Internal Market Scoreboard
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The Commission is keen to receive feedback on this Scoreboard, and to have suggestions for future editions. Please send reactions to Mr. John F. Mogg, Director General, Internal Market DG, The European Commission, Rue de la Loi / Wetstraat 200, B-1049 Brussels, or to the following e-mail address: Markt-A1@cec.eu.int

Please also use this address if you would like to receive a copy of this or future Scoreboards.
Main Findings

Implementing the Internal Market’s Legal Framework

- The average transposition deficit has been reduced to 2% since the May Scoreboard. However, 10% of directives have not yet been transposed in all Member States.

- Finland, Denmark, Sweden, the Netherlands and Spain currently meet the 1.5% deficit target set by the European Council for Spring 2002.

- Finland and Greece have made most progress since May. However, the UK, France and Germany have not made as much headway as could have been expected.

- The average deficit in the social policy field is 5.4%. Austria and Belgium have deficits in double digits. The average deficit for the environment is 6.2% where France, Germany, Spain and the UK have the worst record.

- The number of Internal Market infringement proceedings is about 1,500. France and Italy are responsible for nearly 30% of all cases.

- Only about one third of infringement cases are settled early. None of the Member States have a good record here. When infringements go to Court, it usually takes several years before they are settled. Belgium is the Member State that has failed to execute Court rulings most often.

- Problems remain with European standards, particularly for construction products and the machinery sector. Adopting standards can take up to 8 years.

Completing the Internal Market

- 63% of the Internal Market Strategy’s target actions due by the end of 2001 are expected to be completed on time. This is better than last year, but still disappointing.

- The new Internal Market Index shows that there has been gradual, but slow, improvement in the functioning of the Internal Market (from 100 in 1996 to 105.1 in 2000).

- Progress on the Financial Services Action Plan is on track, but much work remains to be done.

Survey on the Quality of the Union’s Regulatory Environment

- Dutch companies are most satisfied with the quality of regulation that applies to them; German and French companies are the least satisfied. Product conformity is the number one regulatory concern for companies in Europe.

- The Commission estimates that €50 billion could be saved with better quality legislation.

- Most companies have not yet felt any impact from governments’ attempts to simplify legislation, particularly companies in France, Germany and Denmark.

- Finland is perceived to be the easiest Member State to trade with; the UK and Italy the most difficult.
The Commission’s first Internal Market Scoreboard, published in 1997, focused on Member States’ transposition of Internal Market law because substantial delays prevented citizens and businesses from fully exploiting the potential of the Internal Market. By simply measuring and publishing transposition performance, the Scoreboard has made a major contribution to achieving today’s relatively low transposition deficit.

Its impact has given rise to the proliferation of many other EU Scoreboards, covering fields ranging from innovation and entrepreneurship, justice and home affairs to state aids. At a time when governments are increasingly measuring the impact of their policies, a scoreboard which presents data in an easily accessible way can be a particularly effective instrument.

The average transposition deficit has come down markedly since the latest Scoreboard. This is welcome, but with only 4 months to go to the Barcelona European Council meeting in March 2002, some Member States (particularly Greece, France, Austria and the UK) will need to make an all-out effort to reach the European Council’s 1.5% target. After this important deadline, it will still be necessary to continue to monitor transposition, to lower the deficit still further and to take account of new directives coming on stream and Candidate Countries acceding to the Union.

The proper enforcement of common rules across the entire Internal Market remains a major priority. The large number of infringements shown in this Scoreboard is evidence that Member States do not always fulfil their Treaty obligations. It is essential, as with the transposition deficit, that Member States begin to reduce significantly the number of infringements for which they are responsible.

The Scoreboard also looks at progress on plugging outstanding gaps in the legislative framework at Community level, particularly as set out in the Internal Market Strategy and the Financial Services Action Plan. A first attempt is made to measure progress towards a better Internal Market by means of a composite index. Finally, the Scoreboard presents the results of a European Commission survey of 4,000 European companies about the quality of the regulatory environment within which they operate. Its main conclusion is that most companies still find rules overly complicated and too burdensome.
1. IMPLEMENTING THE INTERNAL MARKET’S LEGAL FRAMEWORK

A. Transposition of Legislation

The Internal Market’s legal framework consists of nearly 1,800 legislative measures[1] which taken together are intended to promote throughout the Union a harmonious and balanced development of economic activities and sustainable, non-inflationary growth. Most of these measures are directives that Member States must transpose into their own national legislation within a jointly agreed deadline.

Slow transposition can seriously disrupt business and prevent citizens from enjoying their rights. Typical examples can be found in the implementation of social and environmental policies, transport policy, or the recognition of diplomas. All Community institutions have called on the Member States to deliver fully on their transposition commitments. The Stockholm European Council in March 2001 urged Member States to achieve a transposition target of 98.5% - or in other words to bring their transposition deficits down to under 1.5% by the time of the Barcelona European Council (15/16 March 2002). This call for action has not fallen on deaf ears. Member States have stepped up their efforts to meet the commitments they enter into when adopting directives in the Council.

Good progress towards the 1.5% target

The current average deficit for the Union is 2.0% compared to 2.5% only 6 months ago. However, this means that a total of 450 national implementing measures are still overdue. The only acceptable deficit remains a zero deficit, but good progress must be recognised. We should not forget that only 4 years ago the average deficit exceeded 6%, with several Member States even in double digits. On the basis of current trends, most Member States stand a good chance of meeting, or even beating, the 1.5% target by next spring. If this target is reached, there is no reason why the European Council could not go a step further by agreeing, for example, on an even more ambitious target of 0.5% to be achieved by spring 2003.

Finland has overtaken Sweden as number one in the ranking of Member States. Sweden’s deficit has deteriorated sharply compared to the last Scoreboard, but remains below 1%. The improvement of Greece, the Netherlands, Italy and Denmark has been quite impressive. On the other hand, the performance of the UK, France, Austria, Portugal, Germany and Belgium has not been commensurate with the magnitude of the challenge. Luxembourg is the only Member State which has actually moved away from the target. All these Member States need a strong final push to meet the European Council’s target. It is not too late. Iceland and Norway, both members of the European Economic Area Agreement[2],

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[1] 1490 directives and 275 regulations are considered to have a direct impact on the functioning of the Internal Market.

[2] The Internal Market also covers Iceland, Liechtenstein and Norway as a result of their membership of the EEA Agreement.
managed to cut their deficits by more than half within 6 months. This is clearly the result of a determined effort on the part of both countries after a disappointing performance in the last Scoreboard.

Most Member States continue to struggle with implementing recent directives on time. The average transposition deficit for EU directives due to come into effect in 2000 is 12%. Germany, France, Portugal and the UK have the worst record. The Nordic countries are the best performers. The average delay in the implementation of a directive, once the deadline has passed, is 13 months. If we add this to the average time allowed for the implementation of a directive (up to 3

Figure 2: 5 Member States already have transposition deficits below 1.5%

Figure 3: Progress since the May Scoreboard

Note: The situation as at 15 October 2001.

“...there is no reason why the European Council could not go a step further by agreeing, for example, on an even more ambitious target of 0.5% to be achieved by spring 2003.”
years), one can understand why many businesses are concerned that legislation is often out-of-date by the time it becomes effective.

“The average delay in the implementation of a directive, once the deadline has passed, is 13 months.”

Figure 5 represents a ‘to do’ list for each Member State as they seek to either maintain their current low deficits (in the case of those already under 1.5%) or work their way towards the European Council’s target. Catching up requires Member States not only to tackle the current backlog, but also to deal with the directives whose transposition date is imminent. Indeed, Member States have to communicate to the Commission by 15 March 2002 a total of 822 national implementing measures to achieve a zero deficit.

**The Internal Market’s legal framework remains fragmented**

When Member States fail to transpose directives on time they leave a gap in the Community’s legal framework. Instead of an Internal Market covering all Member States, the result is a much smaller, fragmented Internal Market whose potential to harness the Union’s economic development and create wealth is unfulfilled. Figure 6 shows that 10% of directives have not yet been
transposed in all Member States. In other words, the Internal Market is still operating at only 90% of its potential. As Germany, France and the UK – large Member States – are amongst the Member States that have the most transposition delays, the legal insecurity that European companies and citizens are facing and the missed opportunities that flow from this are significant.

"... the Internal Market is still operating at only 90% of its potential.”

Internal Market fragmentation differs significantly from sector to sector. In sectors, such as transport or consumer policy, more than a quarter of all legislation remains to be put on the statute books in one or more Member States. Fragmentation in transport policy could be halved if only Ireland and Finland would tackle their backlog.

However, it is not all bad news. Public procurement has long been a sector with considerable fragmentation and therefore under-achievement. In 1997, only 3 Member States had transposed all the procurement directives. Now all Member States have done so\(^3\), which is a major step forward as this sector represents more than 10% of GDP.

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\(^3\) Greece is close to transposing the last outstanding directive.

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Figure 7: Fragmentation is still greatest in Transport

Note: The situation as at 15 October 2001. This fragmentation rate shows the number of directives that have not yet been transposed by all Member States, as a percentage of all Internal Market directives.
B. Focus on Transposition in Specific Sectors

Social Policy

There are significant interactions between the Internal Market and social policy. Measures in the social field have often been necessary to achieve Internal Market completion and to contribute to achieving sustainable development – a concept which requires that economic growth supports social progress and respects the environment. Unfortunately, Member States’ transposition record for social policy directives is worse than for the Internal Market in general. The average EU social policy deficit is 5.4%, as opposed to 2.0% for all directives. It should be noted that a significant number of recent directives have not yet been transposed. Finland and Spain deserve praise for their perfect record. In contrast, the deficit of Austria and Belgium is in double digits.

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Figure 8: The transposition deficit for social policy is considerably worse than the average deficit for all directives

Note: Social policy directives not yet transposed, as a percentage of all social policy directives with a transposition date up to 15 October 2001.

\(^4\) The deficit for social policy directives where the transposition deadline expired more than two years ago is 1.4%.
Implementing the Internal Market’s Legal Framework

Figure 9: Lack of progress in transposing environmental directives

Note: Environmental directives not yet transposed, as a percentage of all environmental directives with a transposition date up to 30 April and 15 October 2001 respectively.

Environment Policy

Like social policy, environmental policy too has to take into account the Internal Market dimension. An integrated approach that would enable sustainable social, environmental and economic development is vital for the long-term success of the Union. This success depends heavily on the implementation of the Union’s Sustainable Development Strategy, as defined at the Gothenburg European Council in June 2001. This strategy also recognises that effective environmental protection, which goes far beyond national borders, can only be achieved in the framework of a properly functioning Internal Market and harmonised environmental rules.

The average environment deficit now stands at 6.2%, only slightly down from 7.1% in the May Scoreboard. Only Austria has made significant strides by reducing its environmental deficit by 75%. In the meantime, Finland has achieved a perfect record.

Against this background, it is alarming to note that there are significant transposition delays for both social and environmental policies. A credible European Sustainable Development Strategy starts with Member States doing what they agreed to when they adopted the necessary measures.
C. Infringement Proceedings

Agreed Community rules must not only be transposed into national law in every Member State, but also applied effectively. This presents a growing challenge and should be given greater attention at a political level. Ineffective implementation and uneven enforcement are widely perceived as a serious problem by business and individuals, who are often prevented from doing what they are entitled to under Community law. In a Community, where fairness and solidarity are important values, Member States must avoid breaches which often affect businesses and citizens from other Member States in a disproportionate manner, distort competition and undermine mutual confidence between them.

The Commission actively pursues breaches of Internal Market law

The Commission has been actively pursuing these shortcomings, in particular by opening formal infringement proceedings against Member States that do not fulfil their obligations. At the end of August 2001, the Commission was dealing with 1,477 cases of alleged breaches of Internal Market law.

Most cases (58%) were brought to the Commission’s attention by means of complaints lodged by citizens or businesses. France and Italy account for nearly 30% of all infringement action, as was the case in the previous Scoreboard.

There are significant differences between Member States as to their attitude towards infringements. Every breach of Community law is one too many, but the UK’s score shows, for example, that it is quite possible for a major Member State to keep the number of infringement cases down. On the other hand, some of the smaller Member States account for a disproportionate number of infringements. Ireland, Belgium and Greece are the subject of twice as many

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\(^5\) All Scoreboard infringement statistics relate to cases of non-conformity or incorrect application of Internal Market legislation. They do not include cases of late transposition (for which infringement action is automatic) which are covered in the preceding section. The definition of ‘Internal Market’ cases follows the definition used in the transposition section. It includes infringements of directives with an Internal Market legal base and infringements of an Internal Market Treaty provision. Infringement statistics published in earlier Scoreboards cannot be directly compared with those presented here because of slight changes in definitions.

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Figure 10: The Commission is currently dealing with nearly 1,500 infringements of Internal Market law

Note: Open infringement cases as at 31 August 2001.
infringement cases as the Netherlands. In turn, each of them is responsible for more cases than those of the Nordic Member States combined.

Not surprisingly, much the same picture emerges when we look at the number of cases brought before the European Court of Justice in the last 5 years (figure 11). Again, France and Italy ‘lead’ the ranking with one third of all Court cases, with the Nordic Member States at the other end of the scale. Belgium and Greece have nearly 3 times as many cases as the UK or the Netherlands, and about 10 times as many as Denmark or Sweden.

**Proceedings often take a long time**

When the Commission starts official infringement proceedings by sending a Letter of Formal Notice to the Member State, it can take a long time before a solution is found and before the barrier is effectively removed. From ‘launch to closure’ it can effectively take several years as shown in figure 12.

If a case goes all the way to the Court, 5 years may elapse before it is decided upon\(^6\). But even when the Court rules in the Commission’s favour, which it does in 9 out of 10 cases, Member States sometimes drag their feet before complying, so that the Commission has to re-launch legal proceedings (figure 13)\(^7\). The Court can impose a daily fine for non-compliance, and has already done so in one case involving Greece\(^8\). However, in some cases Member States deliberately drag matters out and only remove barriers shortly before the Court is ready to impose a fine. When this happens, the rule of law is seriously tested.

There are currently 27 cases under way where Member States have not yet taken the necessary action to bring themselves into conformity after the Court has ruled that a breach of Community law has taken place. Belgium and France are particularly slow to comply with Court judgements, while there are no such cases against the UK, Netherlands, Sweden, Denmark, Finland or Austria. It is worth recalling that these infringement cases have been running for an average of 9 years since the initial Letter of Formal Notice was sent.

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\(^6\) Cf. Scoreboard 8, p. 11, figure 12.

\(^7\) These are proceedings under Article 228 of the EC Treaty. Only Internal Market cases are taken into account (cf. footnote 5).

\(^8\) Greece was fined a total of € 5.4 million for an infringement of environmental protection law. Official proceedings started in 1988, and Greece resolved the situation in spring 2001.

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**Figure 11: Between 1995 and 2001 France and Italy have been taken to Court most frequently**

![Graph showing the number of infringement cases referred to the European Court under Article 226 of the EC Treaty between 1 January 1995 and 31 August 2001.](image)
Reducing the number of infringement cases

Legal proceedings are important and are often the only way to remove persistent legal obstacles. However, a legal solution may well come too late for the individual or business that has a well-founded complaint. This does nothing to enhance people’s confidence in the Internal Market. The Commission will continue to take vigorous action against any unjustified barriers, but the real remedy is far more determined action at the national level to avoid infringements altogether. As a first step, the Commission urges all Member States to reduce their infringements by at least 10% by the time of the next Scoreboard (i.e. by spring 2002).

The only way to achieve this is to resolve as many pending cases as quickly

Figure 12: The majority of infringement cases take more than 2 years to be resolved

Note: Number of years between the launching of official proceedings and resolution of all of the Internal Market infringement cases (405) that were closed in 2000 and 2001.

Figure 13: Belgium heads the list of Member States who fail to comply with Court rulings

Note: Number of open cases as at 31 August 2001 where the Commission has initiated proceedings for non-compliance with Court rulings, based on Article 228 of the Treaty. Only cases of non-conformity or incorrect application of Internal Market legislation are included (cf. footnote 5).
as possible, and avoid adding new ones. As regards the former, Member States’ efforts have weakened since the last Scoreboard. The ‘early-resolution’ performance has dropped for all Member States (figure 14), except the Netherlands and Luxembourg, whose already poor scores have improved slightly. Only 30% of all cases opened in 1999 and 2000 had been solved by August 2001, compared to 37% for the comparable period covered by the last Scoreboard.

“... the Commission urges all Member States to reduce the number of their infringements by at least 10% by the time of the next Scoreboard (Spring 2002).”
D. European Standardisation

Overall, the private sector standardisation bodies (CEN, CENELEC and ETSI) have made great strides in churning out a large number of standards in response to a rapid surge in market demand and to back up New Approach Community legislation. More than 80% of standardisation now takes place at European or international level, as compared to 80% at national level only 15 years ago, before the New Approach was introduced. European standardisation is therefore an essential instrument to reduce barriers faced by companies who wish to sell their goods throughout the Union.

CEN needs to speed up its work

In the field of harmonised standards, CEN is lagging considerably behind its fellow standardisation bodies with less than half of its work completed. It also takes, on average, much longer to produce a standard. The average time needed by CEN to draft and obtain consensus on a European standard has increased considerably from 4.5 years in 1995 to 8 years in 2001.

There are, of course, reasons for these long delays. For one, CEN’s workload is much heavier with 1005 standards under preparation covering a wide range of sectors requiring considerable investments in resources and committee structures. It is also now tackling the more difficult standards where consensus is harder to achieve. In general, standards writing can be a time-consuming process, often requiring a trade-off between the degree of acceptance and the time spent on consultation of all interested parties. Nonetheless, CEN itself is not satisfied with these long lag times and has already taken steps to deal with capacity constraints and long preparation periods.

Part of the solution lies in European industry attaching a higher priority to this

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9 European Committee for Standardisation (CEN), European Committee for Electro-technical Standardisation (CENELEC), European Telecommunications Standards Institute (ETSI). Further information on standardisation under the New Approach can be found at: http://www.NewApproach.org

10 About 15% of the total stock of standards are ‘harmonised standards’, which have been developed on the basis of Commission mandates.

11 Further information on European standardisation can be found in a recent Commission report (COM (2001) 527).

12 Figures based on internal CEN statistics. When CEN receives a Commission mandate it prioritises its work by identifying those standards on which work should start immediately. Once these have been developed, it then pursues progressively the remaining standards. However, in its estimate, CEN has taken the date of the Commission mandate as the benchmark. It should also be noted that from the receipt of the mandate, no national standards in the fields covered can be adopted (“standstill”).

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Figure 15: Over 50% of CEN standards are still outstanding, while ETSI and CENELEC are well advanced in their work programmes

Note: The situation as at 30 September 2001.
work and making a sufficient number of people with expertise available. CEN's efforts should start to bear fruit as from next year. CENELEC could not provide accurate statistics on adoption times, but available estimates indicate that adoption of a new harmonised standard takes between 3 and 4 years. This is still relatively slow compared to ETSI whose working methods seem to be better adapted to the fast-moving telecommunications industry. In addition, ETSI needs to devote less time and resources to the development of harmonised standards, which is only a small part of its work programme.

The situation remains problematic in construction and machinery

Political pressure can also help the process. In order to draw the attention of policy makers to these problems, which are challenging ones, the 2001 Internal Market Strategy Review has highlighted the need to improve the Internal Market ‘fundamentals’. Standardisation is a key part of this. The May 2001 Internal Market Council specifically asked that efforts be stepped up to introduce harmonised standards more quickly, particularly in the fields of construction and machinery.13

In sectors with such wide coverage as the Machinery or the Construction Products Directives standards have a quasi-legislative function. This means that if standards are delayed the present fragmentation of the Internal Market for these products persists. To try and improve the situation, the 2001 Review of the Internal Market Strategy set a target to achieve, at least, 120 standards for construction products by the end of 2001. Although this year saw the adoption of the first harmonised standards in this field, the total number adopted so far (only 48) is unsatisfactory. For a genuine Internal Market in construction products about 600 harmonised standards are needed.

The development of European standards has to keep pace with technological development and should not stand in the way of progress.

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Figure 16: Less than 10 % of harmonised standards needed for construction products have so far been adopted

Note: The situation as at 30 September 2001.
2. COMPLETING THE INTERNAL MARKET

A. The Internal Market Strategy and the Internal Market Index

The Internal Market Strategy is a key delivery mechanism for the Lisbon European Council’s objective of the Union becoming the most competitive economy. Recent events in the USA and the slowdown in the EU economy only further highlight the need for continued structural reform and a strong political commitment to tackle priority issues designed to improve Europe’s competitiveness.

Although it is still early days to draw firm conclusions about the European Union’s overall record for the completion of

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Further information on the Internal Market Strategy can be found at http://europa.eu.int/comm/internal_market/en/update/strategy/index.htm

The Commission is also about to propose a Communication on Effective Problem Solving in the Internal Market. The proposed system will address problems that citizens and businesses have with government administrations. Member States will be linked electronically, via a system known as SOLVIT with the aim of ensuring that cases are dealt with more quickly and effectively. For further information, see


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Examples of successes

- Political agreement on Postal Services – further liberalisation of weight limits for mail
- Political agreement on Distance Marketing of Financial Services as part of Financial Services Action Plan
- Commission’s Greenhouse Gas Emissions Trading Proposal adopted 8 months early
- Single European Sky proposals reforming air traffic control agreed
- European Aviation Safety Authority dealing with air carriers’ operations established
- Commission proposal to liberalise national rail freight and develop international passenger services
- European Extra-Judicial Network (EJ-Net) starts operations for out-of-court settlements for consumers
- FIN-Net, the out-of-court complaints network for retail financial services, launched in February 2001
- Commission proposal on prevention/restoration of environmental damage
- Establishment of European Food Authority – essential for consumer confidence
- Commission proposals on human and veterinary medicinal products, including simplifying marketing authorisation procedures, presented
- Commission proposal to enable EU citizens to more easily move and reside in another Member State.

Figure 17: Most Priority Actions to be completed before the end of 2001 are expected to be agreed on time

<table>
<thead>
<tr>
<th>Markets</th>
<th>Business</th>
<th>Citizens</th>
<th>External Dimension</th>
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<tr>
<td>2</td>
<td>3</td>
<td>4</td>
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Note: Strategic Objectives: Enhance the efficiency of Markets. Improve the Business Environment. Improve the quality of life of Citizens. Exploit the achievements of the Internal Market in its External Dimension.
target actions by the end of this year, it seems that about 63% of them will be achieved. This would be a slightly higher “success” rate than was achieved last year, but there should be no slackening of effort.

The 63% estimate, however, is based on the optimistic assumption that the Council will reach political agreement by the end of the year on some challenging files, such as the Community Patent and on (at least part of) the Public Procurement package, where the European Parliament’s role is also important.

While some important breakthroughs have been made, other priority targets have been missed or delayed. The added value of the Internal Market Strategy is that the whole is more than the sum of its parts. Many of the proposed actions are mutually reinforcing as they trigger a number of changes simultaneously. By implementing just over 60% of the actions foreseen in the Strategy, however, this multiplier effect will only be partially realised.

Possible agreement by the end of the year

- Public Procurement Package – hope to reach a political agreement on both public sector and utilities proposals
- Community Patent now within reach - will provide legal certainty and lower costs, good for SMEs
- New Telecommunications Package encourages increased competition and protects consumers

Disappointments

- Take-over Bids Directive - 12 years work called into question and Europe’s broader interests frustrated
- Further liberalisation of electricity and gas markets stalled
- Adoption of Directive on VAT treatment of electronic commerce supplies also stalled - need level playing field
- Directive on Protection of Biotechnological Inventions not transposed by all Member States - losing potential benefits of legal certainty and innovation
- Commission proposals for Services Strategy behind schedule
- Commission proposals for a better regime for the recognition of professional qualifications delayed

A further detailed report on progress made in 2001 will be available in March/April 2002 at the time of the Commission’s 2002 Review of the Internal Market Strategy.

Internal Market Index

The ultimate objective of the Internal Market Strategy is to bring tangible benefits to our citizens and companies. These benefits are multiple and of a very different nature: higher incomes, better social cohesion, lower prices, increased possibilities to work and live abroad, a cleaner environment, easier access to capital, etc. The purpose of the Internal Market Index is to measure whether these ‘real world’ benefits / ‘outcomes’ are effectively delivered.

We know that the reality of the Internal Market is much too complex to be perfectly summarised in a number, but an index can nevertheless provide policy makers and users of the Internal Market with some clues as to the direction of developments. Its role is, therefore, much like that of a stock exchange index, such as the FTSE 100, reducing the complexity of financial markets to a single number, which can be easily monitored.
Performance measurement is a challenging field. One of the most serious problems is the quality and availability of data across all Member States. There is a wide gap between the current needs of policy makers and the data on offer. Eurostat and national statistical offices have now embarked on an ambitious programme to improve the Union’s statistics and this is expected to yield promising results over the next few years.

As the Index is intended to track progress on the Internal Market Strategy, the Commission would have wanted to include higher quality variables relating, for example, to the concrete opening up of procurement markets, costs of financial services, the growth of e-commerce, registration of patents, but data is either unavailable or incomplete. In the absence of reliable data, there is a temptation to fall back on pure process variables, such as directives adopted, transposition or infringements. As the Internal Market Index is meant to measure ‘outcomes’, not ‘inputs’, this temptation has been firmly resisted. The bottom line of this exercise is that some measurement is better than no measurement. The Index as well as the different variables on which it is based, will be reviewed and revised in the near future as more and better quality data come on stream.

The resulting Internal Market Index synthesises 20 variables, using a statistical method known as the Principal Components Analysis in order to weigh the influence of each variable on the final score. The variables include growth in per-capita income, long-term unemployment, price dispersion, growth in intra-EU trade, prices of utilities services, availability of venture capital, energy intensity and greenhouse gas emissions16.

Taking 1996 as 100, the Internal Market Index for 2000 stood at 105.1. While the development of the Index is best considered over a longer period, it can be established that a number of variables have been exercising downward pressure between 1996 and 2000. The Index would have been higher were it not for rising postal tariffs, high greenhouse gas emissions and inefficiencies in the Union’s banking system.

A complete list of the included variables and further explanation on the statistical method can be found in the Annex.

Figure 18: Internal Market Index
On the positive side, there has been relatively strong growth rates of per-capita income, some advances in labour mobility, declining long-term unemployment and a reduction of state aids, all of which has pushed up the Index. Another positive factor has been declining costs of telecommunications. European citizens pay, on average, 16% less than in 1996 for the same service. This positive development can be largely attributed to market opening, and to lower costs of telecommunication technologies.

Company rates have been decreasing more than those charged to residential users. This is mainly due to the higher proportion of fixed charges and local calls in the basket of calls for residential users. Before deregulation these cost components were often cross-subsidised by higher rates on long-distance calls. Over recent years, prices of local calls and fixed charges have in some cases even increased despite the general trend of falling prices. Deregulation thus also lead to a closer link between the real cost of providing service and corresponding rates charged to customers.

"European citizens pay, on average, 16% less than in 1996 for the same service."

17 Source: Teligen studies commissioned by the European Commission, DG Information Society. 2001 data are still provisional and will be released in the 7th Report on the Implementation of the Telecommunications Package in December 2001. National basket prices have been weighted on the basis of population share in order to obtain the EU average. Prices for residential users include VAT, those for companies are without VAT.

Figure 19: European telephone prices are decreasing

Note: Price in euro of a basket of national calls (including fixed charges, subscription, etc.) during one year. The composition of the baskets for residential users and business users differs considerably so that overall prices are not comparable.
B. The Financial Services Action Plan and the Launch of the Euro

The strains on the financial system following the tragic events in the USA demonstrate that the case for European financial integration as a motor for growth and employment, a buffer against market volatility and a pole of economic stability is stronger than ever. The FSAP contains, amongst other things, measures on financial stability and supervision, as well as action on combating the financing of terrorism, that respond to these challenges.

The introduction of euro notes and coins will be the final step in making the European Monetary Union (EMU) real for EU citizens in 12 Member States. But the benefits of the euro will only be fully exploited when EMU is complemented by a Single Financial Market. This means, for example, that citizens must be able to transfer payments across borders just as easily and cheaply as is the case for national payments, otherwise the public acceptability of the euro is at stake. At present cross-border euro payments are much more costly than national payments. The Commission therefore last July proposed a Regulation to reduce bank charges for cross-border payments in euro to the level of national payments. Moreover, the implementation of the Fraud Prevention Action Plan will enhance the effectiveness of the EU Internal Market, increase public confidence in cross-border payment systems and help the successful development of electronic commerce.

Important strides have been made to implement the Financial Services Action Plan since the last Scoreboard, but much work remains to be done. 23 Action Plan measures have been fully completed. 7 of these are legislative acts already adopted by the Council and the European Parliament or likely to be adopted soon:

<table>
<thead>
<tr>
<th>Legislation adopted by Council and the European Parliament</th>
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<tbody>
<tr>
<td>• European Company Statute</td>
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<tr>
<td>• Money Laundering Directive</td>
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<tr>
<td>• Directive on the Winding-up and Liquidation of Banks</td>
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<tr>
<td>• Directive on the Winding-up of Insurance Companies</td>
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<tr>
<td>• Directive on Electronic Money</td>
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<tr>
<td>• Amendments to the 4th and 7th Company Law Directives</td>
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<tr>
<td>• Amendment of the Insurance Directives to permit Information Exchange with Third Countries</td>
</tr>
</tbody>
</table>

The other 16 which have been finalised are Communications, Reports, Recommendations or Decisions adopted by the Commission. 12 legislative proposals are currently under negotiation in the Council and the European Parliament:

<table>
<thead>
<tr>
<th>Measures proposed by the Commission and currently under negotiation</th>
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</thead>
<tbody>
<tr>
<td>• Regulation on Cross-border Payments</td>
</tr>
<tr>
<td>• Distance Marketing of Financial Services Directive (political agreement in the Council)</td>
</tr>
<tr>
<td>• Directive on Collective Investment Funds (UCITS)</td>
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<tr>
<td>• Insurance Intermediaries Directive</td>
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<tr>
<td>• Regulation on International Accounting Standards</td>
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<tr>
<td>• Taxation of Savings Directive</td>
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<tr>
<td>• Occupational Pension Funds Directive</td>
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<tr>
<td>• Market Abuse Directive</td>
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<tr>
<td>• Insurance Solvency Margin Directive</td>
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<td>• Financial Conglomerates Directive</td>
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<tr>
<td>• Prospectuses Directives</td>
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<tr>
<td>• Collateral Directive</td>
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</tbody>
</table>

The Commission is still preparing 8 further measures under the FSAP. In addition, a modified Take-over Bids Directive will be proposed after its unexpected rejection by the European Parliament.

Despite the solid progress to date and political support at the highest level, there are still concerns about the Union’s commitment to deliver the FSAP on time for the deadlines of 2005 (final implementation), and 2003 (integration of securities markets). As the Commission puts forward the necessary proposals, the centre of gravity for decisive action shifts to the Council and the European Parliament.

**Figure 20: Implementation of the Financial Services Action Plan**

Note: The situation as at 10 October 2001.
3. **Survey on the Quality of the Union’s Regulatory Environment**

Government rulemaking shapes our lives and that of our businesses. It can be, and often is, a positive force for change. Our system of laws and rules provides for the orderly conduct of social and business affairs. It ensures effective competition and protects the consumer and the environment from abuse. It is the foundation of our economic success.

Regulation is an activity that carries a cost, which should be more than offset by the benefits. However, our companies are increasingly complaining that some aspects of Community and national rulemaking do not work well. They point to the cost of excessively complex and detailed regulation, which forces them to invest substantially and on a permanent basis in order to comply with current rules. The impact of poor regulation is usually particularly heavy on small and medium-sized enterprises who may lack the resources and expertise to cope with it.

In order to assess EU business’ perceptions about the quality of regulation in the Union, the Commission undertook a major independent survey. The survey, for the most part conducted during September 2001, covered over 4,000 businesses in all 15 Member States; it asked firms with more than 10 employees across all industry sectors to rate the quality of regulation, and its impact on their strategies and operations. The survey did not attempt to distinguish between national or Community rules, as most firms can often not tell the source of regulation and indeed overlap exists.

A large share of companies find that regulation in their home country is out of step with the market (figure 21). In other words, companies are trying to cope with yesterday’s rules in today’s economy. Speed of developments is certainly one of the major challenges that governments have to address as they update their regulatory framework. There are significant differences in perceptions in the Member States. German and French companies are most dissatisfied with the body of laws that apply to them; Irish, Danish and Dutch companies generally...

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**Figure 21: A large share of German and French companies are dissatisfied with the quality of their regulatory environment; Dutch companies are the most satisfied**

Note: Percentage of companies who responded that legislation is out of date or not well adapted to market realities and technical advances.

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feel that their rules have kept better pace with new market realities and technical advances.

“A large share of companies find that regulation in their home country is out of step with the market.”

Product conformity requirements continue to top the list of companies’ biggest regulatory concerns. This is especially the case for large companies. When product conformity requirements turn into technical barriers, they strike at the heart of business operations, affecting pre-production, production, sales and marketing policies. The need to adapt product design, reorganise production processes, and repackage and re-test products entails costs, the magnitude of which differs across products and technologies.

Many companies also identified employment and working conditions as areas where rules and obligations can be disproportionate to the objectives of the regulation. Next comes the application of and compliance with taxation formalities (both direct and indirect).

It is interesting to note that it is Member States, not the Community, who adopt most of the rules in these 3 ‘highest burden’ areas. This confirms results from other recent studies. For example, the Economic and Social Committee in its forthcoming report on regulatory simplification estimates that the Community is responsible for less than 10 percent of rules and regulations applicable to companies in the Member States.

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23 Preliminary draft opinion of the section for the Single Market, production and consumption on Simplification (additional opinion), Single Market Observatory, rapporteur: Mr Walker. The final version will be accessible on the homepage of the Economic and Social Committee at http://www.esc.eu.int/pages/en/home.htm

Figure 22: Product conformity is our companies’ number one concern

Note: Ranking given by companies as to the burden imposed by regulation in specific areas, where 5 represents a very high burden and 1 no burden at all.
Poor quality regulation reduces the Union’s welfare without producing any societal benefit. It forces companies to invest considerable sums of money that they could otherwise invest in expanding productive work. The survey suggests that companies could save an average of 15% (or up to 22% in the case of Denmark and Spain) of their total compliance costs, if current legislation were to be better designed. Several studies have estimated total regulatory compliance costs for companies to be between 4% and 6% of GDP\(^2\). Assuming them to be 4%, the savings to be had from improving the quality of regulation in Europe could be of the order of €50 billion. This estimate is, of course, based on a static situation. A higher quality regulatory environment will most likely unleash a new economic dynamism whose benefits will undoubtedly be even higher.

This is a prize well worth claiming. It makes the need for a comprehensive Better Regulation Strategy, which is effectively implemented at both European and national level, all the more urgent.

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Good rules are those that achieve their objectives in the least burdensome way, which are enforced even-handedly, and which can be easily complied with. Good rules are also those which have been the subject of extensive prior consultation to make sure that full account is taken of the views of those on the receiving end. The business community is keen to contribute to “policy-shaping”. This is borne out by the fact that a large majority stated that they would like to express their opinion on forthcoming regulatory initiatives. However, in practice, only a small minority of companies confirmed that they had ever been asked for their views.

Figure 24: Danish and Spanish companies believe that they can save up to 22% of their total compliance costs if legislation were of better quality

Note: Unnecessary compliance costs as a percentage of total compliance costs.

“...the savings to be had from improving the quality of regulation in Europe could be of the order of € 50 billion.”

Figure 25: Companies wish to be consulted much more often

Note: Wishing to be consulted and Given opportunity to express opinion.
Once a measure has been adopted, it is not enough for governments simply to leave it to business to comply. What is required is active, common sense management of rules and regulations by responsive authorities. However, more than half of EU companies surveyed feel that their governments often apply rules too rigidly.

Furthermore, when businesses run into a problem, they often do not know where to go to get help or seek advice on the application of a particular regulation. And when they do approach the appropriate agency, about half the companies complain that it takes too long to get a response.

Despite the rhetoric about the need for simpler regulation, most companies fail to see any discernible effect on their daily operations. This is particularly the case in France, Germany and Denmark.

**Figure 26: In most Member States only a minority of companies consider that their authorities show common sense in enforcing laws**

![Chart showing the percentage of companies who think that their national government authorities show good judgement and a sense of proportion when applying legislation.](chart)

Note: Percentage of companies who think that their national government authorities show good judgement and a sense of proportion when applying legislation.

**Figure 27: 71% of French companies feel that simplification efforts have not yet made their lives easier**

![Chart showing the percentage of companies who responded that the laws and regulations affecting their company have been simplified only marginally, or not at all.](chart)

Note: Percentage of companies who responded that the laws and regulations affecting their company have been simplified only marginally, or not at all.
where companies disagreed most that laws and regulations affecting them have been or are being simplified. This suggests a gap between rhetoric and reality.

Mutual recognition has been central to efforts to eliminate regulatory barriers to trade within the Internal Market. However, in some cases, national approaches to technical regulations are so divergent as to preclude the smooth application of this principle. Where mutual recognition is the chosen approach, the importing country may impose requirements to establish proof of conformity with corresponding specifications of the exporting country. These regulatory aspects can seriously hinder intra-Community trade.

“The rhetoric about the need for simpler regulation, most companies fail to see any discernible effect on their daily operations.”

The survey asked businesses which are trading actively within the Internal Market to identify which Member State is the easiest or most difficult to do business with, particularly in light of its specific regulatory requirements.

Whilst the UK, Italy and France were found to be amongst the 5 most important markets, it is disturbing to find that they were also perceived to be the most difficult to trade with. It is particularly surprising that the widely reported efforts in the UK and Italy to simplify national rules have apparently not yet been felt by companies trading with them.

In nearly 7% of cases, the regulatory environment was felt to be so discouraging that companies decided to reduce or to stop trading altogether with one or more Member States. This has been the experience of companies trying to trade with France, Germany and Italy in particular.
On a more reassuring note for the development of the Internal Market, an overwhelming majority of companies agreed that it was much easier to trade with other Member States than with third countries, such as the USA. This is, of course, what one would have expected, but it is encouraging to see it confirmed by those directly affected by EU policies.

“In nearly 7% of cases, the regulatory environment was felt to be so discouraging that companies decided to reduce or to stop trading altogether...”
ANNEX: INTERNAL MARKET INDEX – METHOD AND DATA

20 variables compose the Internal Market Index:

Figure 29: Variables used in the Internal Market Index

<table>
<thead>
<tr>
<th>Variable</th>
<th>Data used</th>
</tr>
</thead>
<tbody>
<tr>
<td>Intra-EU FDI inward flows as % of GDP</td>
<td>1996-2000</td>
</tr>
<tr>
<td>Total state aid as % of GDP</td>
<td>1995-1999</td>
</tr>
<tr>
<td>Value of published public procurement as % of GDP</td>
<td>1996-2000</td>
</tr>
<tr>
<td>Greenhouse gas emissions</td>
<td>1995-1999</td>
</tr>
<tr>
<td>Energy intensity of GDP</td>
<td>1995-1999</td>
</tr>
<tr>
<td>Stock of ISO 14000 certificates</td>
<td>1996-2000</td>
</tr>
<tr>
<td>Per capita income (PPP)</td>
<td>1996-2000</td>
</tr>
<tr>
<td>Energy basket cost (electricity + gas)</td>
<td>1996-2000</td>
</tr>
<tr>
<td>Retail lending interest rates over savings interest rates ratio</td>
<td>1996-2000</td>
</tr>
<tr>
<td>Long term unemployment rate</td>
<td>1995-1999</td>
</tr>
<tr>
<td>EU citizens working in other EU Member States</td>
<td>1996-2000</td>
</tr>
<tr>
<td>Price dispersion in household consumption</td>
<td>1995-1999</td>
</tr>
<tr>
<td>Intra-EU trade as % of GDP</td>
<td>1996-2000</td>
</tr>
<tr>
<td>Value of pension fund assets as % of GDP</td>
<td>1995-1999</td>
</tr>
<tr>
<td>Stock market capitalisation as % of GDP</td>
<td>1996-2000</td>
</tr>
<tr>
<td>Number of patent applications per capita</td>
<td>1996-2000</td>
</tr>
<tr>
<td>Venture capital funds raised for start-ups and seed as share of the total</td>
<td>1996-2000</td>
</tr>
<tr>
<td>ICT expenditure as % of GDP</td>
<td>1996-2000</td>
</tr>
<tr>
<td>Postal tariffs (20g standard letter)</td>
<td>1996-2000</td>
</tr>
<tr>
<td>Telecom basket cost (OECD national residential basket)</td>
<td>1996-2000</td>
</tr>
</tbody>
</table>

Wherever 2000 data was not available, 1999 data was used in the calculations. The variables are expressed in annual rates of change and integrated into consolidated index figures by using the Principal Components Method. This method implicitly provides an 'objective' weighting between variables and deals appropriately with correlation between variables.