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PROGRESS TOWARD 1992 CONTINUES, BUT WITH SOME DELAYS

While the overall progress toward completing the single market by the end of 1992 is still impressive (and encouraging) — two-thirds of the necessary 282 measures have been adopted with two years to go — the picture is not without some blotches. This is the main thrust of the progress report on the single market recently presented by EC Internal Market Commissioner Martin Bangemann.

According to the report, of the three main sections of the 1985 White Paper, the abolition of technical frontiers has seen the most success, whereas the removal of physical barriers and tax frontiers has experienced some gridlock.

The Commission notes that the removal of technical frontiers has reached the point of no return. In areas such as technical rules, financial services, public procurement and right of establishment, a frontier-free area is either already in place or will be achieved in 1991. Still, lack of progress in the areas of intellectual property (i.e. the Community trademark and patent), cooperation between firms (the European Company Statute, public takeover bids) and transport leaves room for improvement.

Regarding physical frontiers (border checks on both goods and individuals), slow progress threatens the credibility of the single market. Says the report: "It is essential for member state governments to understand that the abolition of physical border checks will determine individuals' and travellers' perception of what the EC really is." Efforts to eliminate border controls have lagged due to fears over immigration, terrorism and organized crime. Despite the delays, however, there are some bright spots. In terms of goods, abolition of the transit regime in intra-EC trade and the scrapping of checks for product origin within the EC are positive developments. As regards individuals, 11 of the Twelve have signed a convention on the right of asylum, and six countries (Italy recently joined the original five) have signed the Schengen agreement (see EURECOM, July 1990), which provides a credible testing ground for creating a frontier-free Community.

Abolishing tax frontiers has always been a vexing problem for the Community, but the Commission now firmly believes that the attainment of the 1992 objective depends increasingly on progress in this field. In particular, the member states have had difficulty agreeing on a new system for collecting value added taxes and excise taxes on cross-border trade once custom posts disappear. (However, EC Economic and Finance ministers are close to an accord on these issues as EURECOM goes to press.) The Commission also criticized EC governments for not adopting a directive to increase duty-free travellers' allowances, a first step toward duty-free travel for EC citizens within the Community.

Another source of Commission concern is the delay in transposing EC legislation into national law. Although the situation has markedly improved over the last 15 months — moving from a transposition rate of 30% to one of over 70% — laggards such as Italy (40%) and Greece (60%) threaten the single market program's credibility.

LIFE AND MOTOR INSURANCE LIBERALIZED

The recent adoption of two directives by EC internal market ministers — the Second Life Assurance Directive and the Motor Insurance Directive — represents a significant step toward the difficult goal of a fully liberalized EC insurance services market. Both directives enter into force on January 1, 1993.

Under the life insurance directive, both groups and individuals will be able to seek coverage anywhere in the EC on their "own initiative" according to whatever regulations apply in the insurer's home country. Concerning commercial insurance (e.g. supplementary pensions) insurance firms will be free to market their services anywhere in the Community. However, life insurers wishing to canvass clients in a member state other than their own will have to conform to that country's regulations. Brokers will be free to operate EC-wide as of 1996, offering life insurance contracts from companies in another member state to potential consumers who approach them. The three year delay for brokers will give those EC countries without regulations for the brokerage profession time to introduce the necessary rules.

The Motor Insurance Directive will provide some of the same freedoms to auto insurers that have already been granted to other areas of non-life insurance through the Second Non-Life Insurance Directive (i.e. the right for an insurance company to sell insurance in another member state without having to establish a branch). Still, regulatory authorities in the consumer's member state will be responsible for controlling the technical reserves necessary to ensure that any insurance contracts are covered by the resources of the auto insurer. This restriction will be eliminated, however, when the proposed Third Non-Life Insurance Directive (now on the Council's table) takes effect.

1992: NOT JUST WINNERS AND LOSERS

Following-up on the Cost of Non-Europe research and the Cecchini Report, the Commission has released an information-rich report entitled "Social Europe: The Impact of the Internal Market by Industry Sector: the Challenge for the Member States". The report was produced by the Commission and experts from each member state, and it analyzes both the sectoral and national effects of the single market. Using a common analytical framework, it focuses on the 40 industry sectors (out of 120 sectors identified in the EC) most affected by the single market.

The overall message the Commission draws from the study is that there are no predetermined winners and losers from the 1992 program. EC Economic Affairs Commissioner Henning Christophersen commented that the report shows that the fears of massive transfers of economic activities between geographic zones are exaggerated, but the dynamic adjustments already taking place must be continued.

The report attempts to answer the following questions: how important are these sectors in the member state economies; how competitive are these sectors in each member state; and what structural adjustments can be expected in the medium term and how will they be affected by Community policy?

According to the study, the single market clearly has different implications for the more industrialized countries of the Community than for less-developed member states. For the former, they mainly involve the ability of firms to become truly European at all levels of management, R&D, production marketing and distribution. For the less-developed countries, there are two possible directions of change: either through restructuring and modernizing traditional industries where they are presently competitive (as Italy has done in the garment sector) or through the emergence of new sectors with a higher tech content. The Commission believes that the Southern countries should concentrate more on the latter.

BREAKING NEW GROUND IN SATELLITE COMMUNICATIONS

Despite the considerable technological progress of recent years, the regulation and organization of satellite communications in most member states remain stuck in the 1960s and 1970s. Given the importance of satellite communications in developing trans-European networks and services, the Commission has adopted a "Green Paper" on the EC satellite communications industry, setting out a strategy to create a large frontier-free market.

As a result of restrictive national regulations, European consumers and businesses do not have the "dish" choices that US "dish" users enjoy, and EC manufacturers do not have a market sufficiently large to allow economies of scale. Progressive deregulation of the sector combined with the harmonization of technical standards and transmission techniques would, according to the paper, expand the sector and allow a far tighter match between the supply and demand sides of the industry.

The Commission has spotted four areas of action necessary to create an adequate regulatory environment. First, it wants a full liberalization of the "earth segment" (i.e. all EC citizens would have the right to buy and use a satellite dish for direct reception, notably of television, without any restrictions). Second, all individuals and companies should be able to conclude contracts with satellite providers to obtain the transmission capacity they need, subject to adequate licensing procedures. Third, satellite providers would be able to market their services directly rather than through public bodies as at present. Last, the Commission wants to see the development of Community technical standards and more coordination of frequencies (and services) to and from third countries in order to facilitate the provision of EC-wide services.

RENEWED ATTACK ON DOUBLE TAXATION

Hard on the heels of the company taxation package passed this past summer (see EURECOM, July, 1990), EC Tax Commissioner Christiane Scrivener has launched two new proposals designed to eliminate double taxation of firms in the Community.

"We must absolutely avoid penalizing companies for tax reasons because they operate in two or more (EC) countries. Every means of double taxation must disappear by 1993," remarked Commissioner Scrivener.

One proposal aims to abolish withholding tax on interest and royalty payments between parent companies and their subsidiaries in the EC, mirroring a Council agreement from last July which removed withholding tax on dividend payments.

The second and more far-reaching proposal would allow firms offset taxable profits at the end of the fiscal year by deducting from consolidated results any losses made by affiliates (i.e branches and subsidiaries) abroad. To avoid double taxation when a foreign affiliate turns a profit, the tax paid in the subsidiary's member state would be deducted from the tax due in the parent firm's member state. Another option under the proposal would enable a parent firm to calculate taxable revenue over a five-year period in which the profits or losses of affiliates would be integrated into consolidated results before taxation.

To avoid fraud and abuse, the legislation contains a safeguard clause that requires a subsidiary to be at least 75% owned by the parent company before tax consolidation would be allowed.

ENHANCED PROSPECTS FOR SMALLER AIRLINES

As foreshadowed in an earlier issue (see EURECOM, October 1990), the Commission has launched a proposal on the allocation of take-off and landing slots in EC airports. The rules, which still require Council approval, would force established carriers to cede some of their existing access rights at congested airports to new airlines.

Under the legislation, member state governments will have to designate an official "slot coordinator" and make the allocation procedures more transparent. Slots which are either unused or become available will be pooled, and at least 50% of the slot pool would be given to newcomers. (The Commission defines "newcomer" as airlines wanting to start a new service which do not operate more than one flight from an airport or control more than 30% of existing slots.) If the pool is not large enough to meet the demand, smaller carriers will receive slots from other airlines which operate aircraft with less than 200 seats and which already control six slots a day.

EC Competition Commissioner Sir Leon Brittan said that the new rules are a "concerted attempt by the Commission to provide opportunities for smaller airlines and to create a market opening."

QUOTES

*"From now until the turn of the millennium we have ten years to win the race for Europeans. Everything must be rethought. No institution should escape this critical examination, not the European Community, NATO, the Council of Europe or the CSCE. All should play their part." French President **Francois Mitterrand.***

*"We must not make the mistake of thinking that the Helsinki accords and the CSCE process can provide a substitute for NATO. One day it may be possible to think of a single security organization for Europe. But that day is still long distant." Former British Prime Minister **Margaret Thatcher.***

*"The reality is the following: those who want the single market in Europe must also want a European money." EC Internal Market Commissioner **Martin Bangemann.***

*"I think that a single currency is a nice symbol but not strictly necessary. What we want at the end is fixed parities (between EC currencies), that is very clear." Belgian Central Bank Governor **Alfons Verplaetse.***

*"The Government's position on the imposition of a single currency is clear: it is not acceptable." British Prime Minister **John Major.***

*"We can't impose that (a single currency) on anybody. I believe personally that the British will see that the benefits of having a single currency are so many that it is not something they have to accept but something they will ask for." EC Economic Affairs Commissioner **Henning Christophersen.***

COMMISSION PROPOSES WORKER CONSULTATION PLAN

As part of the action plan for realizing the aims of the Community Charter for the Social Rights of Workers, the Commission has proposed a directive that would force multinational firms to inform and consult their employees. The directive would oblige firms to create workers' councils and to convene a consultative meeting of them at least once a year in a place designated by the company's EC headquarters. It would apply to all EC companies with over 1,000 employees and units of at least 100 workers in two or more member states, including multinationals that are based outside the EC. Workers and management would be able to determine for themselves the rules and functioning of the councils as long as they comply with some basic requirements and meet once a year to communicate with management. However, the directive requires unanimous approval from the member states.

According to the EC Social Affairs Commissioner Vasso Papandreou, the councils would inform workers on decisions taken outside their country that affect them (e.g. organizational changes, new working practices, job reductions), thus overcoming limits on national consultation rights. The new rules are especially important as firms merge and restructure to position themselves for a barrier-free single market. EC statistics show that fewer than one in 100 EC companies would be covered by the directive, but these businesses employ over a quarter of the EC's work force.

The Commission's proposal faces some significant opposition. In addition to some member states' objections, UNICE, the European employers federation, has criticized the directive as potentially expensive and unnecessarily bureaucratic.

...IN BRIEF

...After a parliamentary vote called for by Prime Minister Ingvar Carlsson, traditionally neutral, non-aligned Sweden has decided to seek membership in the European Community. Formal application is expected in 1991, but the Swedish government does not expect admittance before 1994. The Swedish resolution emphasized the need for an interim pact between the EC and six-country European Free Trade Association, to which Sweden belongs.

...According to the EC's recently released 1990 annual economic report, the short-term prospects for the EC economy are less favorable than they appeared a few months ago, but the fundamentals remain healthy, particularly investment. In 1990, the EC's GDP is estimated to have increased around 3% in real terms, but the rate of GDP growth in 1991 could decelerate to about 2.25%, partly due to internal factors which have been exacerbated by the effects of the Gulf crisis, the depreciation of the US dollar and the specter of recession in the US. Although the EC has been somewhat shielded from the effects of oil price hikes by the appreciation of its currencies, inflation is still accelerating and might reach 5.25% in 1991.

...For journalists aged 25-35 and interested in expanding their knowledge of European affairs, the Journalists in Europe Program could be very valuable. Based in Paris, the program combines seminars given by experts in politics, economics and culture with 10-day reporting assignments. Both are designed to equip journalists with a working knowledge of the key issues affecting Europe today. For more information on the program and its requirements, please contact this office at (212) 371-3804. The application deadline for the 1991-92 session is January 15, 1991.

...The Fordham Center on European Community law and International Antitrust is offering three evening seminars running from January 14 through April 26 on the following topics: EC Competition Law; Intellectual Property Licensing in the EC; and US International Antitrust and Trade Law. For further information please contact Ms. Helen Herman, Associate Director, at (212) 841-5178.

...New York University's School of Continuing Education and the American University in Paris have designed a week-long seminar on the EC entitled the "Paris Seminar: EEC and Beyond." Consisting of morning and afternoon lectures and discussions covering all aspects of the Community, the seminar presents a great learning opportunity in a great setting. Also included is a day trip to Brussels to see the EC work first hand. It will be held June 7-16, 1991. For further information please call NYU at (212) 998-7133.

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