

10 November 1997 A4-0356/97

REPORT

on the communication from the Commission on the Action Plan for the Single Market (CSE(97)0001 - C4-0286/97)

Committee on Economic and Monetary Affairs and Industrial Policy

Rapporteur: Mr Karl von Wogau

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By letter of 9 June 1997 the Commission forwarded its communication on the Action Plan for the Single Market (CSE(97)0001 - C4-0286/97) to Parliament.

At the sitting of 25 June 1997 the President of Parliament announced that he had referred the communication to the Committee on Economic and Monetary Affairs and Industrial Policy as the committee responsible and to the Committee on Research, Technological Development and Energy, the Committee on Legal Affairs and Citizens' Rights, the Committee on Employment and Social Affairs, the Committee on the Environment, Public Health and Consumer Protection and the Committee on Civil Liberties and Internal Affairs for their opinions.

The Committee on Economic and Monetary Affairs and Industrial Policy had appointed Mr Karl von Wogau rapporteur at its meeting of 18 June 1997.

It considered the Commission communication and the draft report at its meetings of 2 and 25 September, 30 October and 4 November 1997.

At the last meeting it adopted the motion for a resolution by 35 votes to 1, with 3 abstentions.

The following were present for the vote: von Wogau, chairman and rapporteur; Katiforis and Secchi, vice-chairmen; Areitio Toledo, Arroni, Billingham, Blokland, (for de Rose), Bowe (for Glante), de Brémond d'Ars, Camisón Asensio (for Friedrich), Carlsson, Cassidy (for Fourçans), Castagnède, Caudron, Christodoulou, Cot (for Berès), Cox, Donnelly, Fayot, García Arias, Gasòliba i Böhm, Harrison, Hautala, Herman, Hoppenstedt, Ilaskivi, Imbeni, Kestelijn-Sierens, Langen, Lukas, Lulling, E. Mann (for Hendrick), T. Mann (for Konrad), Mather, Metten, Miller, Murphy, Paasilinna, Peijs, Pérez Royo, Porto (for Rübzig), Randzio-Plath, Rapkay, Riis-Jørgensen, Sindal (for Wibe), Svensson, Torres Marques, W. G. van Velzen (for Thyssen) and Watson.

The opinions of the Committee on Research, Technological Development and Energy, the Committee on Legal Affairs and Citizens' Rights, the Committee on Employment and Social Affairs, the Committee on the Environment, Public Health and Consumer Protection and the Committee on Civil Liberties and Internal Affairs are attached.

The report was tabled on 10 November 1997.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.

A
MOTION FOR A RESOLUTION

Resolution on the communication from the Commission on the Action Plan for the Single Market (CSE(97)0001 - C4-0286/97)

The European Parliament,

- having regard to the communication from the Commission on the Action Plan for the Single Market (CSE(97)0001 - C4-0286/97),
 - having regard to the Commission White Paper on the Completion of the Internal Market,
 - having regard to the Conclusions of the Dublin European Council,
 - having regard to its resolution of 29 May 1997 on the communication from the Commission on the Impact and Effectiveness of the Internal Market(),
 - having regard to the results of the report by the High Level Panel on the free movement of persons chaired by Mrs Veil (C4-0181/97),
 - having regard to the report of the Committee on Economic and Monetary Affairs and Industrial Policy and the opinions of the Committee on Research, Technological Development and Energy, the Committee on Legal Affairs and Citizens' Rights, the Committee on Employment and Social Affairs, the Committee on the Environment, Public Health and Consumer Protection and the Committee on Civil Liberties and Internal Affairs (A4-0356/97),
- A. whereas in 1993, with the creation of the internal market, border controls within the European Union were abolished completely for goods and partially for persons,
- B. whereas considerable progress has also been made in eliminating technical barriers to trade,
- C. whereas, however, fifteen individual home markets remain in existence in the European internal market,
- D. whereas the movement of persons and goods in the European internal market is still hampered by numerous obstacles,
- E. whereas the real challenge presented by the internal market is that of affording small and medium-sized enterprises access to the single European market, as these enterprises particularly contribute to the creation and preservation of jobs,
1. Calls for the further development of the European internal market into a European home market by the year 2002 and welcomes the Commission's Action Plan as an important step towards this objective;

(¹) OJ C 182, 16.6.1997, pp. 15-62

2. Calls for the preconditions to be created for the realization of free movement of persons and the definitive abolition of passport controls between Member States; considers it necessary, in order to jointly secure the external borders, that the programme 'Customs 2000' be implemented rapidly and in full and the External Borders Convention finally concluded; stresses the importance of a uniform EDP system and the introduction of a simplified and uniform procedure for securing the external borders, in which connection an equally high level of protection must be ensured;
3. Calls for the following measures in the field of taxation:
 - a reduction of the burden of taxation on labour with the aim of promoting employment,
 - a plan for the phased introduction of the country of origin principle up to the year 2002 in the context of the future VAT system and a gradual approximation of the rates of value added tax of the Member States up to the year 2002,
 - the introduction of a lower rate of VAT for labour-intensive SMEs,
 - approximation of excise rates,
 - codes of conduct for taxation for the Member States, to supplement the existing legal provisions and agreements, which include the general elements listed in the Secchi report on tax systems (A4-0169/97),
 - measures for the cross-border taxation of enterprises as proposed in the Ruding report, particularly mutual recognition of enterprises' profits and losses in the case of enterprises operating internationally,
 - practical proposals for eliminating double taxation of frontier workers,
 - uniform tax definitions and taxable events,
 - elimination of tax havens and measures to ensure that tax decisions do not distort competition or run counter to structural policy,
 - in the field of energy taxation, the early adoption of the Directive on the restructuring of Community framework provisions on the taxation of energy products,
 - common principles regarding taxation of capital based on an OECD agreement;
4. Considers that an efficiently functioning infrastructure is a fundamental requirement of the European home market and calls, therefore, for the consistent and rapid, but at the same time ecologically acceptable, development of trans-European networks in the following sectors:
 - (a) transport, particularly the further development of high-speed rail networks; agrees with the Commission that the inadequacies of regulation and supervision in European civil aviation must be overcome, and calls for the early setting-up of a European air safety agency and the conclusion of a new Eurocontrol Convention,
 - (b) telecommunications, in which connection it is necessary to implement the liberalization of speech telephony services as planned, to consider making a contribution to the development of satellite communications from the budget of the European Union in connection with its telecommunications policy, and to consider establishing a European regulatory authority for telecommunications,
 - (c) energy, where not only the continued liberalization of energy markets but also the promotion of new renewable forms of energy and the development of the pipeline system are the priorities,

- (d) reiterates that the extension of the internal market concept to public services is acceptable only if the maintenance of public services is guaranteed in the form of a comprehensive universal service concept, with clear provision for the financing of services;
5. Stresses the importance of standards as an instrument of industrial policy, and:
- calls upon the Commission to work to improve the efficiency of European standardization institutions and dramatically accelerate the commissioning of standards,
 - calls for more consistent use of the procedure of referring to technical standards in legislation and for participation by small and medium-sized enterprises and consumer organizations as well as, where appropriate, NGOs active in the field of environmental protection in the standardization process to be facilitated,
 - calls on the Member States to improve mutual recognition of testing procedures and standards and to give national standardization experts in EU bodies clear instructions and time limits,
 - calls, in the longer term, for the three European standardization institutes to be amalgamated into a single European standards body,
 - observes that, where product inspections are concerned, differing levels of protection may hamper international trade, and welcomes, therefore, the introduction of uniform high safety standards, including precise definitions, compliance with which must be guaranteed by means of more stringent product inspections;
6. Observes the need for continuous progress in simplifying and clarifying the legislative framework, and that particularly company law also needs to be further developed, and notes that there is a particularly urgent need for action with regard to the adoption of the Statute for a European company; supports the use by the Commission of effective penalties in the form of fines, to be utilized as part of the EU budget, as a means of guaranteeing uniform application of all existing legal provisions in all Member States; calls, in connection with further approximation of laws, for a comprehensive directive on the law of warranty and a directive to reduce late payments;
7. Observes that protection of intellectual property in the Community, which is of decisive importance to research, innovation and hence the competitiveness of European enterprises, needs to be supplemented further, and calls for measures in the following fields:
- (a) patents, in which connection the Directive of the European Parliament and the Council on the legal protection of biotechnological products must be adopted as quickly as possible,
 - (b) trademarks, in which connection it notes the successful work of the Trademark Office in Alicante, which should be continued and expanded,
 - (c) utility designs and ornamental designs,
 - (d) copyright and related rights, where there is a particular need for action in connection with the new technologies of the information society;
8. Considers that a European home market also requires a European economic policy, which should be based on the principles of the ecological and social market economy; these

include the balanced application of the competition rules on the one hand and the consideration of the wider goals laid down in the Treaty concerning high social and environmental standards on the other hand, further development of the European internal market, a budgetary policy based on the Amsterdam European Council's resolutions on stability, growth and employment, fundamental rules on tax policy and greater efficiency on the part of administrative authorities, to be attained with the aid of such instruments as benchmarking and best practices; considers, however, that the overall volume of aid in the Community is massive and the trend in it stable, that it distorts fair competition, is incompatible with the internal market, undermines the EU's commitment to a free world market and will be a source of possible friction between Member States participating in EMU and those which do not participate in it;

9. Observes that special attention must be devoted to the Single Market operating with complementary respect to social security, health and safety measures at work and a high degree of consumer protection, and that all citizens, including the 120 million children, should benefit from the Single Market in accordance with the proposals made by the Commission under Strategic Target 4 ('Delivering a Single Market for the benefit of all citizens'); considers greater financial support for consumer information centres in the European Union important as a means of disseminating information about the internal market; considers that certain minimum levels of social protection must not be violated through the pursuit of competitive advantage; calls on the Commission to investigate how the effectiveness of the labour-protection standards adopted at Community level can be increased; calls, in particular, for it to ascertain what penalties can be imposed for infringements of existing provisions;
10. Supports the environmental and health measures mentioned by the Commission, and calls on the Commission, moreover, to consider the setting-up of a European Agency for the Approval of Food Additives and Agrochemicals;
11. Considers that specific attention should be devoted to the way in which SMEs can participate in the internal market so that the advantages and opportunities presented by the internal market do not pass SMEs by, as they make a major contribution to job creation; encourages the Commission to ensure that the multiannual programme (1997 - 2000) and other measures favouring small and medium-sized enterprises are set out and fully implemented; in addition, shortcomings and obstacles with regard to freedom of establishment in individual Member States must be eliminated and the cross-border setting-up of businesses, for example in the craft trades, should be effectively facilitated; calls upon the Commission to ensure that the Member States do implement the Action Plan via the "Single Market Scoreboard";
12. Reaffirms its view that the common market requires a common European currency, and regards the single currency as a necessary component of the European home market;
13. Instructs its President to forward this resolution to the Commission, the Council and the Parliaments of the Member States.

B

EXPLANATORY STATEMENT

1. Introduction

The Action Plan for the Single Market, which was accepted by the European Council held in Amsterdam on 16 and 17 June 1997, is an ambitious programme from the Commission with which it intends to improve the performance of the European Single Market. A number of important proposals are to be implemented by 1 January 1999, in order to gear up for the third stage of economic and monetary union and the pending enlargement of the European Union.

Where do we stand today? It is true that the European Single Market has been in existence since 1993, but within that internal market 15 national home markets continue to exist side by side, and are separated from each other by a range of widely differing barriers. A home market is characterized, for example, by the fact that only one currency is used within it; there are still 14 in use within the European Single Market. A home market has a functioning infrastructure: there are universal transport networks, and the telecommunications and energy sectors provide full coverage for the population with no gaps; this is not yet the case in the Single Market. In a home market, there is a single form of company for joint-stock companies, whereas in the Single Market there is as yet no form of company which would make it possible to cover the entire market through a single entity with no subsidiaries. In a home market value added tax is levied according to the country of origin principle, but in the Single Market the country of destination principle applies. These few examples already make it clear how far away we still are from achieving a European home market.

A look back at the development of the European Union so far shows, however, that we have already made great strides. The first stage was the completion of the customs union in 1968, whereby imports and exports between EEC States became exempt from duty. The second stage was the completion of the European Single Market on 1 January 1993. This sprang from a programme launched by the Commission in 1985 at the instigation of the European Parliament. It embraces 219 European Union directives which have to be transposed into national law (a process which has yet to be completed, however).

Finally, the third and last step is the creation of a European home market. This objective is to be attained by 2002. This date makes sense, because by then monetary union will have been completed, i.e. the euro will have replaced national currencies in the participating countries, and the implementation of the European Union's plans for enlargement, as described in the 'Agenda 2000' document presented by the Commission in July, will also be imminent. The Commission's Action Plan, which is to run until 1999, is an important staging-post along this road. It includes various measures which also form part of the Single Market programme, but it also contains new elements. One of these is to switch the VAT system over to the country of origin principle, for which a period of five years has to be estimated, so that in this connection, too, the horizon of 2002 makes sense.

2. Common external borders - open internal borders

A home market is characterized by common external borders and open internal borders. Programmes such as 'Customs 2000', which is intended to optimize the administration of the

customs union in the context of the Single Market, contribute to the common protection of the external borders. This programme includes, for instance, exchange programmes and seminars for customs officials, the closure of gaps between the Member States' computer systems, etc. Effective measures to combat fraud, as provided for in the 'Customs 2000' programme, are indispensable for the protection of the Union's financial interests, and the programme's implementation in full must therefore be ensured. The External Borders Convention, which deals with a number of key issues in this area, has still not been signed. In the interests of protecting the external borders, it would be desirable for progress finally to be made in this respect.

(a) Free movement of persons

Open internal borders within the European home market mean, above all, actually turning the free movement of persons into reality. This objective has only partly been attained so far. Admittedly, passports generally no longer have to be shown when crossing the border from Germany to France, or in the Benelux countries, but the identity documents of travellers arriving in the United Kingdom are still checked at the border. The elimination of controls on individuals at the internal borders is only possible, however, if the security of Community citizens is not endangered. This is where the objective of cross-border measures to combat crime once again move centre-stage. The mutual recognition of qualifications is another element in turning the free movement of persons into reality. In theory this has already been achieved, but in practice major obstacles remain. Over and above this, national social systems must be structured in such a way that they do not constitute a barrier to the free movement of persons. Open internal borders also mean that precautions have to be taken so that areas affected by epidemics can be sealed off effectively. The BSE disaster has clearly demonstrated that we still have a long way to go in this area.

(b) Taxation

The Commission's Action Plan includes a number of measures relating to taxation. This area continues to exhibit distortions which affect the operation of the internal market. Progress is particularly hard to achieve owing to the rule of unanimity within the Council where tax matters are concerned. Although the abolition of VAT checks at the Union's internal borders, for example, has eased matters, there are still no uniform VAT arrangements consistent with the internal market. The present transitional system has major shortcomings and, as the European Parliament pointed out in its resolution of 10 June 1997 on the Commission communication on a common system of VAT - a programme for the single market, it imposes considerable burdens on enterprises, consumers and authorities. The changeover to a VAT system based on the country of origin principle cannot be carried out from one day to the next, but is entirely feasible if spread over a five-year transitional period.

Basically, the European Union's tax policy must evolve to a large extent in the context of the competition between tax systems. This results from the unanimity requirement for decisions relating to taxation referred to above. However, decisions by the Member States should, if possible, be taken on the basis of common principles. Given the current erosion of the tax base in many countries belonging to the European Union, there is a need to establish common minimum rules. It is not a question of whether individual EU Member States treat foreign investors better than domestic investors. It is just as important to improve the balance between the taxation of labour, consumption, energy and capital income. A reduction in the burden of taxation on labour is an important instrument in the fight against unemployment. On 1 October 1997 the

Commission presented a tax package along these lines, which includes the following key measures: a code of conduct for company taxation, the elimination of distortions in the taxation of capital income, the abolition of withholding tax on cross-border interest earnings and licence fees between undertakings, and measures relating to indirect taxation. The Ruding report, which was published in 1992, provides a good basis for measures concerning company taxation and, in particular, cross-border business activity. Where the taxation of energy products is concerned, a directive on restructuring the Community framework provisions on the taxation of energy products has already been proposed, and should be adopted at an early date.

(c) Infrastructure

A functioning infrastructure is a major prerequisite if the benefits of a common market with open internal borders are to be exploited effectively. To this end, the trans-European networks in the transport, telecommunications and energy sectors must be developed consistently and rapidly. The transport sector, and railways in particular, shows quite clearly that a great deal still remains to be done to turn the European home market into reality. Admittedly, the development of national high-speed networks has been pushed forward, but different gauges, signalling systems and voltages continue to be major obstacles to cross-border traffic. During a rail journey from Paris to Copenhagen, for example, the locomotive has to be changed at least twice because of different voltages. In the air transport sector, following the virtual failure of Eurocontrol a functioning European air safety institution is an important objective. In the telecommunications sector a decisive step will be taken with the liberalization of telecommunications markets on 1 January 1998. At present it is still cheaper to telephone Germany from France via the United States than to do so directly. The liberalization of voice telephony services will put an end to this paradoxical situation. The internal market is also not yet complete, for a variety of reasons, in the labour-intensive, leading-edge sector of satellite communications. As a result, the European Union is currently unable to keep up with the development of global satellite infrastructure. The 'EU Action Plan: Satellite communications in the Information Society' put forward in a communication from the Commission (COM(97)0091), which has also been debated at length in the European Parliament, is intended to remedy this situation. In this connection it also makes sense to explore the possibility of a contribution from the European Union budget in the context of telecommunications policy. The European commitment at present is limited. At the same time, the establishment of a European regulatory authority for telecommunications should be considered. In the energy sector, too, liberalization must be pursued and, above all, the pipeline system must be developed.

(d) Technical standards

The fact that the free movement of goods is still not a reality, despite the abolition of border formalities and controls, can also be attributed in large measure to the continuing existence of technical barriers to trade. The work of the three European standardization institutions (CEN, CENELEC and ETSI) is costly and time-consuming, and their amalgamation into a single European body should be considered. At the same time, however, some thought must be given to streamlining the standardization process. Small and medium-sized firms are hardly involved at all in the standardization process, owing to lack of money, staff and time, despite the fact that it is extremely important for them. Their active involvement in the process must therefore be facilitated. An important instrument in this respect is provided by the funds earmarked in the European Union budget for support for SMEs, which are intended, inter alia, to support their involvement in the standardization process.

(e) The European Company

Where the urgently needed reform and further development of European company law are concerned, the Statute for a European Company has long been right at the top of the agenda, without any decisive progress finally being made towards this goal. Bill Gates would hardly have been as successful in the United States with Microsoft if he had had to establish a subsidiary in every State, rather than operating throughout the whole country with a single firm. A group of experts chaired by Viscount Davignon, chairman of Société Générale de Belgique, has drawn up proposals which the Commission intends to use as the basis for fresh initiative. The European Company is an important entrepreneurial instrument for the internal market, since it will free enterprises from red tape within the Community. It is the logical choice for many enterprises which wish to restructure themselves at a single level, that of the internal market. With the advent of the third stage of economic and monetary union and the increasing integration of European capital markets, the European Company is particularly relevant.

(f) Intellectual property

In the European home market intellectual property must be protected comprehensively, cost-effectively and unbureaucratically. At present, for example, it is still relatively expensive to make a patent application. The protection of intellectual property is an important instrument of industrial policy and is of fundamental importance for the competitiveness of European industry. In addition to patents, trademarks, utility and ornamental designs, copyright and related rights are of concern here. The European Trademark Office in Alicante, which began operating on 1 April 1996, is performing excellently. Where copyright and related rights are concerned, there is a particular need for action in connection with the new technologies of the information society.

(g) A European currency

The introduction of the single European currency, which is not the subject of this report, is a fundamental step towards the completion of the European home market. It will also have been completed by the year 2002, when the euro will finally replace the national currencies of the participating countries.

(h) European economic policy

A European home market also requires a European economic policy. The coordination of economic policies is becoming increasingly important as the national economies increasingly converge. The Treaty lays down a specific procedure for such coordination, in which the European Parliament is also actively - albeit insufficiently - involved. Early in the year, in February or March, the Commissioner responsible for economic and monetary affairs presents to the Committee on Economic and Monetary Affairs and Industrial Policy the annual economic report, which provides the basis for the broad guidelines of the economic policies of the Member States and the Community. Parliament delivers its opinion on this report in good time, before the economic policy guidelines are published. At the end of May, the Commissioner presents the economic policy guidelines to the Economic Affairs Committee and reports on the extent to which account has been taken of the European Parliament's opinion. In June Parliament finally adopts its report on the economic policy guidelines and, if the schedule of meetings permits, invites the President of the ECOFIN Council to appear before the Economic Affairs Committee

to explain to it the extent to which Parliament's opinion has been incorporated into the report that he will submit to the European Council. If the schedule of meetings makes this impossible, because the European Council has already met, the President of the ECOFIN Council nonetheless appears before the committee to present the conclusions adopted by the European Council and explain how Parliament's opinion has been taken into account. This complex procedure has developed in recent years on the basis of the provisions of the Treaty, and makes greater democratic involvement possible in this important policy area.

There is also the procedure of 'multilateral surveillance', which is intended to ensure closer coordination of economic policy and long-term convergence of the economic performance of the Member States. The Council, using reports from the Commission, monitors economic developments in each Member State and in the Community, as well as the compatibility of economic policy with the broad guidelines referred to above. It makes an overall assessment at regular intervals. Parliament's role is limited here, since it is only informed after the event. However, the Committee on Economic and Monetary Affairs and Industrial Policy regularly conducts hearings involving the various finance ministers. Where competition policy is concerned, the provisions of the Treaty are satisfactory and sufficient, but they must be applied consistently.

The decisions taken by the Amsterdam European Council have already achieved a great deal in terms of budgetary policy. The Stability and Growth Pact that was adopted there, in the framing of which the European Parliament played an active part, is a major step towards the coordination of the budgetary policies of the participating countries. It gives the European Union increased rights of intervention in national budgetary policies, similar to what is possible in federal States such as Switzerland, the United States or Germany. There are no comparable penalties available in those countries which may be deployed against individual cantons, States or *Länder* which pursue unsound budgetary policies. The Stability and Growth Pact is thus new territory where financial policy is concerned. Ultimately, with the introduction of the single currency, European monetary policy will be in the hands of the European Central Bank.

(h) Environmental and social conditions

Economic policy in the European home market must be based on the principles of the ecological and social market economy. Where the protection of social rights is concerned, the adaptation of training and social protection systems referred to by the Commission is very important as a means of dealing with the consequences of industrial restructuring. The encouragement of labour mobility within the European Union is another major consideration. It includes, for instance, measures to coordinate national social security arrangements and also the recognition of diplomas awarded in other Member States; as mentioned earlier, this still comes up against many obstacles in practice. The establishment of a European Agency for the Approval of Food Additives and Agrochemicals would be an important measure contributing to consumer protection.

22 October 1997

OPINION
(Rule 147)

for the Committee on Economic and Monetary Affairs and Industrial Policy

on the communication from the Commission on the Action Plan for the Single Market (CSE(97)0001 - C4-0286/97); report by Mr von Wogau

Committee on Research, Technological Development and Energy

Draftsman: Mrs Elly Plooij-van Gorsel

PROCEDURE

At its meeting of 27 May 1997 the Committee on Research, Technological Development and Energy appointed Mrs Elly Plooij-van Gorsel draftsman.

It considered the draft opinion at its meetings of 7 October 1997 and 21 October 1997.

At the latter meeting it adopted the following conclusions by 12 votes to 9.

The following were present for the vote: Scapagnini, chairman; Quisthoudt-Rowohl and Adam, vice-chairmen; Plooij-van Gorsel, draftsman; Ahern, Argyros, Bloch von Blottnitz, Camisón Asensio (for Mombaur), Chichester, Denys, Desama, Estevan Bolea, Ferber, Haug (for Lange), Heinisch (for Rovsing), Linkohr, Macartney (for Weber), McNally, Malerba, Marset Campos, Matikainen-Kallström, Soulier, Stockmann, and W.G. van Velzen.

INTRODUCTION

On 4 June 1997 the Commission published its Action Plan for the Single Market (CSE(97)1 final). On 12-13 June it presented the Action Plan to the European Council, at the Amsterdam Summit. In response, the European Council Presidency conclusions included the following endorsement:

"The European Council reaffirms the importance it attaches to a well functioning internal market as an essential element of the overall strategy to promote competitiveness, economic growth and employment throughout the Union. It welcomes the Commission's "**Action Plan for the Single Market**" and endorses its overall objective. The four strategic targets in the Action Plan should form the basis for a renewed political effort to remove remaining obstacles so as to ensure that the full potential benefit of the Single Market is realised."()

And later added:

(¹) (European Parliament Bulletin, Special Edition 2/S-97 (SN 150/97) p.12)

"The European Council welcomes the commitment by the next three Presidencies to give priority to the Action Plan. It invites the European Parliament to lend its political support to the Action Plan with a view to accelerating, to the maximum extent possible, the adoption of those legislative measures concerned."()

We should, therefore, take the Action Plan seriously, and this Opinion will describe and comment on those elements of the Action Plan which fall within the competences of the Committee on Research, Technological Development and Energy. Overall, the Action Plan represents an acknowledgement that the process which started with the Treaty of Paris, which was dramatically expanded by the Treaty of Rome, which was seriously compromised by the ironically appropriately named 'Luxembourg Compromise', and which was re-launched by the Single European Act, is still unfinished. The Single Market has yet to be fully achieved.

The Action Plan follows the Commission's report on the Impact and Effectiveness of the Single Market. It sets four 'Strategic Targets', to be pursued in parallel. They are described as follows:

- " 1. **Making the rules more effective:** The Single Market must be based on confidence. Proper enforcement of common rules is the only way to achieve this goal. Simplification of rules at Community and national level is also essential to reduce the burden on business and create more jobs.
2. **Dealing with key market distortions:** There is general agreement that tax barriers and anti-competitive behaviour constitute distortions that need to be tackled.
3. **Removing sectoral obstacles to market integration:** The Single Market will only deliver its full potential if remaining barriers - and, of course, an new ones - are removed. This may require legislative action to fill gaps in the Single Market framework, but also calls for a significant change in national administrations' attitudes towards the Single Market.
4. **Delivering a Single Market for the benefit of all citizens:** The Single Market generates employment, increases personal freedom and benefits consumers, while ensuring high levels of both health and safety and environmental protection. But further steps are needed. And to enjoy their Single Market rights to the full, citizens must be aware these rights and be able to obtain redress." ()

Commentary

Within each Strategic Target, a number of important specific actions are identified. In Target 1 we find a promise to develop a user-friendly Community patent system, to support innovation in Europe. The Committee on Research, Technological Development and Energy welcomes and endorses this initiative, and fully agrees that the existing system of national patents plus the European Patent Convention / European Patent office is not user-friendly, is difficult to enforce, and is very expensive for any individual or SME seeking Europe-wide patent protection for an invention.

() (ibid - p.14)

() (COM(97) 184 final - p.6)

In Target 2 we find mention of the proposal to restructure and extend the Community framework for the taxation of energy products, which at present only applies to mineral oils. Other products are taxed (if at all) at widely varying rates chosen by the Member States, which leads to market distortions between different energy sources, and between different Member States. The Commission proposes that a carefully tailored Community minimum rate system should be extended to cover all energy products, to be followed by a gradual harmonisation of national taxes in this domain. This is a somewhat controversial proposal, since it could be argued that national taxes on energy can also be tools of national competitiveness, or tools of environmental policy. The Committee on Research, Technological Development and Energy is called upon to examine this proposal in a separate opinion, and has yet to adopt definite conclusions.

In Target 3 we find Action 1: "Break down the barriers in service markets." This refers, *inter alia*, to the action required to complete the opening up / liberalisation of public utilities, "taking full account of the need to promote access for everyone to services of general interest". The Commission stresses the importance of agreeing the liberalisation of gas supplies, and the effective implementation of the directives concerning the markets for electricity and for telecommunications. The Committee on Research, Technological Development and Energy supports a balanced opening up of these markets, and stresses that European competitiveness on a global scale is inextricably linked to such policies.

In Target 3, Action 4: "Face the challenge of innovation and new technology", we encounter a subject of fundamental importance to both the Committee on Research, Technological Development and Energy, but also perhaps to the whole Action Plan in a global context. This subject is of such importance that it warrants major attention in this Opinion:

Information and Communication Technologies (ICTs) in the Global Marketplace()

(¹) Many of the issues raised here are covered in greater depth in the June 1997 special issue (Made in Europe) of the IPTS report, and in particular in the article by Luc Soete entitled "The Impact of Globalisation on European Economic Integration", pp 21-28. (European Commission, JRC, IPTS Report no. 15, June 1997). The Committee on Research, Technological Development and Energy has also drawn up a report 'on the development and application of new information and communications technologies (ICT) in the next decade' (rapporteur: Elly Plooij-van Gorsel, doc. A4-0153/97, Minutes of 12 June 1997 (PE 260.312)).

We are increasingly familiar with the claim that we are currently witnessing a 'globalisation' of the world economy, and its hitherto disparate markets. At the core of this process we find a convergence of rapidly evolving technologies which have dramatically increased our ability to process and communicate information, and which have dramatically reduced the cost of so doing - both of which trends look set to continue. (A simple demonstration of the power and market potential of these technologies was afforded by the spectacular number of 'visits' to the NASA website providing details of the Mars Pathfinder mission in July of this year. Within 48 hours several million 'hits' had been recorded, from all over the world.) In areas such as financial services, where penetration of these technologies has been accompanied by liberalisation and de-regulation, the globalisation process has been extremely rapid. Indeed daily flows of capital on foreign exchange markets now amount to over \$1000 billion - about ten times the value of the world trade in goods. In the manufacturing sector, ICTs render markets increasingly transparent, which in turn reinforces the possibilities of international (re-) location. Even more dramatically

in the service sector, the same market transparency, coupled with the ability to move information around the world at low cost, has greatly increased the remote provision of often complex and high value services.

All of these developments lead us to ask one simple question: is the relatively slow, incremental, planned establishment of the European Single Market increasingly being overtaken by global events?

From the 1950s to the 1980s, the main emphasis in the European Communities was on manufacturing industry and agriculture, which were to benefit from the scale advantages of operating in what is now the world's largest internal market. By and large, this 'project' has now been achieved - although in some sectors, even the availability of such a large market has not guaranteed success for European companies: the export led growth in the manufacture of electronic consumer products in the Far East being a case in point. On the other hand, even a cursory examination of the Action Plan reveals that in the service sector, economic integration has been much more slow and difficult to achieve, and the liberalisation pressures operating at a global level via WTO are now outstripping the more measured development of the European internal market. Soete (op.cit, p.24), even suggests that in both the manufacturing and service sectors, the availability of a large and safe European internal market may have actually inhibited the development of more globally competitive enterprises. Moreover, the increasing emphasis on economic cohesion has almost certainly led to a reduction in labour mobility in Europe. Soete also wonders whether a similar analysis can be applied to the European R&TD Framework Programmes - in that by concentrating on intra-European collaboration, they may have neglected to encourage the increasingly important global collaborations which now characterise the high-tech sector. (The Committee on Research, Technological Development and Energy has made a similar point in several of its recent reports.)

One development, which stems from such technological collaboration, and which deserves particular attention in the globalisation process, is the continuing growth in electronic commerce.

The Challenge of Electronic Commerce

The Information and Communication Technologies referred to above are now reaching sufficient maturity to offer a radically different way of doing business - electronic commerce - in which goods or services are offered, ordered, paid for, and sometimes even delivered, on-line, usually via the Internet. This possibility challenges most of the traditional assumptions concerning trade and commerce. The supplier can be located anywhere on the planet, as can the customer: all that is required is that they can communicate with each other. The supplier does not even have to be in the same country as, for example, the warehouse holding the goods to be despatched, or the persons writing the software to be delivered. Electronic commerce has already become an established way of doing business within and between firms, often relying on the internal security provided by an Intranet. There is obviously an enormous potential to extend such commerce, provided that customers can be reassured that suppliers are who they say they are, that transactions can remain confidential if so required, and that in particular methods of payment can be devised which are completely secure, perhaps via the development of digital signatures. (Digital signatures are, unfortunately, a two-edged sword - since as well as providing security to legitimate purchasers and suppliers, they might provide the same security to criminals such as money launderers.)

The Commission has this year published a Communication on this subject(

), which offers a good overview of the potential of, and the problems posed by electronic commerce. The potential is perhaps fairly self-evident; but the

The Ministerial Conference on Global Information Networks, which was held in Bonn from 6-8 July 1997, did address a number of these issues, and your draftsman had the opportunity, as the representative of the European Parliament's Committee on Research, Technological Development and Energy, to make a number of the points which are included in this Opinion. Perhaps the key issue to be addressed by the EU in this context is how to ensure that the cultural richness, educational variety, and linguistic diversity in Europe becomes a competitive advantage rather than disadvantage.

CONCLUSIONS

The Committee on Research, Technological Development and Energy asks the Committee on Economic and Monetary Affairs and Industrial Policy to include the following conclusions in its draft resolution:-

Add the following recitals and paragraphs:-

1. Whereas the traditional approach of a relatively slow and carefully planned establishment of the European Single market faces new challenges from the increasing pace of globalisation of the world economy, reinforced by developments in information and communication technologies (ICTs);
2. Whereas a major challenge for the EU is to build future economic success on differentiated markets and local creativity;
3. Echoes the W.G. van Velzen report (on the Commission White Paper on an energy policy for the EU) and the Chichester report (on the European Community gas supply and prospects) in calling for the full implementation of freedom of choice for consumers in the electricity and gas sector, i.e. the establishment of a genuine European internal market in this sphere;
4. Whereas the current approach to the encouragement of geographically restricted collaborative R&TD projects should be broadened to include more open, multilaterally agreed, global collaborations, which emphasize the importance of mutual recognition;

(
) , which offers a good overview of the potential of, and the problems posed by electronic commerce. The potential is perhaps fairly self-evident; but the problems, hinted at above, and which include the fundamental or

) **A European Initiative in Electronic Commerce** (Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions) COM(97) 157 final

5. Stresses that the establishment of a European market, based on joint rules, for the provision of basic services is an essential element in improving European competitive performance;

6. In this context, stresses in particular the importance of establishing a Single European Market in information services, and the full participation of the EU in the development of global electronic commerce based on multilateral, rather than bilateral, agreement;
7. Considers it crucial, however, that an equal emphasis be placed on the encouragement of decentralised, culturally diverse and creative developments in the use of ICTs in Europe, so as to benefit from, rather than be handicapped by, Europe's rich variety;
8. Points out that the Commission's Action Plan seeks to encourage measures to combat over-regulation and foster the simplification of legislation and takes the view, therefore, that the Commission could help to achieve this objective by withdrawing its proposal to introduce Integrated Resource Planning (IRP) into the electricity and gas industry in the form of a directive.

OPINION
(Rule 147 of the Rules of Procedure)

for the Committee on Economic and Monetary Affairs and Industrial Policy

on the communication from the Commission on the Draft Action Plan for the Single Market (CSE(97)0001 - C4-0286/97); report by Mr von Wogau

Committee on Legal Affairs and Citizens' Rights

Draftsman: Mr Luigi Andrea Florio

Letter from the committee chairman to Mr von Wogau, chairman of the Committee on Economic and Monetary Affairs and Industrial Policy

Brussels, 28 October 1997

Dear Mr von Wogau,

The Commission presented its communication on the Action Plan for the Single Market () at the Amsterdam Summit. The European Council endorsed the overall objective of the Action Plan as the basis for action to improve the performance

The four Strategic Targets are to:

1. make the single market rules more effective by:
 - * implementing the single market legislation immediately;
 - * establishing a framework for enforcement and problem-solving;
 - * simplifying and improving national and Community rules, for example by extending the SLIM programme and other simplification exercises to other sectors (such as VAT, banking, insurance and securities) and simplifying national regulatory and administrative procedures for business start-ups;
 - * plugging the gaps in the existing legal framework with, for example, initiatives on public procurement, European standardization, implementation of the Customs 2000 programme and the reform of the transit system;

() at the Amsterdam Summit. The European Council endorsed the overall objective of the Action Plan as the basis for action to improve the performance of the single market in the years ahead in order to guarantee the
) CSE(97) 1 final, 4 June 1997.

2. deal with key market distortions by:

- * removing tax distortions with an agreement on a tax package including a code of conduct designed to reduce tax competition and measures to eliminate distortions in the taxation of capital and in the area of indirect tax legislation;
 - * creating a common system for value-added tax;
 - * simplifying anti-trust rules;
3. remove sectoral obstacles to market integration by:
- * breaking down the barriers in the service markets with measures including a new directive on Collective Investment Schemes and the abolition of restrictions on the investment of pension funds;
 - * strengthening checks on products by introducing tougher rules for market surveillance in certain areas;
 - * improving the business environment for cross-border operations with measures including a European Company Statute;
4. deliver a single market for the benefit of all citizens by:
- * abolishing border controls;
 - * updating the rules on the right of residence;
 - * protecting social rights;
 - * protecting consumer rights and health.

The priorities for 1997 are the actions covered by Strategic Target 1, which do not require any new legislation, and by Strategic Target 3, which do require some new measures.

Agreement on the remaining measures still has to be reached by 1 January 1999.

The Committee on Legal Affairs and Citizens' Rights considered its draft opinion on the Action Plan for the Single Market at its meetings of 3 September, 24 September, 13 October and 27 October 1997 and adopted the following conclusions unopposed with one abstention().

(¹) The following were present for the vote: De Clercq, chairman; Palacio Vallelersundi, vice-chairman; Rothley, vice-chairman; Florio, draftsman; Berger, Cassidy, Cot, Gebhardt, Janssen van Raay, Krarup, Malangré, Medina Ortega, Mosiek-Urbahn, Oddy, Ullmann, Verde i Aldea and Wieland.

The Committee on Legal Affairs and Citizens' Rights:

- A. welcomes the Action Plan for the Single Market, which is based on four Strategic Targets, nineteen actions and three phases for action, and undertakes to give priority treatment to the legislative proposals it contains;
- B. entirely agrees that top priority must be given to the actions under Strategic Target 1 'Making the rules more effective';
- C. therefore assures the Commission that it will fully support the implementation of the Action Plan;
- D. calls on the Committee on Economic and Monetary Affairs and Industrial Policy to include the following points concerning Strategic Target 1 in its motion for a resolution:

The European Parliament,

- 1. Asks the Commission to clarify the purpose and contents of the new 'Single Market Scoreboard' (Action 1 of Strategic Target 1) and, in particular, to explain whether it is intended to replace the annual reports on the application of Community law or whether it is to be used as a kind of league table to shame the Member States into issuing justifications;
- 2. Is pleased to note that the Commission intends to accelerate its investigation of complaints from business and individuals and the treatment of infringement proceedings and hopes that it will no longer be the case, as on numerous occasions in the past, that complaints are processed after long delays or are left unanswered;
- 3. Asks the Commission to clarify its statement (Action 2 of Strategic Target 1: Establish a framework for enforcement and problem-solving) that:
 - '... the Commission should be able to take urgent action against Member States which fail in these obligations, using sanctions where necessary. Strengthening of the Commission's enforcement powers would contribute to this end and to the reduction of delays in problem-solving' (Action 2 of Strategic Target 1, final sentence of English text of 4 June 1997).

Reiterates the demand it made to the Commission on 11 December 1996 (resolution on the Commission's work programme for 1997) to adopt a decision in which it undertakes to appeal to the Court of Justice to impose fines where a Member State has failed within a period of one year to take the necessary measures to implement a Court judgment, notably in fields concerning the internal market and the environment (Article 171 of the EC Treaty);

- 4. Welcomes the increased scientific and technical consultation proposed by the Commission, but stresses that, particularly in view of experience with BSE, care must be taken to ensure the impartiality of experts and the transparency of decision-taking;
- 5. Stresses at the same time that the concept of deregulation cannot be taken to mean obstructing legislation where it is needed; deregulation means drawing up or recasting the necessary rules to make them clearer and simpler so that the law can be applied more effectively and more cost-efficiently;

6. Welcomes the further legal provisions deemed necessary by the Commission, particularly in the following areas: further harmonization of technical standards where the mutual recognition principle cannot be applied and the single market is affected; the creation of a single market for investment funds; adoption of common product-safety standards; a directive to reduce late payments;
7. Regrets that certain parts of the plan involve delays in practice owing to the adoption of new communications strategies that have already been announced (white papers, green papers, communications and action programmes); considers that this investment of time and resources by the Commission and other institutions of the European Union will not make an effective contribution to the smooth operation of legislative activity;
8. Points to its position on standardization and technical specifications:

Wherever technical standards are to have legally binding effects (through incorporation into Community law) they should be elaborated within the existing framework for so-called 'formal standards' i.e. in the framework of the European Standardization Institutions.

'Publicly available specifications' do not seem to be fit for this purpose();
9. Calls on the Commission, the Council and the Member States to comply with the Treaties and dismantle passport controls, which still hinder the free movement of persons, and to strengthen all measures which enable more citizens of the EU to avail themselves of freedom of movement;
10. Points to the non-specific nature of the actions under Strategic Target 4 (especially Action 5 'Protect consumer rights, health and the environment' and Strategic Target 6 'Develop a Dialogue with the Citizen' and calls on the Commission to put forward more specific proposals;
11. Emphasizes above all that if the goal of improving environmental and consumer protection is to be achieved, more vigorous action is needed at Community level, in accordance with the opinion of the Committee on Legal Affairs and Citizens' Rights on the Commission Communication to Parliament and the Council entitled 'The impact and effectiveness of the Single Market()' and with the views already expressed by the Commission itself.

(⁵) Opinion of 19 March 1997 for the Committee on Economic and Monetary Affairs and Industrial Policy on the Communication from the Commission to the Council and the European Parliament on 'Standardization and the global Information Society: The European Approach' (COM(96)0359 - C4-0523/96) - draftsman: Mr David Martin
 () and with the views already expressed by the Commission itself.) COM(96)0520 - C4-0655/96; opinion adopted on 16 April 1997 - draftsman: Mrs Berger

3 November 1997

OPINION
(Rule 147)

for the Committee on Economic and Monetary Affairs and Industrial Policy

on the communication from the Commission on the Action Plan for the Single Market (CSE(97)0001 - C4-0286/97); report by Mr von Wogau

Committee on Employment and Social Affairs

Draftsman: Mr Thomas Mann

PROCEDURE

At its meeting of 19 June 1997 the Committee on Employment and Social Affairs appointed Mr Thomas Mann draftsman.

It considered the draft opinion at its meetings of 6 October and 4 November 1997.

At the latter meeting it adopted the following conclusions unopposed with 1 abstention.

The following took part in the vote: Menrad, acting chairman; Ojala, vice-chairman; Mann, draftsman; Bennasar Tous (for Castagnetti), Boogerd-Quaak, Cabezón Alonso, Eriksson, Ettl, González Triviño (for Vandemeulebroucke), Hatzidakis (for Chanterie), Izquierdo Collado (for Andersson), Jöns, Lindqvist, Pronk, Theonas, van Velzen, Weiler and Wolf.

I. GENERAL COMMENTS

In submitting the Action Plan, the Commission is initiating a fresh attempt to complete or improve the internal market. From the point of view of social policy, there are three areas in which action is called for:

1. Promoting employment

Taxation

Cross-border economic activity is still hampered by the existence of different tax systems within the internal market. Frontier workers are particularly affected by differences in tax and social security contribution systems between Member States. In addition, the differing tax systems stand in the way of a broader tax reform which is desirable in order to reduce taxation of labour. The EP wishes tax systems to take greater account of ecological objectives and, in general, it wishes capital to be taxed more heavily among the production factors. However, it will be possible to reform tax systems to this end only if an approach coordinated throughout the Community is adopted which will prevent tax competition and relocation of capital, which is a relatively mobile factor.

Public contracts

In view firstly of the budget consolidation measures in the Member States, which considerably limit the scope for active social policies, and secondly of the large volume of public contracts (some ECU 720 billion per annum), consideration should be given to linking public contracts more closely to social objectives. However, the necessary transparency must be maintained, and the inclusion of social clauses in public contracts must not be abused for protectionist ends.

Public services

The EP advocates liberalization of public services. However, an approach must be adopted such as to ensure that the restructuring measures which are called for in many sectors and the resultant job losses are anticipated and alleviated by employment measures, which must be introduced at a sufficiently early stage.

2. Protection provisions

On the other hand, the further development of the internal market must not call into question the achievements of social policy and hence the quality of life in European society. On the contrary, efforts to introduce a social component to complement internal market provisions must be intensified. In particular, growing competition in the internal market must not damage workers' interests. Action is currently called for in the following fields:

Universal service

The extension of the internal market concept to the public services sector must not under any circumstances result in a decline in public services. The EP has repeatedly made it clear that it can accept the proposals for the liberalization of telecommunications, energy and public transport only if compliance with the universal service concept is guaranteed.

Adjustment and further development of employment protection provisions

- There is an urgent need for a review and adjustment of the existing Directives on labour law. In particular, bearing in mind Vilvoorde, consideration should be given to what penalties could be imposed at European level for violating existing provisions.
- Sectors such as transport, which are particularly affected by the internal market, are precisely the ones which are excluded from the Directive on working hours; these lacunae must be dealt with as quickly as possible.
- Increased competition and mobility of capital in the internal market call for a stepping-up of the social dialogue at enterprise level. It is to be hoped that the recently adopted Davignon report can achieve a breakthrough in negotiations on the participation of workers' representatives in decisions by enterprises and hence pave the way for the adoption of a European company statute. Common rules on informing and consulting employees at national level are also urgently needed to prevent distortion of competition. The Commission has recently initiated consultations on this subject with the two sides of industry in accordance with the Protocol on Social Policy.

- Effective rules must be devised for atypical types of work. The framework agreement on part-time working which was recently concluded by the two sides of industry seems inadequate in terms both of its content and of its field of application.

3. Coordination of social protection

The third aspect of the internal market which has implications for social policy is the position of migrant workers. The report adopted in spring 1997 by the group of experts chaired by Mrs Veil, identified the principal points with regard to which reforms are needed:

Easing access to employment

- further developing the EURES network;
- improving the system for the recognition of diplomas by providing more information to those concerned and by means of closer cooperation between authorities;
- promoting recognition of professional experience gained abroad.

Access to public-sector employment

In this connection it is proposed that the scope of the exception provided for by Article 48(4) of the Treaty (employment in the public service) be defined precisely, taking account of the case law of the Court of Justice of the European Communities.

Altering the scope of social protection coordination provisions

- facilitating the transfer of acquired rights with regard to private supplementary pensions;
- facilitating the transfer of benefits under early retirement schemes;
- simplification of administrative procedures;
- extension of entitlements to unmarried partners;
- partial extension of the scope of the coordination rules to workers from third countries who are legally resident in a Member State.

II. CONCLUSIONS

The Committee on Employment and Social Affairs calls on the Committee on Economic and Monetary Affairs and Industrial Policy, as the committee responsible, to incorporate the following conclusions in its report:

1. Calls on the Council to agree measures to eliminate market distortions arising from taxation and tax competition in the internal market; calls on the Commission to make practical proposals for eliminating double taxation of frontier workers; once again, furthermore, draws attention to the need to make tax systems more conducive to employment;

2. Calls on the Commission to submit proposals for taking greater account of Community and national social-policy objectives in the field of public contracts; calls in particular for an overhaul of the existing Directives to incorporate social-policy criteria for the assessment of the suitability of bidders and for awarding contracts;
3. Calls on the Member States and the Commission to alleviate the adverse impact on employment and on the access to services of the liberalization of public services by adopting appropriate social measures at a sufficiently early date;
4. Reiterates that the extension of the internal market concept to public services is acceptable only if the maintenance of public services is guaranteed in the form of a comprehensive universal service concept, with clear provision for the financing of services;
5. Calls on the Commission to investigate how the effectiveness of the labour-protection standards adopted at Community level can be increased; calls, in particular, for it to ascertain what penalties can be imposed for infringements of existing provisions;
6. Calls on the Commission to propose labour-law provisions for those atypical forms of employment to which the framework agreement on part-time working concluded between the two sides of industry does not apply;
7. Calls on the Commission to submit proposals for eliminating the inadequacies with regard to the coordination of social protection within the Community identified by the High-Level Group chaired by Mrs Veil;

OPINION
(Rule 147 of the Rules of Procedure)

for the Committee on Economic and Monetary Affairs and Industrial Policy

on the communication from the Commission on the Action Plan for the Single Market (CSE(97)0001 - C4-0286/97); report by Mr von Wogau

Committee on the Environment, Public Health and Consumer Protection

Letter from the committee chairman to Mr von Wogau, chairman of the Committee on Economic and Monetary Affairs and Industrial Policy

Brussels, 9 September 1997

Dear Mr von Wogau,

The Committee on the Environment, Public Health and Consumer Protection considered the above communication at its meeting of 4 September 1997

At that meeting it unanimously adopted the following conclusions():

More than four years after the target date of 1 January 1993, there is still no genuine single market for the European consumer. Anyone who has ever tried to register a new or used motor vehicle in another Member State or to take out an insurance policy for a legal asset located in a country other than the one where the insurance company has its registered office will know this from bitter experience.

Let us make it quite clear from the outset that this is certainly not primarily the fault of the European Commission which, since 1993, has made a large number of attempts to attain that objective; it is the fault of the Council and of the Member States.

1. Structure and terminology of the Action Plan

(^b) The following took part in the vote: Dybkjær, vice-chairman; Lannoye, vice-chairman; Campo y Zueco, Correía (for Bowe), De Coene (for Díez de Rivera), Eisma, Graenitz, Hardstaff (for Kuhn), McKenna, Oomen-Ruijten, Schleicher, Thyssen (for Virgin) and Valverde López.

In Strategic Target 4 - 'Delivering a Single Market for the benefit of all citizens' - the Committee on the Environment, Public Health and Consumer Protection is able to identify only one measure which will directly benefit the consumer: the establishment of a permanent, structured procedure for 'Dialogue with the Citizen'. It expressly welcomes this initiative and is aware, of course, that the other three strategic targets also include actions which may have a positive impact for the consumer.

Nevertheless, like last year's report on the impact and effectiveness of the single market, the structure and terminology of the Action Plan illustrates the Commission's approach which consists in giving the benefit of any doubt to supply-side interests. The strategic target devoted to consumers comes fourth out of four on the list. Furthermore, if the Commission is serious about 'Delivering a Single Market for the benefit of all citizens', why does it regularly fail to refer to the treaty article devoted to consumer protection, Article 129a, as a legal basis in its legislative proposals and refuse to quote Article 129a of the Treaty as a legal basis in the following instances:

- directive concerning injunctions for the protection of consumers' interests (COM(95)0712),
- directive amending Directive 79/112/EEC on the labelling and presentation of alcoholic beverages (COM(97)0020),
- regulation on measures to promote and market quality beef and veal and on publicity measures on the labelling of beef and veal (COM(97)0070),
- directive on the sale of consumer goods and associated guarantees (COM(95)0520)?

2. Individual instances

The committee also regrets the fact that the Commission is not prepared to pay the requisite attention to consumers in other important areas. Here are two examples:

(a) protection of minors

Children are becoming an increasingly important target group for advertisements which appeal to them either covertly or overtly. The entertainment industry, food and even alcoholic beverages provide examples of such marketing strategies. New transfrontier marketing forms, which have been made feasible by the Internet, demonstrate how urgently needed are Community measures for the protection of minors against advertisements of this nature.

(b) product liability in respect of financial services

Consumers must be given effective legal protection if they avail themselves of distance-selling of financial services. In the Action Plan, under Strategic Target 3: 'Removing sectoral obstacles to market integration', the Commission does say that it will be submitting a proposal for a directive in September 1997, but the choice of title is enough to make us fear that the interests of the supplier will be the focus of attention, not those of the consumer. Furthermore, it is not clear whether the Commission will be proposing provisions governing mortgage loans. That would be desirable, because consumers should be put in a position where they may take advantage of price differences in the Community.

Under no circumstances should the Commission proposal restrict itself to voluntary agreements with providers of financial services - that approach has already proved to be inadequate.

3. Conclusions

However much we may welcome the Commission's idea of improving the operation of the Single Market before 1 January 1999 with the aid of the Action Plan it has submitted, the document at issue is, nonetheless, disappointing from the European consumer's point of view.

Yours sincerely,

(sgd) Ken Collins

8 October 1997

OPINION
(Rule 147)

for the Committee on Economic and Monetary Affairs and Industrial Policy

on the communication from the Commission on the Action Plan for the Single Market (CSE(97)0001 - C4-0286/97); report by Mr von Wogau

Committee on Civil Liberties and Internal Affairs

Draftsman: Mrs Marjo Matikainen-Kallström

PROCEDURE

At its meeting of 19 June 1997 the Committee on Civil Liberties and Internal Affairs appointed Mrs Marjo Matikainen-Kallström draftsman.

It considered the draft opinion at its meetings of 3/4 September and 8 October 1997.

At the last meeting it adopted the following conclusions unanimously.

The following were present for the vote: d'Ancona, chairman; Reding and Vinci, vice-chairmen; Matikainen-Kallström, draftsman; Berger (for Ford), Bontempi, Cederschiöld, Colombo Svevo, Deprez, De Luca, Elliott, Lambraki (for Schulz), Lambrias (for Stewart-Clark), Lindeperg, Nassauer, Oostlander (for Posselt), Schmid, Terrón i Cusí and Zimmermann.

I. Introduction

The internal market should have been totally completed by 1 January 1993. As we are all aware, that did not happen, and there are still obstacles to be removed and problems to be solved.

Examples of problems are legion; the report of the Panel chaired by Mrs Simone Veil(

) is full of them, and numerous problems appear in case-law, too. However, the main problem falling within the remit of the Committee on Civil Liberties and Internal Affairs concerns the non-abolition of border controls at the internal frontiers.

For the Committee on Civil Liberties and Internal Affairs, the list drawn up by Mrs Veil's Panel can therefore serve as a starting point because it describes the problems, which is hardly true of the Action Plan.

() is full of them, and numerous problems appear in case-law, too. However, the main problem falling within the remit of the Committee on Civil Liberties and Internal Affairs concerns the) Report of the High-Level Panel on the Free Movement of People, chaired by Mrs Simone Veil, presented to the Commission on 18 March 1997 (hereinafter referred to as the Veil Report).

An important specific issue, the prevention of problems such as the increase in cross-border crime, also merits attention.

The Commission proposes actions on the basis of four strategic targets: making the rules more effective, dealing with key market distortions, removing sectoral obstacles to market integration and delivering a Single Market for the benefit of all citizens. With regard to that fourth target, the Commission proposes six actions, designed to:

- a. eliminate border controls
- b. update the rules on the right of residence
- c. protect social rights
- d. promote labour mobility within the Union
- e. protect consumer rights, health and the environment
- f. develop a Dialogue with the Citizen.

II. The European Single Market, Citizens' Rights and Border Controls

Article 7a of the EC Treaty is the basis for the Single Market. It states:

'The Community shall adopt measures with the aim of progressively establishing the internal market over a period expiring on 31 December 1992, in accordance with the provisions of this Article and of Articles 7b, 7c, 28, 57(2), 59, 70(1), 84, 99, 100a and 100b and without prejudice to the other provisions of this Treaty.

The internal market shall comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured in accordance with the provisions of this Treaty'.

Because of the time-limit laid down, 31 December 1992, and the clear reference to an area without internal frontiers, the European Parliament and the Commission have always held that all border controls should be eliminated by 1 January 1993, although the United Kingdom has always expressed a different view. In a legal opinion, the Commission states:

'The legal interpretation set out in Annex I can be summarized as follows:

- in defining the internal market as "an area without internal frontiers", the Single European Act was intended to give a new dimension to the operation of the different freedoms of movement provided for in the Treaty. The Community internal market must operate under the same conditions as a national market: just as there are no border controls between regions in a single Member State, goods, services, capital and individuals must therefore be free to move, unimpeded by any border controls, between Member States;
- this "area without internal frontiers" cannot be realized in practice unless all goods, services, capital and individuals moving within that area are covered; in the particular case of individuals, any interpretation of Article 8a that confined its effects to Community nationals only would deprive that Article of any practical effectiveness;
- the measures to achieve this objective are clearly set out in a timetable which runs until 31 December 1992 and adherence to which is underpinned by specific provisions (Articles 8b and 100b);

- Article 8a imposes on the Community, and therefore also on the Member States, an obligation to produce results; that obligation can be met only if all controls at internal frontiers are abolished.

Article 8a therefore establishes a clear and simple objective that allows no margin of discretion. But the abolition of border controls does not deprive the competent authorities of their power to act throughout their territory and up to the frontier of that territory. However, as the crossing of the frontier may no longer give rise to controls, such intervention must form part of internal monitoring arrangements covering the whole of the territory. Powers to impose controls or penalties which were exercised only on the occasion of, or in connection with, the crossing of an internal frontier would, therefore, be contrary to Article 8a.⁽¹⁾

No real definition of the free movement of persons is to be found either in the Veil Report or in the Action Plan. Article 7a, which constitutes the basis of free movement and of the internal market, may be interpreted in the following ways with respect to citizens' rights:

- (a) EC citizens have the right to cross borders without having to undergo checks at the borders⁽²⁾
- (b) EC citizens will enjoy the rights conferred by Articles 48-58 of the EC Treaty
- (c) EC citizens will enjoy the positive effects of non-discrimination in the Member States⁽³⁾
- (d) EC citizens will also enjoy the positive effects of the free movement of goods, services and capital.

For the four groups of rights referred to above, only one exception is generally accepted: the exception set out in Article 48(3) of the EC Treaty and in Directive 64/221/EEC of 25 February 1964⁽⁴⁾ which have to be interpreted in a restrictive way⁽⁵⁾.

The Treaty of Amsterdam does not modify Article 7a. Even where it seems to restrict the abolition of border controls to 13 or 12 Member States⁽⁶⁾

), this does not directly limit the scope of Article 7a, since the new Title might be deemed to be applicable only to the progress towards communitization

⁽¹⁾ SEC(92)0877 final of 8 March 1992, p.3, paragraphs 6 and 7. At that time, the current Article 7a was Article 8a of the EEC Treaty.

⁽²⁾ There is, however, serious controversy concerning the direct effect of this provision. At first sight, Article 7a tends to require the intermediary of directives or regulations, but there are other opinions: see also the Veil Report, p.17, first paragraph.

⁽³⁾ See Article 6 of the EC Treaty and the Veil Report.

⁽⁴⁾ which have to be interpreted in a restrictive way⁽⁵⁾ OJ L 56, p. 850.

⁽⁵⁾ Court of Justice, Case 36/75, ECR 1975-11, p. 1219.

⁽⁶⁾), this does not directly limit the scope of Article 7a, since the new Title might be deemed to be applicable only to the progress towards communitization which the Treaty will bring.

) See Protocols X, Y and Z.

III. Right of Residence

It is quite clear that there are persistent obstacles affecting the right of residence. They mainly concern the conditions governing the right of residence as defined in the applicable directives and regulations⁽¹⁾:

- a. delays in the issuing of residence permits;
- b. difficulties concerning proof of sufficient resources;
- c. restrictions on job-seekers which are not in accordance with the case-law of the Court of Justice⁽²⁾;
- d. problems concerning sickness insurance⁽³⁾;
- e. problems concerning the residence of family members or partners;
- f. no right of abode for self-employed persons who become unemployed;
- g. the requirement to provide proof and documents in the language of the host Member State, which sometimes makes certified authentic translation necessary.

It is impossible to deal with all the problems referred to above and with the other outstanding problems within the framework of an opinion. Nevertheless, after the adoption of the general right of residence set out in Directive 90/364/EEC, the remaining problems can be deemed to be mainly secondary in nature, although they may be very important for the persons involved. Given the principle of subsidiarity, and by applying simple common sense, it becomes clear that we do not need to adopt specific legislation to solve all the problems referred to above and in the Veil Report. A cautious attitude is required, and an informal but insistent approach by the Commission, which could be specifically referred to in a new directive, might be sufficient to convince some administrations and Member States that their rules and practices should become more supportive of free movement.

IV. Technological Developments and Security

It is widely held that the free movement of persons must be accompanied by measures which prevent cross-border crime from profiting from open borders. New technological developments can help, as is shown by the Customs Information System, the Schengen Information System and Europol.

In a world which is daily becoming increasingly open, we must investigate how cross-border crime and drug trafficking can be combated. Although this subject is a matter for the third pillar (Title VI of the Treaty on European Union), it would be helpful if the Commission would constantly monitor technological developments which facilitate the transfer of information and external border controls. New technical equipment may be available for the protection of the external borders of the Union, and many technical possibilities may exist which are currently not being used to detect crime.

⁽¹⁾ Regulations 1612/68, 1251/70 and Directives 68/860, 73/148, 75/34, 75/35, 90/364, 90/365 and 93/96.

⁽²⁾ Case C-344/95 Commission vs Belgium, judgment of 20 February 1997.

⁽³⁾ Some schemes are limited to paying expenses within the Member State where the schemes are subject to an agreement.

V. Inadequate Codification of Legislation in the Community and Inadequate Information for Citizens

The number of directives and regulations referred to in the footnote in Section III of this opinion shows how badly organized Community legislation is. Instead of legislation in the form of books of law on specific subjects, almost every step forward in the harmonization of legislation is enshrined in separate directives and regulations which are limited in scope and often have slightly different rules for slightly different groups.

The Commission should not be content solely with harmonizing the rules governing the right of residence. As well as developing books of law as a general activity, it should compile a book of law on citizens' rights and, until it has done so, make available a consolidated text, accessible by computer, which takes a systematic approach to all the rules which are applicable in order to promote the free movement of persons and reduce all the obstacles thereto.

VI. Promoting Labour Mobility within the Union

The Commission is concerned that labour mobility remains minimal and that this results partly from the outstanding barriers to the free movement of persons. Of course, mobility can be promoted, but it is doubtful whether people can be asked or even forced to move from one Member State to another to find a job.

In our view, citizens may be perfectly happy living in their own Member State, and an increase in the number of people travelling from one Member State to another to seek work might actually create problems. On the other hand, it might be a good idea if public-sector employers were obliged to enter their vacancies into a computer system (such as Internet) and if private-sector employers were asked to do the same. The Commission might have to provide the framework for such a system so that data would be available and accessible in a structured way.

VII. Conclusions

The Committee on Civil Liberties and Internal Affairs calls on the Committee on Economic and Monetary Affairs and Industrial Policy, the committee responsible, to include the following paragraphs in its resolution:

1. Insists that the Commission must maintain its
 - (i) proposal for a Council Directive on the elimination of controls on persons crossing internal frontiers;
 - (ii) proposal for a Council Directive on the right of third-country nationals to travel in the Community; and
 - (iii) proposal for a European Parliament and Council Directive amending Directive 68/360/EEC on the abolition of restrictions on movement and residence within the Community for workers of Member States and their families and Directive 73/148/EEC on the abolition of restrictions on movement and residence within the

Community for nationals of Member States with regard to establishment and the provision of services;

2. Calls on the Council to adopt those proposals as quickly as possible, taking into account the amendments proposed by the European Parliament, and, similarly, to adopt all the requisite accompanying measures as quickly as possible;
3. Is of the opinion that there are no grounds for the Council to wait until the entry into force of the Treaty of Amsterdam before adopting the measures provided for in paragraphs 1 and 2 above, since free movement of persons should have been introduced by 1 January 1993;
4. Calls on the Commission to submit a proposal to improve the situation as regards the right of residence and to develop this right in a general way, in line with the case-law of the Court of Justice and with the general principle of equal treatment of EC citizens;
5. Believes that solutions must be found, as a matter of priority, to the following problems: delays in the issuing of residence permits, difficulties concerning proof of sufficient resources, restrictions on job-seekers which are not in accordance with the case-law of the Court of Justice, problems concerning sickness insurance, problems concerning the right of residence of family members or partners, the right of abode of self-employed persons who become unemployed, the requirement to provide proof and documents in the language of the host Member State, which sometimes makes certified authentic translation necessary; is of the opinion that a solution could possibly be found in new legislation but also that obstacles could be eliminated if the Commission established active contact with national authorities;
6. Recalls the practical citizen-friendly proposals contained in the 'Report of the High Level Panel on the Free Movement of Persons' and in particular those relating to residency and 'smart social security cards';
7. Calls on the Commission to examine on a case-by-case basis all complaints made by citizens concerning the free movement of persons and, at the end of its investigations, to consider whether Article 169 of the EC Treaty should be applied;
8. Calls on the Commission to develop a more transparent method of legislating, to compile a book of law on citizens' rights and to develop an information system on citizens' rights where citizens can find the consolidated version of Community law governing citizens' rights in the broadest sense of the term;
9. Calls on the Commission to develop a low-cost efficient information system, without bureaucratic involvement, in which public-sector employers and private-sector employers can enter the jobs which are available;
10. Calls on the Commission to develop the EURES Programme but warns that no new bureaucracies must be created;
11. Is of the opinion that the Commission should carefully study the potential of new technological developments and promote the use of modern technology for checks at

external borders and for the exchange of information on cross-border crime and drug trafficking.