Treaty: France over its rules on the recognition of qualifications for canyoning guides; Portugal over its non-implementation of EU rules on the recognition of qualifications for pharmacist-biologists; and Spain over its rules on the recognition of qualifications for hospital pharmacists. In addition, the Commission has decided, under Article 228 of the EC Treaty, to send France a further reasoned opinion requesting it to comply immediately with a 2004 Court judgement requiring it to implement EU rules on recognition of qualifications for special needs teachers. Finally, the Commission has formally requested Germany to modify its legislation on the recognition of qualifications for dentists. This request takes the form of a "reasoned opinion".

Public procurement – closed cases: Austria, Czech Republic, Germany and Italy

The Commission has decided to close a range of infringement cases on public procurement. The cases were against Italy concerning the review procedures relating to the award of public contracts, and a regional law applicable to Friuli Venezia Giulia on public works; against the Czech Republic concerning the tender procedure for armoured personnel carriers for the Czech army; against Germany concerning non-implementation into national law of EU public procurement Directives, and the direct award of planning services in the city of Waren; and against Austria concerning public-private partnerships in the waste disposal sector.

Non-implementation of Single Market laws: action against nine Member States

The Commission has decided to pursue infringement procedures against nine Member States – Belgium, Cyprus, Estonia, France, Greece, Italy, the Slovak Republic, Spain and Sweden – for failure to implement certain Internal Market Directives in national law. The Commission has referred Belgium, France, Greece, Spain and Sweden to the ECJ over their failure to implement the resale right Directive. The Commission has also formally requested Belgium, Cyprus, Estonia, Italy, the Slovak Republic and Spain to implement the Directive on takeover bids in national law. These requests take the form of "reasoned opinions".

Free movement of services: Austria, Germany, France and Italy

The Commission has decided to refer Austria to the ECJ over its rules discriminating against nationals from eight Member States that joined the EU in 2004 wishing to establish a company in Austria. The Commission has also decided to refer France to the ECJ over its legislation requiring chief architects of historical monuments to be of French nationality. The Commission has decided to send Austria formal requests to modify its legislation restricting the free movement of services for patent agents and obliging doctors to open an account at a specific bank. The Commission has sent an additional formal request to Germany regarding its application of a bilateral agreement with Poland in relation to the construction sector. In addition, the Commission has decided to send formal requests to France to modify its legislation restricting the ability of certified translators to work in France, and to modify its legislation on ownership of biological analysis laboratories. Italy is being formally requested to modify its legislation restricting the activities of companies involved in gas and electricity distribution. These formal requests take the form of "reasoned opinions". Under Article 228 of the EC Treaty, the Commission has sent a letter of formal notice asking France for full information on its execution of a 2006 Court judgement concerning restrictions on performers' agencies and self-employed performers wishing to work in France. Finally, the Commission has decided, under Article 228 of the EC Treaty, to send Germany a further reasoned opinion requesting it to comply immediately with a 2006 Court judgement concerning the posting of third-country nationals by EU companies.

Freedom of establishment infringements: Germany, Portugal and France

The Commission has decided to refer Germany to the ECJ over its authorisation rules for vehicle inspection organisations, in particular the requirement for compulsory affiliation of a minimum number of (self-employed) independent experts. On the same subject, the Commission will formally request Portugal to amend its rules on the granting of authorisations to bodies of other Member States wishing to carry on vehicle inspection activities in Portugal. The Commission has formally requested France to amend its rules requiring cereals traders to obtain an authorisation from an institution in which potential competitors participate, provided that they have stock capacity in France. and to amend its rules requiring that cereals traders of have an address and a minimum activity in France plus the obligation to make monthly statistical declarations and to show all their commercial documents.

The Commission has also formally requested France to amend its rules concerning the establishment of retail stores. The Commission considers that the authorisation procedure is based on criteria not sufficiently objective and precise, most of them aiming at assessing the potential economic impact of the opening of the new shop, and is burdensome and unfair in that it gives a decision-making role to representatives of the existing economic operators. These formal requests take the form of "reasoned opinions".

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/eulaw/index_en.htm

INFRINGEMENT PROCEDURES

If the Commission obtains or receives convincing evidence from a complainant that an infringement of EU law is taking place, it first sends the Member States concerned a letter of formal notice.
If the Member State does not reply with information allowing the case to be closed, the Commission sends a reasoned opinion, the second step of the infringement proceedings under Article 226 of the EC Treaty. If there is no satisfactory response within two months, the Commission may then decide to refer the case to the European Court of Justice in Luxembourg.