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**Trends and key policy issues in the area  
of internal market 2009-2019**

PE 429.983





**DIRECTORATE GENERAL FOR INTERNAL POLICIES OF THE  
UNION**

**DIRECTORATE A: ECONOMIC AND SCIENTIFIC POLICIES**

**INTERNAL MARKET AND CONSUMER PROTECTION**

## **Trends and key policy issues in the area of internal market 2009-2019**

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## 1. Introduction

Significant progress has been made in the past decades to create a Single Market, where goods, services, capital and persons move freely. The pace of integration has however slowed down in recent years and gaps in implementation of internal market legislation still remain. Globalisation and enlargement of the EU presents a further challenge and at the same time provides an incentive to reap the untapped benefits stemming from creating an integrated market. There is a need to rethink the aptness of current policy tools, to expand and deepen integration of markets and seize the opportunity to create a Single Market with a strong social and environmental dimension.

The aim of this paper is to analyse forward trends affecting the Single Market and identify some of the key policy choices in the period 2009-2019. The paper focuses on the free movement of goods and services. The analysis of sectoral policies and an assessment of the free movement of capital, labour and knowledge is outside the scope of this note.

The idea of the Single Market was enshrined in the Treaty of Rome which had amongst its goal the free movement of goods, persons, services and capital. Customs union was achieved by 1 July 1968, non-tariff barriers however remained and it became increasingly apparent that further action is needed in order to remove these barriers. The Single European Act of 1986 paved the way to the creation of the Single Market which was formally launched 1 January 1993. Consumers benefited from increased competition, greater choice<sup>1</sup>, lower prices and higher quality. The advantage for businesses has been the potential access to a large home market. Following the recent adoption of the Services Directive and the Goods Package, most of the necessary legislation governing the free movement of goods and services is now in place. Large parts of the Single Market legislation however is still to be implemented by Member States and the proper application of rules remains a challenge.

This paper is structured as follows. Chapter 2 offers an overview of the main factors having an effect on policy decisions related to the Single Market in the coming decade, Chapter 3 outlines possible policy options and Chapter 4 concludes.

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<sup>1</sup> It has to be noted that according to some researchers, choice overload has a significant downside and comes at a large social cost due to more time spent choosing the products or services and the increased frustration and stress of consumers. For an excellent review see Barry Schwartz: *The Paradox of Choice: Why More is Less*, HarperCollins Publishers, 2005

## 2. Challenges and opportunities influencing Single Market policies

Below an overview of some of the key issues that will have a major influence on policy choices in the field of the Single Market.

### 2.1. Globalisation

In the next decade we anticipate an increased movement of goods and services within the EU. It is expected that trade with third countries will increase even more. In 2007 the value of trade in commercial services increased at a faster rate (18 per cent) than trade in goods (15 per cent) for the first time in five years. This trend of increasing importance of services is likely to continue, with China and India becoming major exporters<sup>2</sup>.

The USA has traditionally been the EU's most important trading partner but its relative significance has declined in recent years, in particular in imports. EU trade with China on the other hand has more than quadrupled since 1999 and China currently ranks first among EU import suppliers<sup>3</sup>.

Value chains are becoming increasingly interconnected and economic interdependence between the principal poles of the world and between these poles and their peripheries is growing<sup>4</sup>. Instead of moving complete production processes, companies resort more and more to outsourcing individual tasks<sup>5</sup>.

In the short run, as a result of the financial crisis, a temporary decrease in trade is expected as demand for import products decreases and protectionist policies (state aid, public procurement geared toward national companies) proliferate. In the long run trade is expected to pick up again.

### 2.2. Demographics, migration, societal changes

Between 2005 and 2020 the median age of the European population will increase from 38,9 to 42,7 years and the share of population aged 65+ will grow from 15,9% to 19%<sup>6</sup>. Population ageing will affect the composition and size of the indigenous labour force and might bring about a shift to less labour-intensive goods and services, and increased reliance on immigration. It will also modify the demand for particular goods and services, with an increase for health services for example. We can also expect changes in consumer culture, possibly helped by consumer protection legislation whereby consumers shop more and more cross-border, are better informed about the availability of products and about their rights, and are increasingly ready to resort to redress.

### 2.3. Enlargement of the EU and the euro area

With 27 Member States the European Union has become increasingly divergent, which makes hard to agree on one-size-fits all legislation. Also transposition and implementation has become more difficult and complex. With possible further enlargement the situation will become even more daunting.

Although the euro is not a necessary or sufficient condition for a properly functioning Single Market, it is certainly true that a fully integrated Single Market works better with a single currency<sup>7</sup>. In the next decade we can expect most EU countries to join the euro area.

<sup>2</sup> [WTO: International Trade Statistic 2008](#)

<sup>3</sup> [External and intra-European Union trade 2009 edition, data 2002-07](#)

<sup>4</sup> European Commission: The World in 2025, Internal reflection note 10 February 2009

<sup>5</sup> [Hildegunn Kyvik Nordås: International Production Sharing: A Case for a Coherent Policy Framework, WTO Discussion Paper No 11, 2007](#)

<sup>6</sup> Population Division of the Department of Economic and Social Affairs of the United Nations Secretariat, World Population Prospects: The 2008 Revision, <http://esa.un.org/unpp>

<sup>7</sup> [Charles Wyplosz: Euro or Not? Early Lessons from the Crisis](#)

## 2.4. Advances in information and communications technology

Technology plays an important role in facilitating outsourcing and offshoring activities and increasing the tradability of goods and services. Improved information and communication technology (ICT) increases efficiency, makes outsourcing easier and thus the place of production becomes less important. ICT also offers the possibility of teleworking and contributes to the dematerialisation of products and the development of new services (e.g. eHealth, online auctions, price comparison sites etc.). Internet will become an important sales channel for a number of products and services<sup>8</sup>.

## 2.5. Environmental policy

More stringent environmental policies can be expected to come into force in the next decade which will have an effect on polluting industries and with the possible taxation of transportation (air transport in particular) might disrupt existing trade patterns and location decisions of some industries. As a consequence we might experience less intra-EU trade and more domestic transactions or more imports from outside the EU as companies relocate to countries with more lax environmental standards.

On the other hand introducing ambitious environmental objectives also offers opportunities for European companies investing in the development of green technologies. Through the Single Market these companies have access to a large consumer base and can benefit from economies of scale which is particularly important in industries requiring heavy investments in R&D.

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<sup>8</sup> Internet is already the second most commonly used retail channel with 51% of the retailers making sales via e-commerce: [Commission Staff Working Document, Report on cross-border e-commerce in the EU, SEC \(2009\) 283](#).

## 3. Policy responses

### 3.1. Policy context of the Single Market

Single Market policy interacts with a large number of other policies at the EU and the national level; it therefore cannot and should not be looked at in isolation from other policies. These policies sometimes complement and strengthen each other, but they can also be at stark contrast to each other. Single Market policies, if not properly designed and implemented can have a disruptive effect on the environment and the social system. As two recent court cases show<sup>9</sup>, freedom of establishment and freedom to provide services can clash with national social systems and workers' right. The provision of cross-border health services raises questions as to the financing of national health systems.

It is of paramount importance to identify what we strive to achieve by creating an integrated Single Market. Is it economic growth, employment, innovation, social protection, environmental protection or a high level of consumer protection that we would like to attain? These objectives can sometimes be conflicting and ways need to be found to reconcile them and to better integrate the different policies.

### 3.2. Short term actions

#### 3.2.1. Removing existing barriers in the Single Market for goods

Most barriers to the trade of goods have been brought down in the early 1990's following the launch of the Single Market Programme. Despite the advances certain restrictions still remain<sup>10</sup> and we can see a "home bias"<sup>11</sup>, Europeans continue to shop locally. The adoption of the Goods Package is an important step towards facilitating cross-border trade, but new instruments need to be embraced to give a fresh impetus to Single Market in goods. Competition policy, facilitating market entry and the diffusion of innovation should become more pronounced objectives. Fighting protectionism remains a crucial, - and in the light of the financial crisis - an even more prominent issue. Strengthening and improving administrative cooperation between Member State authorities responsible for the Single Market will also be of major importance in the coming years.

#### 3.2.2. Improving transposition, implementation and enforcement

Despite significant progress in the recent years, the failure to correctly transpose, implement and enforce internal market legislation by Member States is one of the main reasons for the shortcomings in the functioning of the Single Market<sup>12</sup>. A number of different actions could be taken to improve transposing, implementing and enforcing legislation starting with better legislative drafting through the provision of assistance and guidance to Member States, through improved monitoring and enforcement and better cooperation<sup>13</sup>.

#### 3.2.3. Implementation of the Services Directive

Services is the most important sector in the EU economy, accounting for almost 70% of the EU GDP and employment. The Services Directive will have a significant impact and will largely facilitate the cross-border provision of services.

<sup>9</sup> Viking C-438/05 and Laval C-341/05

<sup>10</sup> Even on the basis of comparable, highly tradable goods and after controlling for distance and city-specific characteristics, the dispersion of prices in the European Union remains on average around 20 to 25 per cent higher across borders than within countries. See: [de Serres, A., P. Hoeller and C. de la Maisonneuve, 2001. The Width of the Intra-European Economic Borders. OECD Economics Department Working paper #304. OECD, Paris.](#)

<sup>11</sup> [Juan Delgado: Single Market trails home bias, Bruegel Policy Brief Issue 2006/05 October 2006](#)

<sup>12</sup> See e.g. [Steps towards a deeper economic integration: the Internal Market in the 21st century, European Commission Economic Papers, January 2007](#) or [The Single Market: Wallflower or Dancing Partner, House of Lords report, February 2008](#)

<sup>13</sup> For a comprehensive overview on possible actions to improve transposition, implementation and enforcement of EU legislation see [Balázs Mellár: Transposition, implementation and enforcement of consumer law, 2009](#)

While the deadline for transposing the directive is 28 December 2009, it is expected that a number of countries will not be able to transpose it in a timely manner. Questions around the interpretation of certain provisions are also bound to arise in the coming years, given that this is a large and complex piece of legislation. It is not clear for example whether Member States will be required to remove restrictions and barriers that are merely discriminatory or if they need to go further and also remove non-discriminatory restrictions which impede market access. The scope of the Directive and the extent of the limitations might also require further clarification<sup>14</sup>.

#### **3.2.4. Specific actions in important service sectors**

Given the specific nature of some service sectors, they have been exempted from the scope of the Services Directive. In some service markets where there exists a *de facto* internal market this has led to a legal uncertainty. Services of general economic interest, health services or gambling are a few cases in point. There is certainly a need to clarify ambiguities and possibly draft sector specific legislation that takes into account the specificities of these sectors and minimises the negative impact to national systems, e.g. national health policies, national budgets, etc.

Some other services (in particular financial services, energy, telecommunications, and transportation) need particular attention as they act as lubricants to the rest of the economy, being an important input to other products and services. Increasing the competitiveness of the services sector could also lead to a more competitive manufacturing sector<sup>15</sup>. There seems to be a need to continue the liberalisation and interconnection of network industries<sup>16</sup>. Greater harmonisation may be necessary in certain areas, in particular in retail financial services.

#### **3.2.5. Facilitating SME access the Single Market and reducing administrative burden**

SMEs employ almost 70% of the EU work force and generate nearly 60% of the EU GDP<sup>17</sup>, they are thus important players in the EU economy. SMEs are particularly active in services markets<sup>18</sup>, therefore once implemented, the Services Directive will become a key tool in facilitating SME access to the Single Market. The European Private Company Statute and steps to reduce administrative burden will also ease making business in another country, a number of obstacles however still remain. The variety of legal and tax systems in the different Member States makes it time consuming and expensive for SMEs to expand beyond their home country. The provision of information is crucial in this respect. It is also of paramount importance to create one-stop shops for setting up new businesses and to reduce time and costs for starting up a company. Other (longer term) options to facilitate SME access to the Single Market could include the introduction of taxation based on a common consolidated corporate tax base or the instauration of "home state taxation", where SMEs would be taxed only in their home country independently of where the income was earned.

#### **3.2.6. Opening up public procurement**

The total value of public procurement in the EU is estimated at about 16% of the Union's GDP or €1500 billion in 2002. The opening up of public procurement within the Internal Market has increased cross-border competition and decreased prices paid by public authorities.

<sup>14</sup> Catherine Barnard : Unravelling the Services Directive, Common Market Law review 45 323-394, 2008

<sup>15</sup> <http://www.publications.parliament.uk/pa/ld200506/ldselect/ldecom/23/23.pdf> p. 17

<sup>16</sup> For a review of the advantages of liberalisation see [Copenhagen Economics: The potential economic gains from full market opening in network industries, January 2007](#).

<sup>17</sup> Eurostat: [Enterprises by size class - overview of SMEs in the EU, Statistic in Focus 31/2008](#)

<sup>18</sup> *ibid*

There remains however potential for significant further competition in procurement markets since direct cross-border procurement remains low, accounting for just 3% of the total number of bids<sup>19</sup>. The large number of infringement procedures in this area also shows that transposition, implementation and enforcement of legislation is not functioning properly<sup>20</sup>. Facilitating access by SMEs to public procurement contracts should be encouraged in particular as these companies face the biggest constraints due to the size of public procurement contracts and the large administrative burden.

### 3.3. Long term actions

#### 3.3.1. New policy tools at work for the Single Market

As outlined already in Chapter 3.1., when designing future Single Market policies it is important to note the links to other policies and to be aware of the goals that are to be achieved.

A decision needs to be taken as to what approach is used to achieve harmonisation, whether we opt for minimum or maximum harmonisation, the country of origin principle, mutual recognition or Directives based on the New Approach<sup>21</sup>. An identification of key sectors and main elements to focus on might also be necessary.

In order to make the Single Market a reality there seems to be a need to move beyond legislation and harmonisation of rules and apply a wider range of policy tools. These include competition policy, the removal of subsidies and restrictive national standards, focusing on implementation and enforcement, investigating breaches of EU law, raising awareness of and increasing effectiveness of problem solving networks such as SOLVIT, improving consumer confidence, increasing consumer protection to enhance cross-border shopping, removing unjustified obstacles to cross-border buying<sup>22</sup>, providing stronger contractual rights to consumers and making redress more accessible.

#### 3.3.2. Deepening the Single Market

The Single Market seems to work better in some areas than in others: network industries, some service sectors and online retail are probably among the worst performers. There is a need to analyse in-depth individual markets, identify the extent and the sources of problems and to develop a tailored mix of policies to remedy shortcomings.

Given the likely positive effect of a single currency on the functioning of the Single Market we need to investigate whether euro entry should be encouraged. Should countries with an implicit or explicit opt-out be allowed to remain outside the euro area for an indefinite period? Should entry for new countries be eased by overlooking some of the Maastricht criteria or by changing the criteria?

A more ambitious project would be the coordination of tax policy (currently Member State competence), the harmonisation of the corporate tax base and possibly also the corporate tax level, VAT and excise duty. While full tax harmonisation is probably not necessary, tax coordination would enable countries to pursue social objectives while respecting the rules of the Single Market<sup>23</sup>.

<sup>19</sup> [European Commission: A report on the functioning of public procurement markets in the EU: benefits from the application of EU directives and challenges for the future](#)

<sup>20</sup> [25th annual report on monitoring the application of Community law, COM \(2008\) 777](#)

<sup>21</sup> [European Commission: Guide to the implementation of directives based on the New Approach and the Global Approach](#)

<sup>22</sup> Obstacles are most evident in sales of goods and services over the internet. For an excellent overview of the motives of e-commerce businesses to engage in territorial differentiation see: [Dr. Natali Helberger: "Refusal to Serve Consumers because of their Nationality or Residence - Distortions in the Internal Market for E-commerce Transactions?"](#)

<sup>23</sup> [Mario Monti: "No taxation without coordination" in the Forum issue 1, 14 May 2009](#)

### 3.3.3. Extending the Single Market

Further enlargements might take place in the coming decade which would automatically lead to the extension of the Single Market. These enlargements will pose a challenge, but also provide opportunities to reinvigorate the Single Market.

A policy option to consider could be to open the Single Market to countries outside the EU. An agreement with the European Economic Area (EEA) countries allows them participation in the EU internal market (they need to transpose internal market legislation and also contribute financially to the Single Market)<sup>24</sup>, a similar arrangement with Eastern or Mediterranean countries could have numerous benefits: the home market for businesses would increase, energy dependence could decrease and foreign policy objectives could also be reached via this way.

In this context it is important to mention the possibility of developing the transatlantic Single Market. Progress is already being made via the Transatlantic Economic Council<sup>25</sup> and regulatory cooperation with the US.

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<sup>24</sup> [European Economic Area agreement](#)

<sup>25</sup> [1st Transatlantic Economic Council \(TEC\) Meeting, November 9, Washington, DC - Joint Statement](#)

## 4. Conclusions

Due to the ever changing environment and to cultural and practical factors that make cross-border shopping and trade less appealing, the Single Market can never be fully completed. There are however large untapped opportunities to decrease the gap between the potential and the reality of the Single Market. Fully reaping the benefits is only possible by involving stakeholders and national governments.

Particular care needs to be taken that the Single Market does not become a goal in itself and social, environmental and consumer protection concerns are taken into account. New policy initiatives should always be driven by an analysis of the impact they have on specific markets, economic sectors, the environment and in the social sphere.

A well-functioning Single Market constitutes a competitive advantage for Europe in the face of globalisation, leads to increased competition, lower prices for consumers and access to a large market for businesses.



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