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**COMMUNICATION FROM THE COMMISSION
TO THE COUNCIL, THE EUROPEAN PARLIAMENT,
THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE
AND THE COMMITTEE OF THE REGIONS**

Second Implementation Report of the Internal Market Strategy 2003-2006

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PART A: INTRODUCTION

This report forms part of the economic and employment policy “implementation package” together with the Broad Economic Policy Guidelines (BEPG) and the Employment Guidelines (EG) implementation reports. All three reports will be presented in support of the Commission’s Report (Lisbon Mid Term Review) to the Spring European Council 2005.

The recent Kok¹ report reminds us of the importance of the Internal Market in enhancing competitiveness and creating the wealth necessary to raise living standards and maintain the European social model. This echoes the principal message of the Internal Market Strategy 2003-2006.²

Whilst each Member State has prime responsibility for ensuring that its own economic policies are conducive to promoting growth and prosperity, the Internal Market is a common project to which all Member States must contribute and from which we all stand to gain. In EU-25, this is an even greater challenge but the potential rewards are also greater. This was the second main message of the Internal Market Strategy.

Economic success for the European Union thus relies upon collective responsibility; a combination of Member State initiatives and European action designed to integrate national markets into one large Internal Market. Such action needs to address both the supply and the demand side, taking account of the interests of businesses and consumers. This report on the implementation of the Internal Market Strategy 2003-2006 confirms the need to act together. Its analysis of the progress and delays so far shows that more needs to be done to get agreement on key proposals and to make the Internal Market work better in practice, whilst market integration remains more or less static.

At the start of its mandate and as the mid-term review of the Lisbon Strategy gains momentum, the Commission welcomes the opportunity to raise the profile of the Internal Market and build stronger support for its completion and its effective functioning in practice.

¹ High Level Group chaired by Wim Kok : Facing the Challenge : the Lisbon strategy for growth and employment, 3 November 2004.

² COM(2003) 238 final of 7.5.2003.

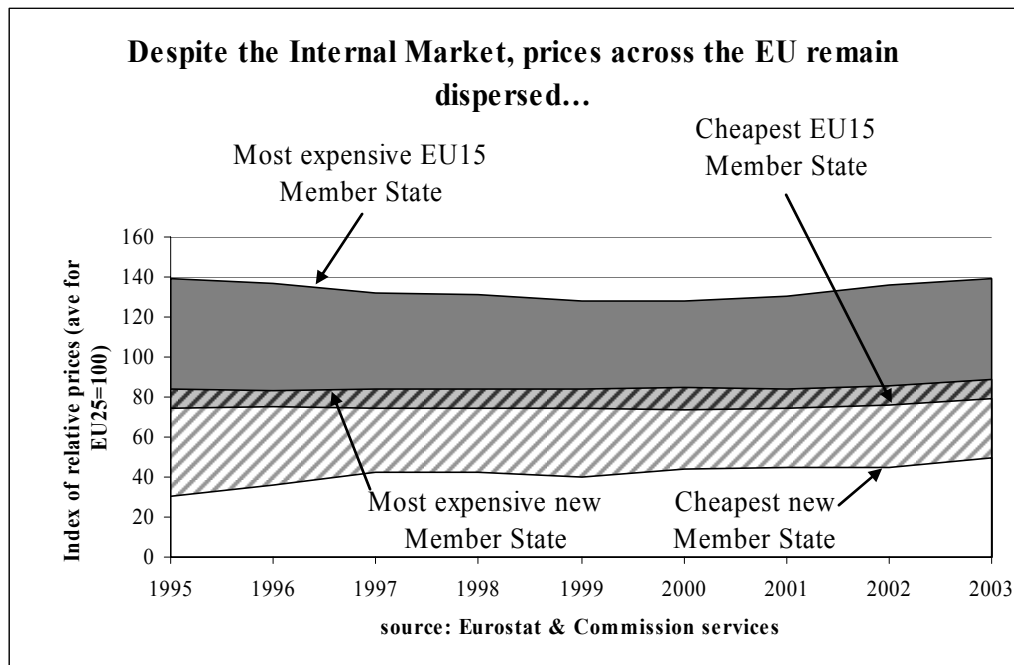
PART B: THE PRESENT STATE OF THE INTERNAL MARKET

In addition to slow economic growth, other key indicators continue to suggest that Internal Market integration is stagnating.

Prices across the EU are not converging ...

When trade is easy, the resulting competition keeps the price of similar goods close together across the EU. In goods sectors where the Internal Market has made trade much easier – e.g., clothing, footwear and alcohol – prices have converged most³. Overall including in the Euro zone, continuing barriers mean that prices of similar goods across Member States remain obstinately different (see graph 1).

Graph 1

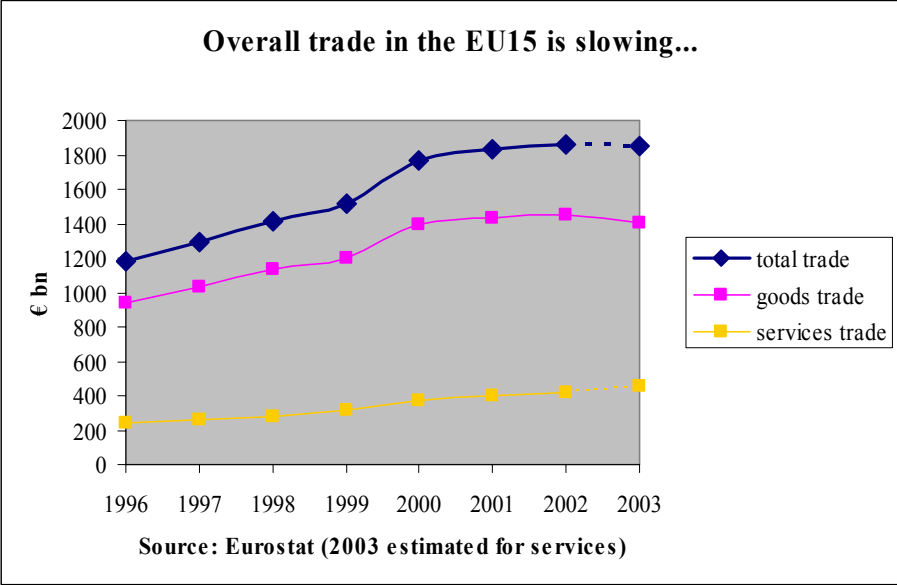


³ Engel, C. & Rogers, J. (2004) "European product market integration after the euro", Economic Policy, July, pp.348-384.

Trade is slowing...

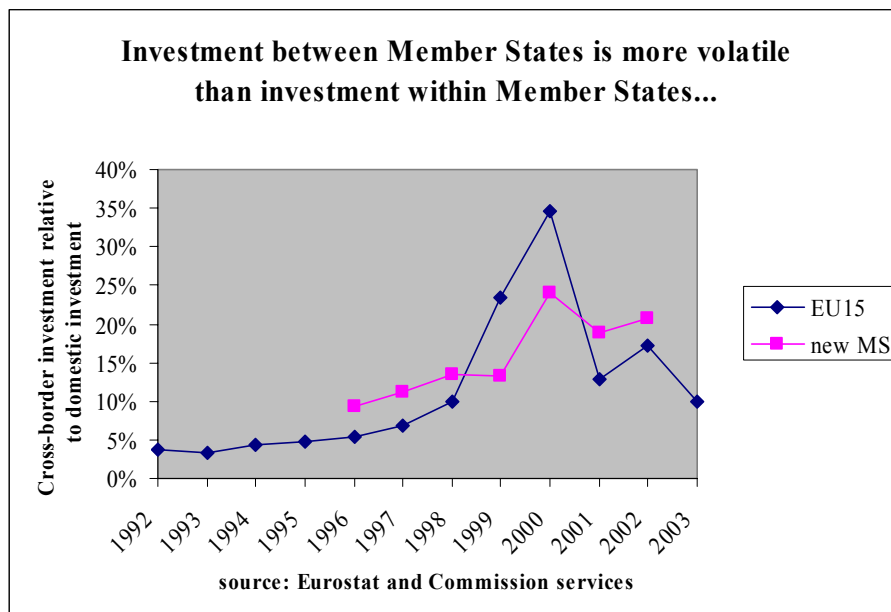
Manufacturing trade between Member States has stagnated since 2000 and actually fell in 2003. Trade in services seems more durable (although data are only available up to 2002), but the poor performance of goods dominates the overall trade figures – as trade in services is only about 20% of the value of goods trade. A slowdown in trade means less competitive pressure on prices.

Graph 2



And foreign investment flows are rather volatile...

Graph 3



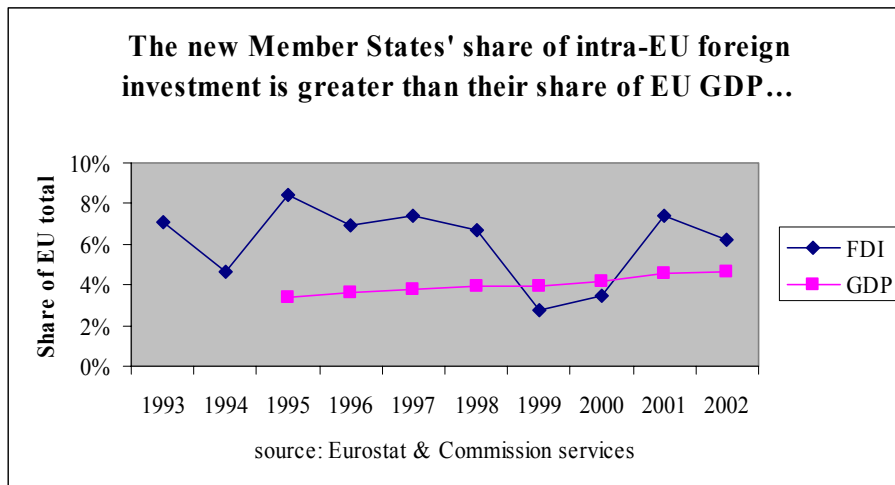
Studies suggest higher foreign investment leads to higher productivity growth in recipient economies⁴. Increased cross-border investment between Member States in the EU has been a significant driver of Internal Market integration and has grown substantially faster than domestic investment over the last decade. In EU 15 the total value of FDI flows in 2000 was twelve times larger than in 1992, but by 2003 had fallen to (a still respectable) 4 times the 1992 level.

There could be many reasons for the volatility in FDI over recent years including the end of the “dot com” boom and 9-11. Nonetheless, the volatility of FDI flows compared to domestic investment (see graph 3) suggests that integration still has some way to go and that investors do not yet see investment in the Internal Market in the same way that they see investment in their domestic markets.

The graph also indicates that inflows of foreign investment compared to total investment are higher in the new Member States than they are in EU 15 (apart from the exceptional years of 1999 and 2000). The new Member States also receive a disproportionately high share of intra-EU FDI inflows compared to their economic size (see graph below), although they start from a much lower investment base. This would seem to suggest that Internal Market integration is an important factor in the development of the supply side economy in the new Member States and that access from them to the EU Internal Market may be an important magnet for foreign investment.

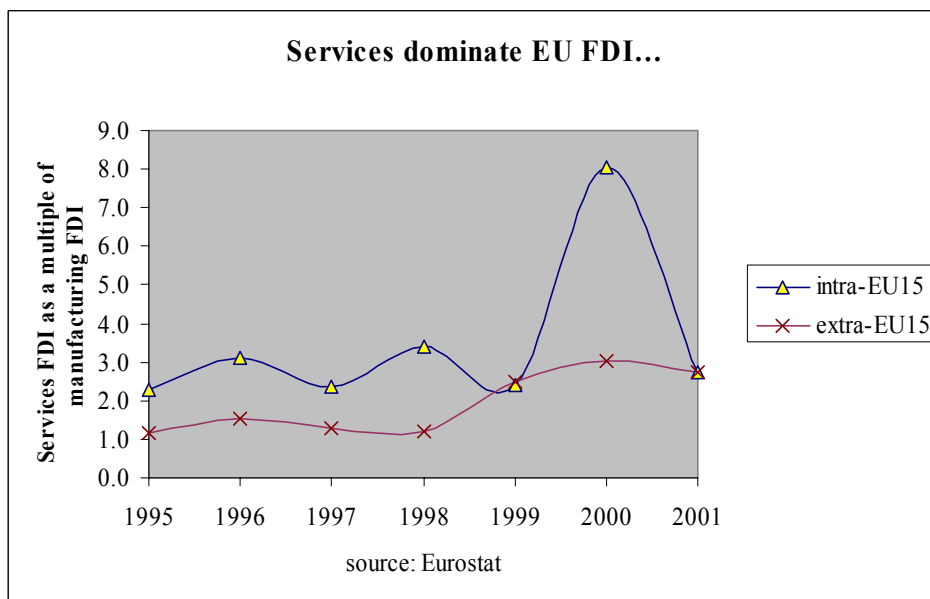
⁴ Aghion, P. et al (2004) “Entry and productivity growth: evidence from microlevel panel data”, Journal of the European Economic Association, April-May 2(2-3), pp. 265-76.

Graph 4



Foreign investment between EU 15 Member States focuses on service sectors. Generally, services receive three times more foreign investment than manufacturing; in 2000, services received eight times more. EU businesses also favour services over manufacturing in the rest of the world, but markedly less than they do in the EU (see graph 5).

Graph 5



Which is why integrating the EU's service markets is so important...

Intra EU foreign direct investment is very much dominated by services. Given that services also dominate the EU economy, the potential benefit of welding together the EU services market is clearly enormous. That explains why a Services Directive, which can unleash the full potential of the services sector, including by facilitating the freedom of establishment, is so important.⁵

Recent analysis⁶ highlights how fragmented service markets can be⁷: in accountancy, for example, national regulations mean that a Member State firm looking to do business in another Member State faces, on average, business costs 23% higher than a domestic competitor. Eliminating such barriers would boost productivity, thus increasing wages throughout the EU economy by an average 0.4% and employment 0.3%⁸. Other analysis⁹ estimates that EU trade could increase 15 to 30% were service markets integrated, whilst the stock of foreign investment in services would rise 20 to 35%. Lack of competition in the financial services sector leads to bad deals for consumers: higher prices, and less access to credit. It is estimated that pre-2000, barriers to foreign firms in the banking sector raised prices by roughly 5.3%. Integrating financial services could raise EU GDP by an estimated €130 billion (in 2002 prices) and business investment by 6.0%.

As is tackling legal uncertainty...

In sectors where there is no specific EU-legislation and thus where the principle of mutual recognition could apply¹⁰, neither producers nor market surveillance authorities are sure to what extent products from one Member State can enter another Member State's market without modification; according to the European Business Test Panel, 53% of businesses are not even familiar with the principle. About 80% of respondents in a recent survey¹¹ thought that regulatory difficulties are the main problem in doing business in the Internal Market.

The impact of this uncertainty is economically significant: it is estimated that failure to apply the principle of mutual recognition properly cut trade in goods within the Internal Market by up to 10% or €150 billion in 2000¹². As a result, consumers' choice is limited and they are obliged to pay more because the full force of competition is not exploited.

⁵ COM(2004) 2.

⁶ EC (forthcoming) *Economic Assessment of the Barriers to the Internal Market for Services*, Copenhagen Economics.

⁷ For 20 Member States.

⁸ *op cit.*

⁹ CPB document N° 69, October 2004, Free movement of services within the EU

<http://www.cpb.nl/eng/pub/document/69/doc69.pdf>

¹⁰ According to the principle, no Member State has the right to forbid, except on demonstrated grounds of legitimate interests like the protection of health or safety, the sale on its territory of any product lawfully produced or marketed in another Member State.

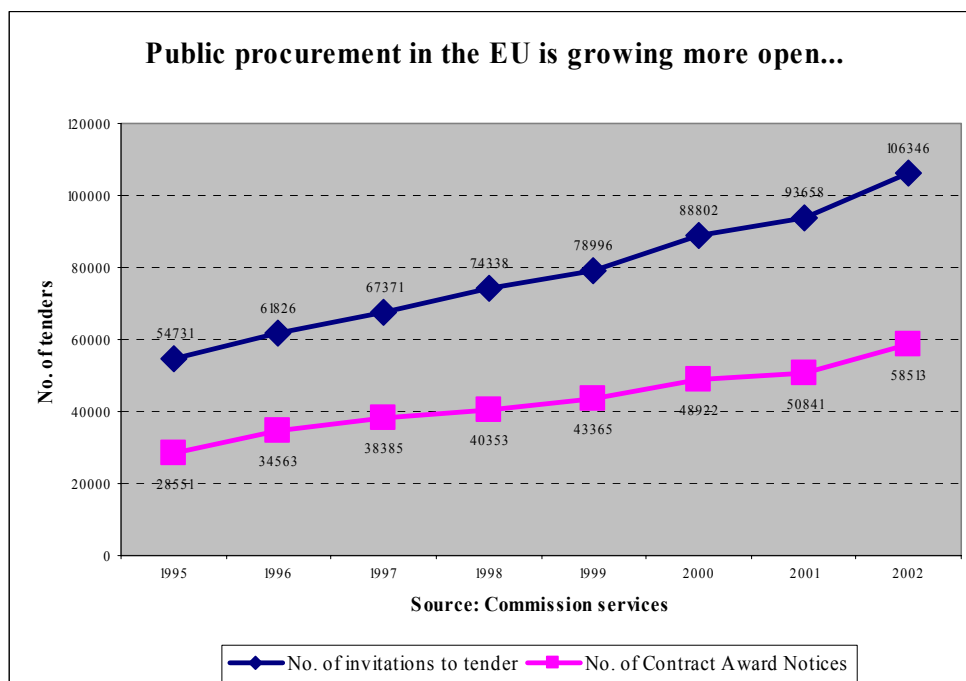
¹¹ RIIA and Accenture (2004) "Unfinished Business: Making Europe's Single Market a Reality"

¹² EC (2001) http://europa.eu.int/comm/internal_market/en/update/economicreform/cardiff02ensta.pdf, p. 24

And Europe's public procurement markets...

In 2002 the total EU procurement market was worth €1.5 trillion or over 16% of GDP. Traditionally, Member States have favoured domestic companies, but this vast market is being prised open: the number of public calls for tender published in the Official Journal as a proportion of the total value of public procurement has grown steadily but still only accounts for 16% of the total value of public procurement.

Graph 6



Extending Internal Market public procurement rules is economically essential. Public authorities that made purchases using procurement rules paid prices approximately 34% less than authorities who did not use the rules¹³. Italy estimates it has already saved €3.7 billion out of a total of €23 billion of purchases in 2003. Ireland estimates it could make potential savings of €1 billion over the next 5 years from e-procurement alone.

More open procurement would stimulate trade, productivity and growth. It would also contribute to sound macro-economic finances; saving just 10% of current public procurement expenditure would bring all pre-May 2004 EU-15 Member States under the fiscal deficit limits set by the Stability and Growth Pact.

¹³ http://europa.eu.int/comm/internal_market/publicprocurement/docs/public-proc-market-final-report_en.pdf

PART C: STATE OF IMPLEMENTATION OF THE STRATEGY

Internal market integration may have temporarily stalled but the expansion of the internal market to the ten new Member States since last May has gone relatively smoothly. Market integration in EU 25 will offer opportunities for a fresh economic impulse. As last year's Implementation Report¹⁴ pointed out, there remains scope for a significant increase in trade and investment between EU 15 and EU 10 in the short to medium-term. There is reason therefore to be optimistic about the contribution that the Internal Market will continue to make to Europe's competitiveness.

In addition to the positive effects of a larger internal market, several measures have been adopted over the last few years, in areas such as financial services, network industries or company law, which can be expected to begin producing positive effects on the ground.

It is also encouraging that two thirds of the actions foreseen have been achieved by the end of 2004 (see examples in table 1), although many of these tend to be Commission proposals, which in order to contribute to growth and competitiveness still need to be decided upon in Council and Parliament and implemented effectively by the Member States. (More details on the state of play on each action are set out in Annex II.)

Table 1: Progress in implementing the Strategy

PROGRESS	WHAT IS AT STAKE ?
<p>Services Markets</p> <p>A key proposal for a directive to facilitate cross-border trade and establishment is now under discussion in Council and Parliament. The Spring Council in 2004 called for its adoption within the timeframe envisaged, meaning before the end of 2005</p>	<p>A recent study from the Netherlands Bureau for Economic Policy Analysis estimates that an efficiently functioning internal market in services could increase trade (between 15 to 30%) as well as foreign direct investment (between 20 to 35%).¹⁵</p>
<p>Financial Services</p> <p>40 out of 42 measures of the Financial Services Action Plan have now been agreed. Financial markets are beginning to integrate as the focus is shifting to implementation and enforcement of the new legislative framework.</p>	<p>Studies¹⁶ suggest e.g. that narrower spread of equity and bond rates would allow a potential increase in EU GDP of 1.1% over the next decade; an increase in employment of 0.5%, and an average reduction in the cost of capital of 0.5%.</p>

¹⁴ COM(2004) 22 final of 21.1.2004.

¹⁵ CPB document N° 69, October 2004, Free movement of services within the EU
<http://www.cpb.nl/eng/pub/document/69/doc69.pdf>

¹⁶ Report to the EC by London Economics, November 2002, Quantification of the macro-economic impact of integration of EU Financial markets; and European Commission, Economic Papers, November 2002, Financial Market Integration (ECFIN 597/02).

<p>Consumer Policy</p> <p>Important measures to promote consumer interests have been agreed or are well on their way to being adopted. This includes the proposal for a directive on Unfair Commercial Practices, the regulation on Consumer Protection Cooperation and the General Product Safety Directive.</p>	<p>A survey showed that only 1 in 5 consumers have confidence in cross border shopping.¹⁷</p>
<p>Taxation</p> <p>Three Directives were adopted in the company tax field, including amendments to the Parent-Subsidiary Directive. In the VAT area, a notable success was the adoption of a Directive concerning VAT rules applicable to the provision of electronic services.</p>	<p>Many of the persistent barriers to free movement are tax related. A recent survey of the European Business Test Panel indicates that compliance costs increase considerably for cross border activities.¹⁸</p>
<p>Internal Market Governance</p> <p>The SOLVIT problem-solving network now comprises all countries participating in the Internal Market. Case flow has doubled in 2004. Of the 500 cases dealt with, 72% have been resolved successfully. The average time to solve a case is 10 weeks.</p>	<p>20% of companies responded to a Commission survey¹⁹ that they would be interested in trading in the Internal Market, but either do not have enough information or fear that they will run into administrative problems.</p>

There is evidence of a growing recognition of the importance of a smoothly functioning internal market for Europe's economic and social future. Nonetheless, this in itself has not been enough to lead to speedier and more ambitious decision-making on a number of critical files (see Table 2). This is probably because decisions tend to get blocked or delayed when narrow interests of individual Member States or of particular groups in society prevail over the long-term strategic interests of the EU and of its citizens as a whole.

The Community Patent is a case in point. The cost of inaction goes well beyond the benefits of a cheaper patent. Rapid adoption would be a strong signal of political will to achieve the Lisbon goals.

¹⁷ On consumer confidence in the retail Internal Market, cross border transactions and consumer protection : Eurobarometer 57.2 and Flash Eurobarometer 128 Views on business-to-consumer cross border trade (November 2002) ; Eurobarometer 59.2 – Consumer protection in the EU (October 2003).

¹⁸ SEC(2004) 1128 of 7.9.2004.

¹⁹ Survey, 10th anniversary of the internal market.
http://europa.eu.int/comm/internal_market/score/index_en.htm

Table 2 Delays in delivery of actions

DELAYS	WHAT IS AT STAKE?
<p>Industrial and intellectual property</p> <p>Failure of the Competitiveness Council to agree an affordable Community Patent.</p>	<p>Presently, whereas it costs around € 10.000 to obtain patent protection in the USA, it costs € 50.000 alone to achieve protection in only 8 EU countries.</p>
<p>Sales Promotions</p> <p>For more than 3 years, the Council has been unable to agree on a measure to facilitate pan-European sales promotions.</p>	<p>Sales promotions are an indispensable part of companies' strategies when seeking to expand in new markets.</p>
<p>Professional Qualifications</p> <p>A radical simplification of the system for recognition of professional qualifications (merging fifteen existing directives into one) has been delayed partly because of slow progress in the Parliament.</p>	<p>It is important for citizens' rights, innovation and competitiveness that free movement of skilled professionals in Europe is facilitated.</p>
<p>Implementation of IM rules</p> <p>Timely implementation of Internal Market Directives has considerably worsened since 2003. Only 2 Member States (LT, ES) meet the European Council's target of keeping transposition deficits at or under 1.5%. There has been no reduction in the stock of infringements for EU-15.</p>	<p>Late and/or incorrect transposition and application of Internal Market legislation causes legal uncertainty and undermines confidence of citizens and businesses in the exercise of their rights.</p>
<p>Public procurement</p> <p>While a new public procurement framework has been adopted and is now being implemented, concerns remain as to the effective application of the rules in the Member States despite an increase in tender publications in some Member States.</p>	<p>The EU's public procurement market represents more than 16% of the EU's GDP. Commission studies confirm that the proper application of the rules reduces prices paid by around 30%.</p>

Making the most out of the internal market is not only a matter of taking decisions. It also requires a change of attitude in that Member States should think and act more "European" and change administrative practices accordingly. European companies would welcome such a change – business organisations point out that from their experience domestic legislation and administrative practices often do not accord with Internal Market principles.

UNICE, for example, surveyed its members and found that over half have to adapt their products in order to sell in more than one Member State, while nearly half have to duplicate product testing if they want to sell in multiple Member State markets²⁰. And service providers also face onerous and often conflicting national or local rules. This picture is confirmed by other national surveys.²¹

Against a background of continuing stagnation in European market integration (see Part B above), this is worrying news. Turning inwards will do great harm to Europe's economic growth prospects. It is no accident that Member States with solid Internal Market records tend to have more competitive and more dynamic economies. In this context initiatives to remove obstacles faced by companies from other Member States wanting to do business, such as those presently undertaken by Denmark²² deserve praise and represent a best practice model which should be of interest to other Member States.

²⁰ UNICE (2004) "It's the Internal Market, stupid! A company survey on trade barriers in the European Union", Brussels.

²¹ Swedish survey on trade barriers for services 2003-11-03, dnr 100-416-2003.

²² Denmark has established a Taskforce for the Internal Market (T.I.M.), to screen rules and their compatibility with the Internal Market. Positive results have already been achieved.

PART D: CONCLUSION – REMAINING DEFICITS IN KEY PRIORITY AREAS

Analysis of the current state of implementation points to the need for a stronger focus on a number of core strands over the remaining period of the Internal Market Strategy:

1. Completing the legal framework

While much of the Internal Market's legal framework is already in place, there are still important gaps in key economic areas. In the field of goods, the revision of the New Approach and a possible regulation on the application of the mutual recognition principle stand out. Important proposals for action, such as the Services Directive, are on the table of the Council and the Parliament and need to be adopted and implemented as soon as possible. The same goes for the Community Patent and computer-implemented inventions and the remaining FSAP measures.

2. Taking better care of the existing framework

Agreeing rules at European level is only the beginning. To produce the desired effects on the ground they must be implemented on time and effectively enforced in each of the twenty-five Member States. It is the Member States who have a crucial role to play in making the Internal Market work on a day-to-day basis. In particular, this involves co-operating more with each other and with the Commission, exchanging information, providing mutual assistance and solving problems. Such networking needs to be facilitated by modern information systems, such as those which underpin the SOLVIT network. In addition, optimal use has to be made of business networks, including for SME's, such as the network of European Information Centers (EIC's).

3. Ensuring greater coherence and synergy with other Community policies

Internal Market policies do not operate in a vacuum. They need to be dovetailed with other important policy objectives, wherever possible, to establish synergies. The immediate priorities are the links to consumer, competition and environmental policy. Synergies with other areas, such as regional and agricultural policies, are also important. The competition effects of an efficiently functioning Internal Market benefit consumers in the form of wider choice and more competitive prices. In turn, the importance of a strong consumer dimension of a well-functioning Internal Market has been recognised by the European Council²³ and is a priority for all Community institutions. Consumers must also be confident that products are safe and that their rights will be well protected. Measures must therefore be designed in such a way as to preserve the competition-stimulating effects of free movement on which economic benefits for consumers depend whilst protecting them from health, safety and other risks. In addition environmental policies, combined with free movement, may provide opportunities for innovation and greater competitiveness through better resource efficiency and new investment opportunities.

²³ European Council 20 and 21 March 2003

4. Ensuring the Internal Market legal framework is better attuned to the global economic framework

In today's highly globalised economy, the impact of legislation adopted thousands of miles away is increasingly felt in the EU and *vice versa*. Where companies increasingly operate globally, for example in finance, regulation cannot lag behind. The strategy therefore calls for a strengthening of dialogue with major trading partners. The aim of dialogue is to arrive at effective legislation which enhances market opening and reduces the regulatory burden for businesses participating in world markets. Thus, the dialogue should promote convergence and reduce regulatory divergence or conflict. The rewards possible from successful cooperation can be significant in terms of jobs and growth.

ANNEX 1: IMPLEMENTATION REPORT SCOREBOARD

1. Transposition by Member States of Internal Market rules into national law

Member States persistently fail to transpose Internal Market rules correctly and on time. The transposition deficit²⁴ for the EU has got significantly worse and now stands at 3.6%. This is a long way from the 1.5% interim target set by successive European Councils. And the real target is, of course, 0% because timely and correct transposition is a legal obligation.

The deficit for the EU 15 Member States²⁵ is 2.9%, which represents a very significant step backwards after their progress in reducing the deficit since the Lisbon summit in 2000. When all 25 Member States are included in the calculation, the deficit rises to 3.6% - too high, but still considerably better than the 7.1% deficit at enlargement thanks to the sustained notification efforts of the new Member States. Concretely, this means that the Commission is still awaiting 1428 notifications of national implementing measures.

Of all Internal Market directives, over a quarter (27% or 427 directives) have not been fully transposed in at least one Member State²⁶. This figure is much higher than before – and its rise is in large part due to enlargement, as many of the directives still to be transposed by each of the EU 10 Member States²⁷ are not the same.

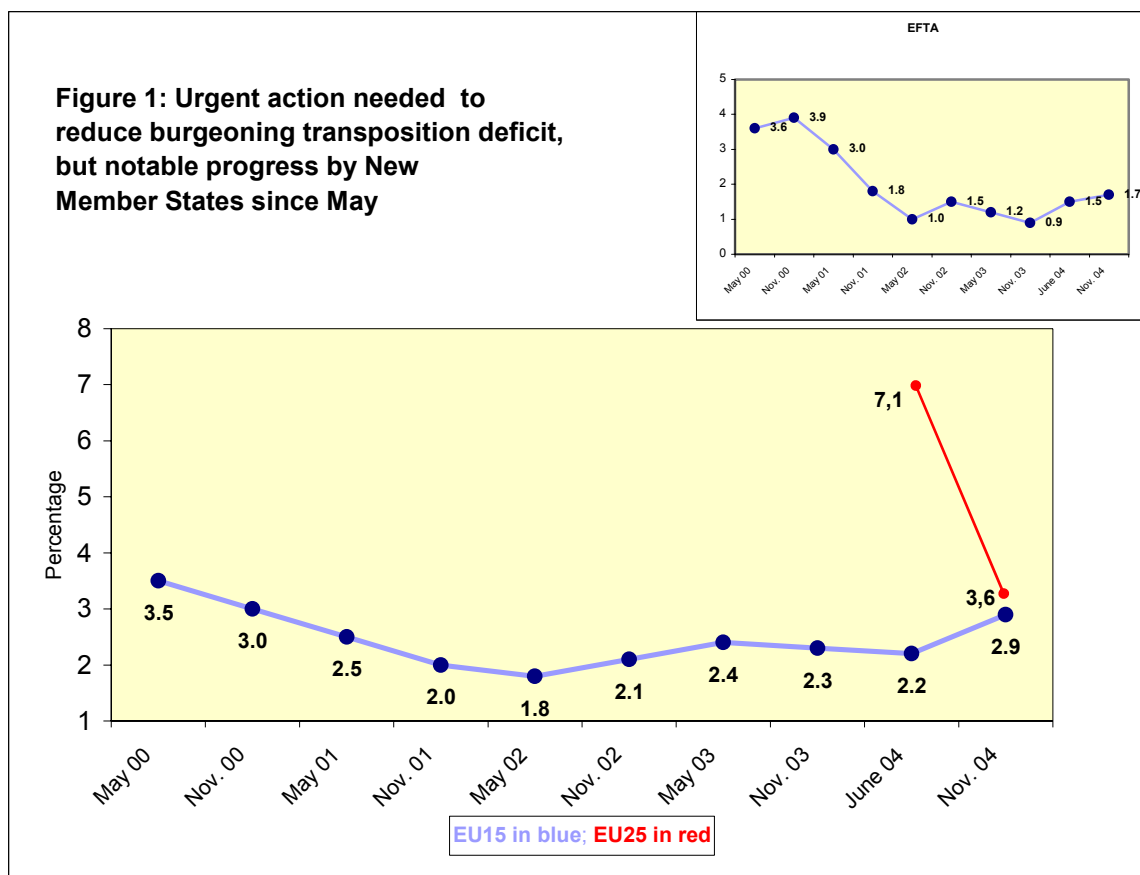
Member States' failure is not only a breach of their legal obligations - it also deprives businesses and citizens in practice of their rights and undermines the day-to-day working of the Internal Market.

²⁴ The transposition deficit shows the percentage of Internal Market directives not yet communicated as having been fully transposed, in relation to the total number of Internal Market directives which should have been transposed by the deadline. (1579 as at 15/11/2004).

²⁵ Belgium, Denmark, Germany, Greece, Spain, France, Ireland, Italy, Luxembourg, the Netherlands, Austria, Portugal, Finland, Sweden, United Kingdom.

²⁶ This is usually referred to as the fragmentation factor.

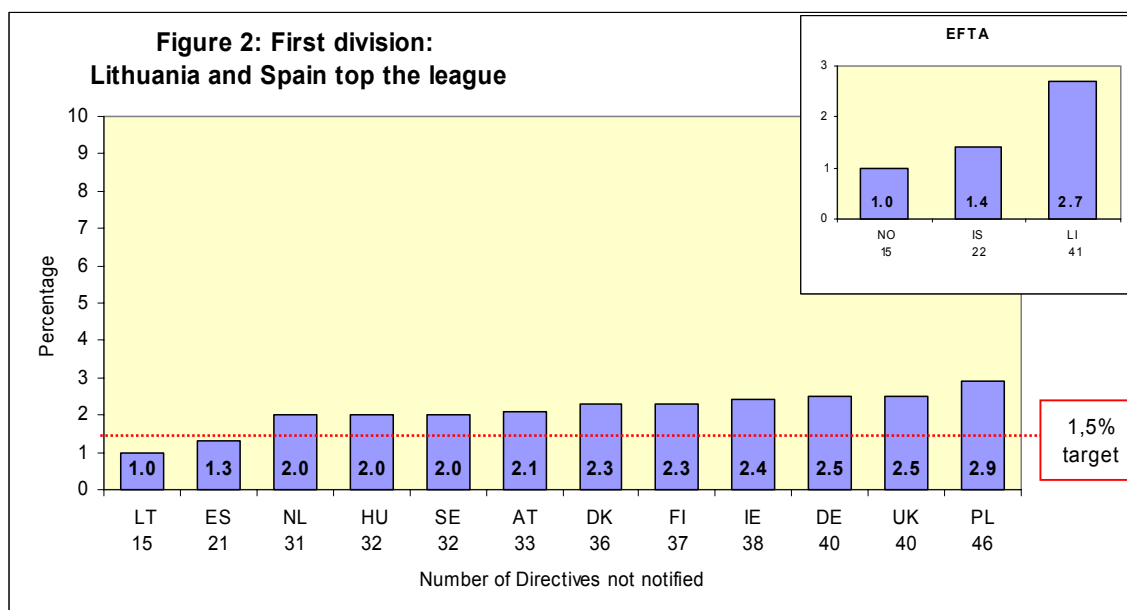
²⁷ Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia. The transposition deficits for the EU 10 Member States are still to a certain extent provisional, as part of the national implementing measures are still under verification by the Commission. Wherever there has been a notification, the Commission deems this to reflect a full transposition unless it establishes after analysis that this is not the case. This means that the transposition deficits in reality could be higher.



Average EU transposition deficit

Of those countries in the First Division:

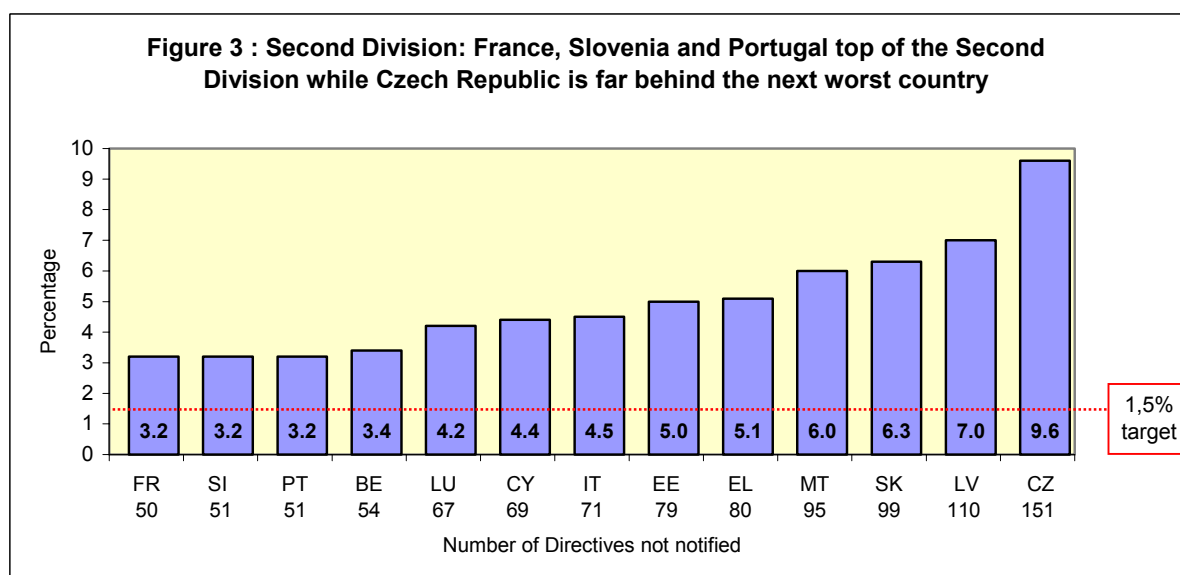
- Lithuania and Spain are to be commended for being the only Member States to have met the 1.5% interim target set by the European Council.
- The Netherlands has improved on its recent disappointing record.
- Hungary has made impressive progress in reducing its transposition deficit and is now in fourth place.
- Germany has made major strides in reducing its transposition deficit, but there is further to go.
- Despite being in the First Division, the transposition deficits of the other Member States have got worse. The performances of Denmark, Finland, the UK and Ireland are particularly disappointing, as they have all regularly met the 1.5% interim target in the past.



Transposition deficit, by Member State, as at 30 November 2004

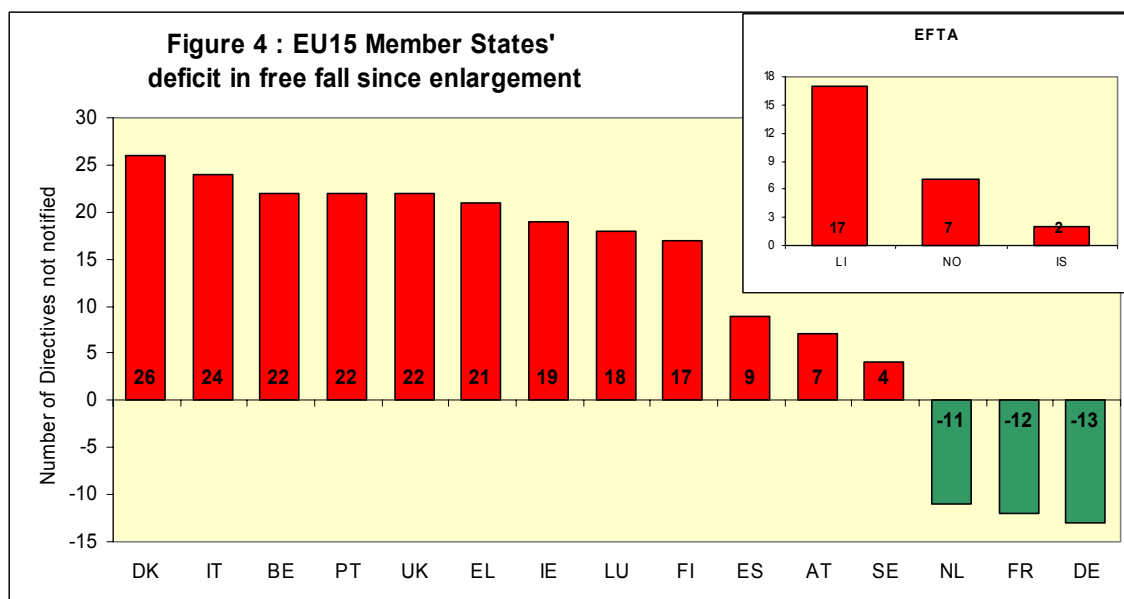
The transposition deficit of countries in the Second Division is more than double the 1.5% European Council target. Of these countries:

- All EU 10 Member States in the Second Division have reduced their deficit since EU accession.
- The Czech Republic is bottom of the league, and still has to transpose over 150 directives. However it can be expected that its performance will improve soon. The efforts of France to reduce its deficit are beginning to bear fruit.
- Belgium, Luxembourg, Italy and Greece have all gone into reverse gear, recording their worst transposition deficits for many years.



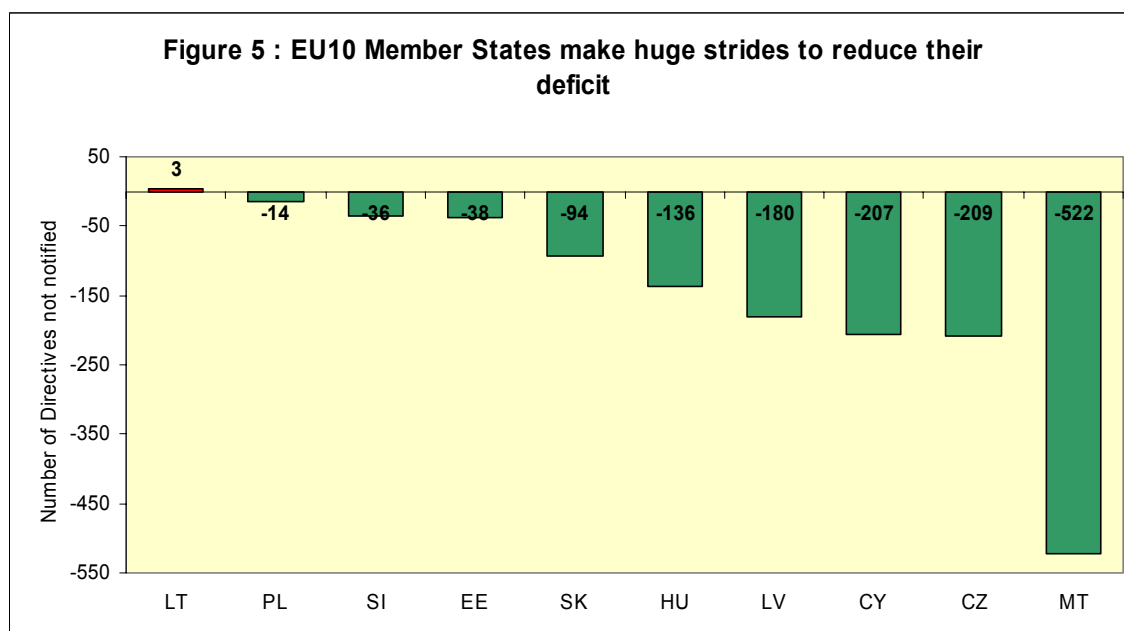
Transposition deficit, by Member State, as at 30 November 2004

What is striking is that the performance of almost all EU 15 Member States has deteriorated significantly since enlargement. Only Germany, France and the Netherlands have reduced their deficits since then.



Change in the number of outstanding directives, by Member State, since May 2004. For example, Denmark's backlog has increased by 26 directives, while Germany has reduced its backlog by 13 directives.

What is equally striking is that the EU 10 Member States have significantly reduced their deficits since their EU accession. Many now have better records than EU-15 Member States.

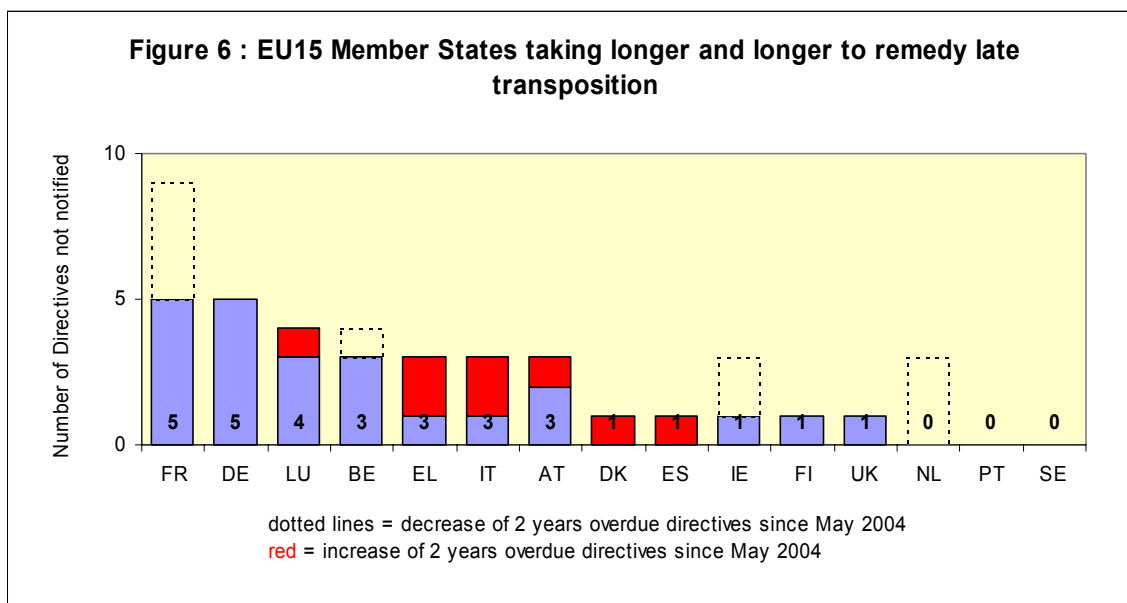


Change in the number of outstanding directives, by Member State, since May 2004. For example, Malta has reduced its huge backlog by 522 directives.

Ensuring that delays in transposing Internal Market directives do not go on indefinitely is also important. This is why the European Council set a 'zero

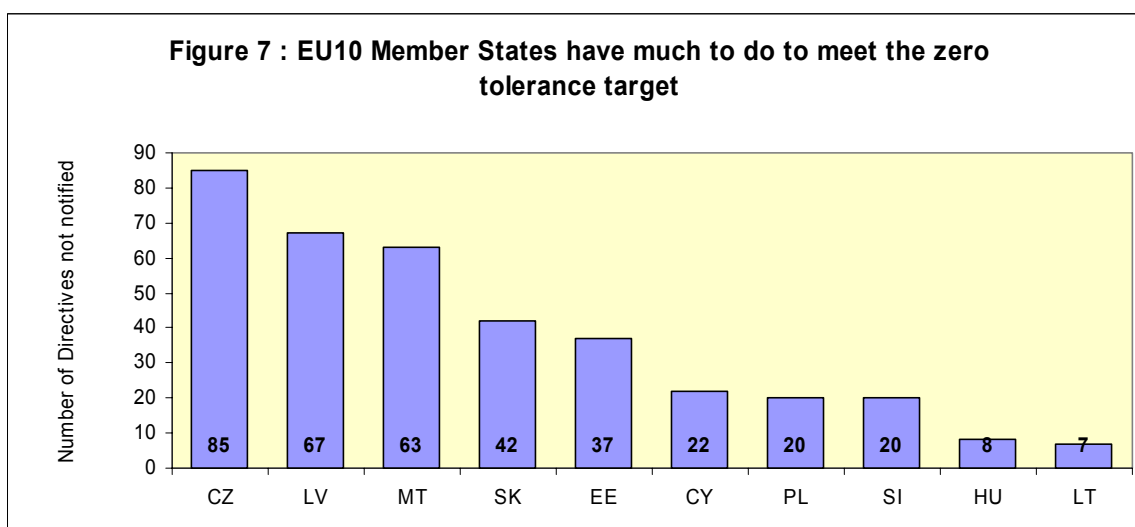
tolerance' target for directives whose implementation is over two years late. Of the EU 15 Member States:

- Only Sweden, Portugal and the Netherlands met this target and they deserve credit for doing so.
- France almost halved the number of directives whose transposition is over 2 years late, but is still in last place (with Germany).
- The records of Luxembourg, Greece, Italy, Austria, Denmark and Spain all deteriorated.



Number of overdue directives with a deadline for transposition into national law before 15/11/2002 which have not been transposed by 30/11/2004.

The fact that EU 10 Member States only joined the EU in May 2004 should not preclude the application of this 'zero tolerance' target to them. The number of directives that they need to transpose to meet this target is set out below.



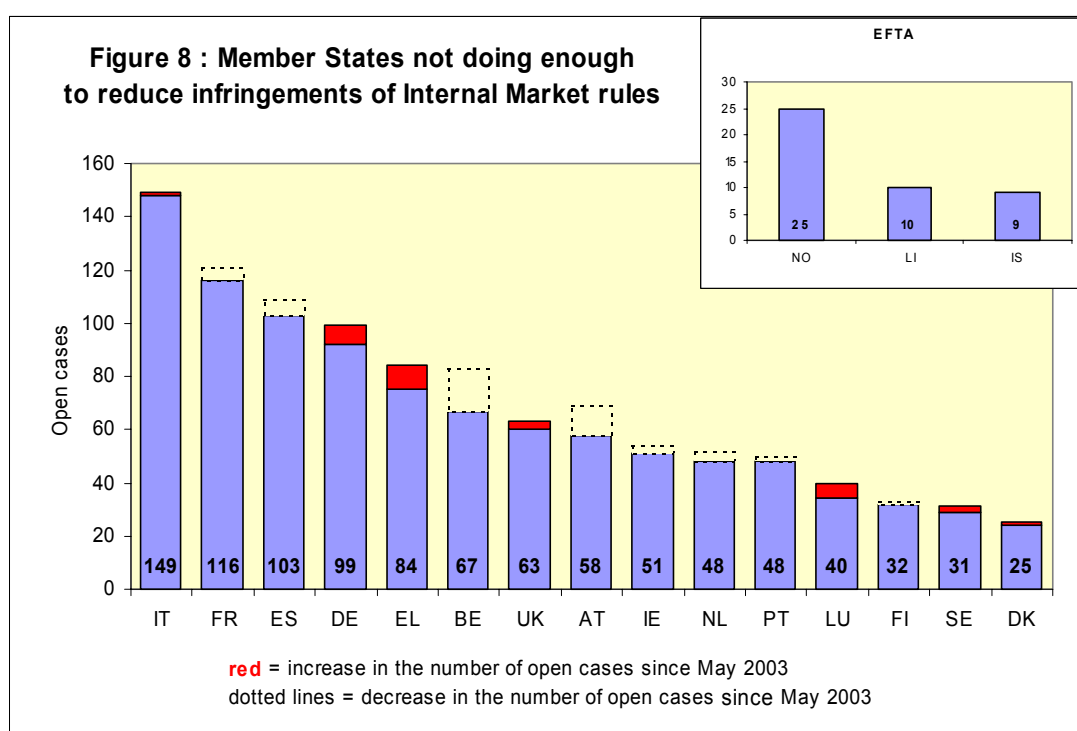
Number of directives to be transposed to meet the 'zero tolerance' target.

2. Application by Member States of Internal Market rules: infringements²⁸

For the Internal Market to work, Member States must apply the rules correctly. Where they do not do so, they deprive businesses and citizens of their rights and undermine confidence in the Internal Market. This is why the Internal Market Strategy 2003-2006 called for a 50% reduction in infringements by 2006 through a combination of better compliance, prevention and use of alternative methods of problem-resolution (such as SOLVIT).

France, Spain, Belgium, Austria, Ireland, the Netherlands, Portugal and Finland have all made progress towards meeting this goal, but much more needs to be done.

Regrettably, other Member States have not followed their good example. The position of Italy, already the country with the most infringement procedures against it, has got worse since the objective of a 50% reduction was set. Greece, the UK, Luxembourg, Sweden and Denmark have also all seen the number of infringements against them increase.



Open infringement cases as at 31/10/2004

²⁸

This section concerns the EU 15 Member States, as no formal infringement proceedings have yet been taken against the EU 10 Member States concerning the Internal Market corpus.

ANNEX 2: STATE OF PLAY WITH REGARD TO INDIVIDUAL ACTIONS

Key:
 + = completed or well on track
 +/- = some progress, behind schedule
 - = no progress

1. Facilitating the free movement of goods

Action	Status	State of play	Expected impact
<p>Commission Communication explaining how the principle of mutual recognition in the field of goods should be applied. The Commission is also considering proposing some binding rules, possibly in the form of a Regulation, which would make the application of the principle easier and more predictable for business.</p>	+/-	<p>Following the Communication, the Commission launched a wide consultation on the practical application of the principle of mutual recognition. Using the results of this consultation (which included asking the views of the European Business Test Panel) the Commission is now assessing the possible options for enhancing legal certainty. In the light of the results, it will take a decision whether or not to propose legislation. This decision is expected before the end of 2005.</p>	<p>The aim is to reduce uncertainty among economic operators and national administrations about their rights and obligations in the non harmonised field of goods and thus to encourage more trade on the basis of the mutual recognition principle. It has been estimated that non- or misapplication of the mutual recognition principle cuts trade within the EU by 10%.</p>
<p>Enhancing the implementation of the New Approach Directives.</p>	+	<p>In May, 2003, the Commission adopted a Communication (COM 240 of 7.5.2003) setting out its views on how to improve the operation of the “New Approach” Directives. In November 2003 the Council subsequently adopted a Resolution, welcoming the objectives contained in the Communication and</p>	<p>The New Approach has been a very successful way of facilitating trade in goods within the Internal Market. The aim of the Directive is to strengthen the levels of confidence, transparency, and administrative cooperation between Member State authorities on which the New Approach depends and thus to further</p>

		inviting the Commission to propose appropriate actions in the fields of conformity assessment and of market surveillance. The Commission is currently working on a draft legislative proposal consolidating and updating the basic legal texts for the New Approach and the Global Approach (Council Resolutions of 7.5.1985 and of 21.12.1989, and Council Decision 93/465/EEC).	<p>facilitate the free circulation of goods</p> <p>The revision of the New Approach will not question the fundamental principles behind the New Approach, but would update it and strengthen it by filling the gaps identified in its operation:</p> <ul style="list-style-type: none"> • Reinforce and co-ordinate market surveillance systems (enforcement of legislation at national level) • Ensure coherence of rules for the operation of Notified Bodies (e.g. certification, testing) • Ensure that accreditation remains a public authority activity • Make certain that CE marking is protected.
Concluding performance-based contracts with European standardisation organisations.	+	These contracts have since been concluded. For example CEN is trying to reduce the time it takes to make a standard and has set a target of three years.	The timely production of European standards is an essential part of making European legislation work, e.g. in the fields of construction or machinery. A lack of standards hinders trade and drives up costs.
Commission Communication on Integrated Product Policy (IPP)	+	The Communication was published in June 2003 (COM (2003) 302 final). The Council welcomed the Communication in its conclusions of 27 th October 2003. The Commission is presently implementing the actions foreseen; for example it has launched two pilot projects concerning mobile phones	IPP aims to reduce environmental impacts of products throughout their life cycle. The Communication sets out a variety of ways to achieve this objective, such as increasing the availability of environmental product information and stimulating “green” public procurement (see handbook on environmental

		and teak furniture.	public procurement SEC 2004/1050). It sets a framework within which Member States can develop their own IPP strategies. It is important that approaches are co-ordinated at EU level so as to enhance their effectiveness and to prevent divergent national approaches from fragmenting the Internal Market.
Commission Communication on the integration of environmental aspects into the European standardisation process.	+	The Communication was adopted in February, 2004 (COM 2004 (103) final) and endorsed by Council in October. Two workshops have been organised to raise awareness of the importance of environmental aspects for European standardisation. The European Standardisation Organisations have since taken steps to implement the approach, e.g. by more closely associating representatives from environmental organisations to the standard setting process.	This aims at ensuring that greater account is taken of environmental considerations at all stages in the standardisation process. This will not only support the achievement of environmental goals, but also facilitate free movement of goods as the scope for divergent national standards diminishes.
Proposal for a Directive on unfair business to consumer commercial practices.	+	The Commission made a proposal in June 2003. Council reached political agreement in May 2004. The EP has meanwhile begun its second reading.	The directive would establish a general prohibition of unfair commercial practices. It will give consumers the same protection against unfair business practices and rogue traders irrespective of where they shop in the EU. Outlawing unfair practices is good for all reputable businesses.
Commission to implement its Action Plan on European Contract Law.	+	The consultation on the 2003 Action Plan generated considerable interest both from Member States and stakeholders. In October,	Divergences between national contract laws may create problems for consumers as well as for traders. Without seeking to impose a single

		<p>2004, the Commission published its follow-up Communication (COM 2004 651 final) on European Contract law and the revision of the <i>acquis</i> (COM 2004 651 final), which sets out the steps to be taken to draw up a Common Frame of Reference (CFR). The work on the CFR, which will take account of the ongoing review of consumer protection law, is expected to contribute to improving the coherence of the legal framework. The Communication also describes actions to promote EU-wide standard contract terms, whilst indicating parameters on the basis of which the opportuneness for an optional contract-law instrument should be assessed.</p>	<p>solution, the Commission is keen to ensure that consumer protection and free movement of products are fostered - and not hindered - by national contract laws.</p>
<p>Proposal to recast the framework Directive on motor vehicles and their trailers.</p>	+	<p>The framework directive has been adopted in 2004. Member States have until the middle of 2005 to implement it into national law.</p>	<p>The aim is to extend the highly successful EU Whole Vehicle Type-Approval system for cars to other types of vehicles.</p>
<p>The Council and European Parliament to adopt the framework Directive for the setting of eco-design requirements for energy-using products.</p>	+0	<p>The Commission made its proposal (amending Council Directive 92/42/EEC and Directives 96/57/EC and 2000/55/EC) in August, 2003.</p> <p>The European Parliament completed its first reading in April 2004. The Council adopted a common position in November 2004. Final adoption is expected in the first half of 2005.</p>	<p>The aim is the promotion of sustainable development by facilitating the free movement of energy-using products within the Internal Market, by increasing security of energy supply and by strengthening environmental protection. Reducing the overall environmental impact of a product throughout the whole life cycle is achieved by integrating environmental aspects into product design.</p>

<p>The Commission to provide mandates to European standardisation bodies to develop new standards or revise existing ones to ensure compliance with the requirements of the General Product Safety Directive.</p>	<p>+</p>	<p>The Commission has identified a first group of products for which a standardisation mandate will be given to CEN in early 2005. The Commission will monitor implementation of the Directive over the period of the Strategy and prepare a report on its application, including an assessment of market surveillance and enforcement in the Member States by 2006.</p>	<p>The aim is to promote European standards which will facilitate compliance with the requirements of the General Product Safety Directive. Its aim is to ensure that consumer products placed on the EU market are safe, whilst facilitating free movement of products within the Internal Market.</p>
<p>The Commission to undertake a comprehensive study on voluntary marking at national and European level.</p>	<p>+/-</p>	<p>After discussions with Member States and other interested parties, the Commission takes the view that conducting a study may not be the best way to resolve the underlying problem of the proliferation of national voluntary marks, which are private-sector based. The problem of voluntary marks, which may act as a barrier for companies from other Member States to enter the market, can best be remedied by promoting European-level marks. Such marks whilst helping consumer choice do not carry the risk of fragmenting the Internal Market and of raising costs for SMEs without measurable benefits.</p>	<p>For many SMEs trying to penetrate new markets without having the advantage of name recognition or branding, displaying adherence to well known national voluntary marks is often necessary. However, the costs of adhering to multiple voluntary marks in different Member States are high, and in many cases, prohibitive. Voluntary marking, therefore, whilst often well-intentioned, may in effect result in keeping non-national companies off the market. The promotion of European level marks is intended to facilitate market entry in particular for SMEs.</p>

2. Integrating services markets

Action	Status	State of Play	Expected impact
Proposal for a Directive on Services in the Internal Market.	+	The Commission made its proposal in January, 2004. Discussions are gaining momentum in Council and Parliament. The first reading is expected to be completed during the first half of 2005. The European Council, recognising the importance of this measure for Europe's competitiveness and the Lisbon Strategy, has requested that it be agreed before the end of 2005.	The Internal Market is still rife with barriers in the field of services of a legal and administrative nature. These range from duplicative licensing requirements, economic needs tests to outright bans. Removing these restrictions would free up the enormous growth and job creation potential of more than half of the economy which is covered by the Commission's proposal. According to estimates, intra-EU trade and investment would get a major boost.
Adoption of the Regulation on Sales Promotion	-	Parliament delivered a very supportive first reading in 2003. Nonetheless, Council has so far failed to reach agreement, which is disappointing. The main areas of contention are the scope and the type of instrument.	If adopted, this would make it far easier for businesses to use and communicate sales promotions (discounts, premiums, free games, promotional contests and games) across the borders of the Member States and thus encourage cross-border sales of their products and services. The proposal is particularly important for SMEs since sales promotions are the most affordable forms of commercial communications and are therefore used by all companies including micro-enterprises. It is also of fundamental importance for the European direct marketing/mail order sectors.

Adoption of Directive on the recognition of professional qualifications	+/-	Slower than expected progress of work in Parliament has resulted in considerable delays. It is expected that the measure can be adopted during the second half of 2005.	This simplified measure should make it easier for skilled professionals to provide cross-border services and establish themselves in other Member States. Greater mobility of skilled professionals is important for the achievement of the Lisbon objectives.
Commission Communication on the competitiveness of business services	+	The Communication was adopted in December 2003 (COM (2003)747 final). In light of the results of the consultations, a detailed Action Plan will be proposed during 2005. This will include actions to promote the development of European standards and measures to improve statistical coverage of services sectors.	Whilst the Services Directive aims at removing legal and administrative barriers to cross-border service provision and establishment, its positive effects can be strengthened by a number of non-legislative initiatives, e.g. in the field of service quality standards.
The Commission, subject to the results of a feasibility study, to propose an extension to services other than information society services of Directive 98/34/EC requiring notification of national technical rules and regulations regarding products and information society services.	+	The results of the feasibility study have been received at the end of last year. The Commission intends to make a proposal for a Directive during the first half of 2005.	Extending the requirement for Member States to notify technical rules to services (other than information society services) will help prevent future barriers to trade and establishment whilst also promoting exchanges of view between Member States as to the regulation of services industries.
Adoption of the Prospectuses Directive.	+	The Directive was adopted in November 2003 (2003/71/EC). The Commission has organised a number of technical workshops to help Member States implement the directive correctly and on time (by July 2005).	This measure will make it easier for companies to raise money on an EU-wide basis as it obviates the need for multiple prospectuses to meet different requirements. This simplification is accompanied by provisions to protect

			investors.
Communication on clearing and settlement.	+	The Communication was adopted in April 2004 (COM (2004)312).	Improved clearing and settlement arrangements are essential to an efficient and integrated securities market. Current bottlenecks raise the costs of money transfers between Member States.
The Commission to propose a new Capital Adequacy Directive.	+	The Commission adopted the proposal in July 2004 (COM (2004)486). The proposed implementation date is end 2006. The proposal is still under negotiation in Council and Parliament.	The overall aims are to maximise the effectiveness of capital requirement rules, ensure continuing financial stability, maintain confidence in financial investment and protect consumers. The new regime is also designed to ensure that capital requirements for lending to small and medium-sized enterprises are appropriate and proportionate.
The Council and European Parliament to adopt the Investment Services Directive.	+	The directive was adopted in April 2004 (2004/39/EC). Its transposition deadline is 2006. Commission implementing measures will follow as from beginning 2005.	This measure must be seen against the backdrop of major structural changes in EU financial markets over the past five years. It will offer investment firms a "single passport" which allows them to operate across the EU on the basis of the rules in their home state, while at the same time providing investors with a high level of protection.
The Council and European Parliament to adopt the Transparency Directive.	+	The directive was agreed in May 2004 after a single reading. However, formal adoption has been delayed because of translation constraints and is expected shortly. The transposition	The aim is to increase the quantity and quality of information (e.g. on shareholding and changes of shareholding) investors have access to with regard to publicly quoted companies. Apart from

		deadline foreseen is 24 months after its adoption.	safeguarding investors' interests, the proposal should help to further integrate Europe's securities markets and increase the availability of funds for investment.
In light of the Council and European Parliament's response to the Commission's report on the safety of services for consumers, the Commission has to decide whether to make a proposal for a legislative framework aimed at monitoring and supporting national policies and measures in this area.	+/-	A Commission report on the safety of services for consumers was adopted in June 2003 (COM 2003) 313 final). The Council endorsed its findings in a Resolution of November 2003. The Commission has not yet decided on future initiatives, which will depend on the results of several projects and further analysis.	The aim is to ensure as far as possible that services which consumers use are safe. The approach will cover the systematic collection of data on accidents, injuries and risks (currently available data is inadequate), procedures for the exchange of information on national policy and regulatory developments and procedures for the establishment of European standards where necessary.
Council and European Parliament to adopt the Consumer Credit directive.	-	The Commission adopted an amended proposal in October, in response to the Parliament's first reading amendments.	Aim of the directive is to enable progress towards an effective single credit market with greater choice and strong consumer protection.

3. Ensuring high quality network industries

Action	Status	State of play	Expected impact
Single European Sky for air traffic management	+	Four regulations were adopted in March 2004 and have entered into force in April. In addition, all institutional arrangements have been completed for the implementation of the Single Sky Initiative. The first implementing rules are now being prepared and a programme for modernisation of air traffic management	More efficient use of Europe's air traffic management should help reduce air transport delays and lower costs whilst increasing passenger safety.

		systems (SESAME) is being launched.	
Second package of measures to revitalise European railways	+	The 2nd rail package was adopted in April, 2004. It provides for a complete market opening of rail freight by 1 January 2007, develops a common rail safety approach in the EU and sets up a European Railway Agency. Member States will have to implement the provisions before 1 May 2006 (31 December 2005 for rail freight market opening).	This should result in more competitive rail freight services, promoting a shift from road-to-rail by offering business better conditions and a higher-quality service.
Council mandate to the Commission to negotiate an open skies agreement with the US	+	The Commission received a negotiating mandate from the Council in June 2003. There were six negotiating sessions EU-US between October 2003 and June 2004. A first step agreement could not be signed yet, because of the issue of access to the US domestic market for EU airlines. Further negotiations will take place in 2005 with US.	This would allow the restructuring of EU air transport industry by removing current obstacles to airlines' mergers, generate employment and expand opportunities for airlines, airports, tourism, business links and cargo transport. It is for example estimated that an EU/US open aviation area would generate consumer benefits of at least 5 billion \$ a year.
Adoption of legislation completing the Internal Market for gas and electricity	+	The market for non household customers has been open since July 2004. Market opening for household customers is due for July 2007; the directives were adopted in June 2003 (Directives 2003/54/EC and 2003/55/EC).	This will increase competition in distribution and supply and widens choice for businesses (and for households from 2007). Competition is expected to exert downward pressure on prices.
The Commission will undertake a review of the legal and administrative situation	+	The Commission has completed its review and expects shortly to publish its findings.	The effective application of existing Community rules, including the Treaty guarantees for

in the water and waste-water sector. This will include an analysis of the competition aspects, in full respect of Treaty guarantees for services of general economic interest and environmental provisions.			services of general economic interest and environmental provisions, can contribute to creating the conditions for a modernisation of the water sector. Investment needs in this sector to meet high quality and environmental standards are significant.
Green Paper on Public Private Partnerships.	+	<p>The Commission published its Green Paper in April 2004 (COM (2004) 327).</p> <p>The public consultation ended 30 July 2004. Some 200 contributions were received. The Commission is analysing these contributions and expects to draw policy conclusions and, where appropriate, prepare concrete initiatives during 2005.</p>	The aim of the green paper is to start a process to increase legal certainty for public and private bodies who wish to develop joint (infrastructural) projects. Achieving greater legal certainty can be expected to increase the level of investments and promote the development of high-quality public services.

4. Reducing the impact of tax obstacles

Action	Status	State of play	Expected impact
Proposals amending the existing Parent Subsidiary Directive (90/435/EEC) and the existing Merger Directive (90/434/EEC)	+	<p>Parent Subsidiary Directive:</p> <p>The Commission submitted a proposal in July 2003. After intensive technical discussions in Council, the proposal was adopted in December 2003 (Council Directive 2003/123/EC). Implementation date is 1 January 2005.</p>	These Directives eliminate double taxation and allow companies organising their operations on a cross-border basis to defer payment of certain taxes. The amendments extend the benefits of these Directives to more types of companies and, as regards the Merger Directive, to additional types of restructuring operations.

		<p>Merger Directive:</p> <p>The Commission submitted a proposal in October 2003. Intensive technical discussions in Council started in November 2003. Political agreement was reached in Council in December 2004. Formal adoption is due to take place beginning of 2005.</p>	
<p>Communication reporting on progress in the company tax field and examining different options for providing companies with a consolidated tax base for their EU-wide activities (COM(2003)726)</p>	+	<p>The Commission presented the Communication in November 2003. 2 options were identified for further action. A pilot scheme for SMEs to use 'home state' rules to compute their tax base across the EU ('Home State Taxation - HST') and the development of a common consolidated corporate tax base for all companies operating across the EU. Work on a Commission Recommendation concerning HST is progressing with a target date of early 2005 for approval by the Commission. The Commission is currently finalising the details of a technical working group, which under its chairmanship will carry out the preparatory work on defining a common consolidated corporate tax base. The work of this expert group is expected to provide a major input into a formal Commission proposal for such a base.</p>	<p>A consolidated base could be achieved without harmonising corporate tax rates and would go a long way towards solving the problems faced by companies. It would also make the functioning of the Internal Market more transparent by making it easier to compare the merits of carrying out operations in different locations.</p>
<p>Communication setting out review and</p>	+	<p>The Communication (COM (2003)614) was</p>	<p>Simplifying the VAT system for businesses and</p>

update of VAT strategy priorities (following the Strategy launched in 2000)		adopted in October 2003 and sets out further steps to modernise and simplify the VAT system.	decreasing its costs is a major aim of the strategy as set out in the Communication..
A proposal to take concrete measures to simplify VAT obligations for companies, amongst which the introduction of a single place of VAT compliance for all businesses trading in Member States where they have no establishment.	+	Directive was proposed end of October 2004 (COM (2004) 728) and will soon be discussed by Council and EP.	Such an initiative would decrease the administrative burden of VAT for companies. This will lower compliance costs and make it easier to do business across borders.
Communication on the effect of case law of the ECJ on dividend taxation systems.	+	The Communication (COM (2003) 810) on "Dividend taxation of individuals in the Internal Market" was adopted in December 2003. Several Member States have changed their systems of dividend taxation, in order to take account of court judgments (in particular C-35/98 – Verkooijen, and C-319/02 – Maninnen). Several infringement procedures are underway.	This aims to eliminate discrimination in some Member States who impose a higher tax on cross-border dividends than on domestic dividends. Such rules are a strong disincentive to the cross-border holding of shares and slow down the creation of pan-European equity markets.
The Commission to present legislative proposals to remove the obstacles to the free movement of cars in the Internal Market.	+/-	This will be proposed the second quarter of 2005.	Aim is to modernise and simplify the existing vehicle taxation systems and to better co-ordinate them, with the final aim of removing tax obstacles and distortions to free circulation of cars within the Internal Market and use fiscal measures as a tool to reduce CO2 emissions

			from passenger cars.
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5. Expanding procurement opportunities

Action	Status	State of play	Expected impact
Adoption of the "legislative package" which updates the existing legal framework for public procurement.	+	The new directives were adopted in March 2004. Member States have until 31 January 2006 to implement them into national law.	The aim is to simplify public procurement rules. The new rules facilitate the use of electronic procurement and are sufficiently flexible for the complex contracts which can arise, for example, in the context of Trans-European Networks.
The Commission to develop an Action Plan on e-procurement.	+/-	The action plan has been adopted by the Commission 13 December 2004.	The action plan provides a blueprint for actions in order to allow substantial part of procurement to be carried out electronically by 2006. The first step will be to translate the legal provisions of the public procurement package into functional requirements. The Commission will also give mandates to European standards organisations, where necessary, to develop technical standards for e-procurement
The Commission to publish a Green Paper assessing the need for any further initiatives in European defence procurement.	+	The Commission published its Green Paper in summer 2004 (COM (2004)608). Deadline for comments is end January 2005. The Commission will then analyse the results and, if appropriate, propose specific initiatives.	The aim is to promote value for money in what is a € 30 billion EU market for defence procurement. Providing greater clarity about Treaty exceptions is expected to contribute to more open procurement which in turn will help EU industries become more competitive on the

			global market.
The Member States should strengthen administrative co-operation, notably through the further development of the fledgling Public Procurement Network (PPN) established on the initiative of the Danish authorities. Member States should ensure that the PPN is sufficiently well funded so as to be able to meet its ambitions.	+/-	The PPN network has meanwhile been expanded to include all 25 Member States. It meets annually and relies on rotating Presidencies. While it is a useful forum for the exchange of information, there is little to no information on actual performance of the network as far as problem-solving is concerned.	The aim is to resolve any cross-border procurement problems at the pre-contracting stage and to promote the exchange of best practices (using benchmarking techniques).
The Member States should stimulate and develop procurement training (possibly using the Internet), particularly to raise the awareness of European rules amongst procurement officials at all levels of government. Best practices could be exchanged through the PPN.	-	The PPN has decided to concentrate on exchanges of best practices relevant for the proper and timely implementation of the legislative package	This should raise awareness amongst procurement officials at all levels of government of the need to comply with European procurement rules. It can be expected that this will contribute to higher publication rates, clearer tender documents, fewer infringements and less need for legal action.
The Commission to propose amendments to strengthen the Procurement Remedies Directive, possibly including the strengthening of the powers of national surveillance authorities on which it will conduct a prior consultation.	+/-	The Commission has consulted stakeholders, including members of the European Business Test Panel, on possible options. It is now carrying out an extended impact assessment on the different options. In light of the outcome, the Commission may make a proposal for a directive before the end of 2005.	This will promote better compliance with the rules as bidders will have access to more effective redress mechanisms.

6. Improving conditions for business

Action	Status	State of play	Expected impact
Regulation on the Community Patent.	-	Council so far failed to reach agreement, especially because of language issues. Currently the Commission is reflecting on if and how to take this further. The Kok Report calls on Member States to “deliver or drop it”. Two accompanying proposals on jurisdiction and on the setting up of a Patent Court are also before Council.	The proposed system will establish a single EU-wide patent, bringing important benefits for innovators in terms of obtaining, enforcing and managing their rights. It will provide protection in 25 Member States for around the same price (or slightly less) as is currently paid for protection in just 5 countries.
Adoption of the directive on the enforcement of intellectual property rights.	+	The Directive was adopted in April 2004 on its first reading. The transposition deadline is April 2006. A meeting with the Member States has been scheduled in February 2005 to monitor the implementation process.	This will create a level playing field for the enforcement of intellectual property rights in different EU countries. It is an essential part of the fight against piracy and counterfeiting which causes immense damage to the EU economy.
Directive on the patentability of computer-implemented inventions.	+/-	Council reached a political agreement in May 2004. This still has to be formalised. Attention will then shift to the Parliament.	This will clarify and make more transparent the boundaries of patent law in this field. It will stimulate innovation and benefit software developers and suppliers as well as the users of patentable technology.
Take-over bids Directive	+/-	This was adopted in April 2004. The transposition deadline is May 2006.	A Directive ensuring a high degree of harmonisation at EU level would have facilitated pan-European restructuring. However, the agreement reached in Council falls short of what is required to create a genuinely

			level playing field.
Legal endorsement of existing International Accounting Standards.	+	The Commission has adopted a regulation in September 2003 endorsing IAS for use in the EU as from 2005. All IAS standards will be endorsed before 1.1.2005 except for IAS 39 (which is about derivatives) which is only partially endorsed. IFRS 2 has been submitted to the Accounting Regulatory Committee in December 2004 and will be adopted by the end of January 2005. Further work will need to take place in the International Accounting Standards Board on IAS 39 to eliminate the existing carve outs.	All EU-listed companies are now required to prepare their consolidated accounts in accordance with IAS from 2005. IAS are established by the International Accounting Standards Board but have to be endorsed for use within the EU. This will improve competition and transparency and makes free movement of capital easier.
Communication on statutory audit.	+	The Communication was published in May 2003 (COM (2003) 286) and was followed by the proposal for a Directive in this field. (See action below).	This sets out priorities for 2003 and beyond aimed at improving and harmonising the quality of statutory audit in the EU. It will ensure that investors can rely fully on the accuracy of audited accounts, prevent conflicts of interest for auditors and enhance the EU's protection against Parmalat-type scandals.
Proposal to modernise the 8 th company law Directive on statutory audit of annual accounts and consolidated accounts.	+	The proposal was adopted in March 2004 and is currently being negotiated in Council and EP. Expected adoption by mid-2005.	If adopted, this will strengthen access to and regulation of the audit profession and will aim to ensure proper oversight of the audit profession at national level and appropriate co-ordination at EU level.

Proposal for a 10 th Company Law Directive on cross-border mergers.	+	Currently the proposal is being discussed in Council and EP. The Council agreed a general approach at the end of November, 2004.	If adopted, this proposal will make cross-border mergers simpler for all companies with share capital. However, it will be especially useful for small and medium-sized businesses that want to operate in more than one Member State, but not throughout Europe, and thus are not likely to seek incorporation under the European Company Statute.
Proposal for a 14 th Company Law Directive on cross-border transfer of registered office.	+	The proposal is expected to be adopted by the Commission in January 2005.	If adopted this proposal will harmonise current legislation in the EU with regard to the transfer of a company's seat.
The Council to adopt the proposed reform of the merger regime.	+	The new Council Regulation (139/2004) on the control of concentrations between undertakings and the Implementing Regulation (802/2004) have entered into force on 1 May 2004. The Commission has also adopted "Guidelines on the assessment of horizontal mergers" (OJ C 31, 05.02.2004) dealing with the substantive aspects of the reform as well as a "Notice on Case Referral in respect of concentrations" setting out the principles of the jurisdictional reform.	The reform of the Merger Control Regime included both jurisdictional and procedural issues. It ensures the continuing effectiveness of merger control in the context of globalisation and enlargement of the EU.
The Commission to adopt a new block exemption Regulation with regard to technology agreements.	+	This regulation has been adopted 27 April 2004.	The aim is to facilitate technology transfer agreements between companies.

The Commission to adopt a Communication on the management of copyright and related rights in the Internal Market.	+	The Communication was adopted in April 2004(COM (2004) 261). A further consultation was launched amongst stakeholders and an extended impact assessment is now under way in preparation for a Directive on the Collective Management of Rights.	These initiatives aim at implementing the measures necessary to create a more favourable environment for the cross-border marketing and licensing of these rights.
The Member States to continue their efforts to further reduce the total amount of state aid while re-directing aid towards horizontal objectives of Community interest, such as the environment, research and development and SMEs.	+	Total state aid provided remains under 1% of GDP. Specific country information can be found in the state aid scoreboard from November 2004 COM(2004) 750 final.	The aim is to reduce the amount and distortive effect of state aid, thus creating a more level playing field in the Internal Market.

7. Meeting the demographic challenge

Action	Status	State of play	Expected impact
Analysis of Member States' compliance with ECJ case law relating to cross-border provision of and access to health services	+	The analysis has been carried out and shows that the Internal Market in health services is not functioning satisfactorily. The Services Directive seeks to clarify the legal situation in this respect.	The objective is to make it easier for citizens to benefit from medical treatment in other Member States provided that certain requirements are fulfilled. This is particularly important in cases where there are long waiting lists in the home Member State.
The Commission to examine the desirability of proposing a Directive on portability of occupational pensions.	+/-	A second stage consultation was launched in September 2003 (first round was in June 2001). It suggested action to be taken by the social partners to address obstacles to the acquisition	Aim is to facilitate the free movement of workers across Europe. The proposal for a Directive will aim at fixing minimal requirements based on the current situation in

		of pension rights, to improve the preservation of acquired pension rights and to facilitate the transfer of pension rights between schemes. Since there was no agreement amongst the social partners, the Commission is currently preparing a proposal for a Directive (to be adopted in 2005).	the Member States. It will constitute a first step in a progressive approach to improve the portability of occupational pension rights for mobile workers.
The Commission to continue its action to tackle tax discrimination against pension funds established in other Member States. The Commission will vigorously pursue any cases which come to its attention and ensure that the relevant ECJ jurisprudence is complied with throughout the EU.	+	The Commission is presently examining the relevant national rules and taking the necessary steps to ensure their compliance with the Treaty. Several member states have already eliminated tax obstacles or have announced that they will do this soon. Eight infringement cases have already been opened.	Aim is to eliminate tax discrimination to create a level playing field for pension funds with the result that citizens who decide to work in another Member State will not have to change pension funds to continue to benefit from tax relief and so that companies operating in several Member States can run a single pension fund for all employees.

8. Simplifying the regulatory environment

Action	Status	State of play	Expected impact
Ex-ante impact assessment	+/-	The majority of Commission initiatives taken in 2004 have been subject to extended impact assessment (compared to 17% in 2003). In 2005, this will be the case for all initiatives.	If carried out properly, impact assessment introduces greater transparency, provides an objective basis for decision-making and improves the quality of any new rules.
Simplification of existing EU rules.	+/-	The screening of different policy sectors has been completed. A number of proposals to simplify the rules have already been made and others are in preparation. These range from	Whilst many Internal Market measures have considerably reduced paperwork and removed obstacles to trade, it is important that the Community institutions tackle those measures

		<p>rules in the automotive sector to company law. Meanwhile, the Council has drawn up a shortlist of priority measures which offer scope for simplification (e.g. on company law, waste) which the Commission will take into account in its on-going simplification work. In the agricultural sector, an important process for the simplification of its legislation has been launched with first results in 2004 (98 legal acts declared obsolete) and further actions are planned for 2005.</p>	<p>which have become too burdensome or overcomplicated. Simplifying or removing these will bring significant economic benefits.</p> <p>Simplification is a shared responsibility – so Member States will also need to make a contribution by ensuring that they implement EU rules in the simplest way possible (Inter Institutional Agreement on better law making 2003/C321/01).</p>
<p>Mechanism for reporting on particularly complex rules.</p>	-	<p>Several Member States have launched such mechanisms, for example, Belgium and the Netherlands. Meanwhile, the Council's efforts to identify simplification priorities have triggered extensive consultations with (national) business organisations and other NGOs. Such methods, if they can be put on a more permanent footing, would obviate the need for a mechanism at EU level.</p>	<p>Efforts at achieving better regulation will only result in tangible benefits if there are ways to identify bad regulation. Once the problems are identified, steps can be taken to address them.</p>
<p>The Commission to draw up an "Internal Market compatibility test" following consultations with the European Parliament and Member States.</p>	+	<p>The problem of possible incoherence or conflict between national and EU rules has been addressed in a number of ways. First, the Commission is working with Member States to</p>	<p>These tests would act as guidance for national legislators at all levels of government to ensure that their actions do not inadvertently impinge on the free movement principles of the Treaty.</p>

		<p>ensure that they implement the mutual recognition principle in their national law, where possible in a horizontal way (most new Member States have done this). Furthermore, in its Recommendation on Transposition of Internal Market law²⁹, the Commission encourages Member States inter alia to avoid “gold-plating” and take account of the Internal Market dimension when implementing directives. Lastly, the Commission plans to propose an extension of the notification requirement for national technical rules and regulations to services (which already exists for goods and information society services). These approaches – taken together – should considerably reduce the risk of conflict between national and European rules.</p>	
<p>Commission to develop with the Member States indicators to measure progress towards a higher quality regulatory framework for the Internal Market.</p>	+/-	<p>The Commission has received the results of a major study on possible indicators which it is currently analysing. In parallel, it has developed with the Member States a questionnaire for business which can be used to track progress over time. This survey will shortly be launched via the European Business Test Panel.</p>	<p>It is important that policy-makers have some way of monitoring and measuring progress on better regulation, information which it can share with the general public. Such indicators will also help identify delays or bottlenecks which can then be tackled.</p>

²⁹ SEC(2004) 918.

<p>The Commission to develop a coherent approach to the question of legislative technique and the choice of legal instrument in the Internal Market.</p>	<p>+/-</p>	<p>This concerns particularly the use of different instruments (i.e. harmonisation, mutual recognition) and coherence between Internal Market and other important policies, such as consumer policy.</p>	<p>It is important that the different instruments chosen to support various policy objectives are the appropriate ones and that they are as far as possible mutually supportive. There is certainly scope for improving further the links between Internal Market and other policies and for developing the kind of evidence-based system which will help policy-makers to decide, for example, when harmonisation should be pursued (instead of mutual recognition) and at what level.</p>
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9. Enforcing the rules

Action	Status	State of play	Expected impact
<p>Meet transposition targets as set by the Spring European Council.</p>	<p>-</p>	<p>The record gets worse every year (deficit has risen from 2.3% to 3.2% since 2003 – see annex I). Targets set by the European Council seem to have little to no effect. The Dutch presidency has now asked Ministers to notify by which date the national deficit will be at or below the European Council’s target. It is hoped that Ministers will want to deliver on their personal commitment.</p>	<p>Member States who do not respect their transposition obligations deprive businesses and citizens of their rights, distort competition and prevent the exploitation of the full economic benefits of a properly functioning Internal Market.</p>
<p>The Commission to issue a Recommendation setting out “best practices” to speed up and improve the</p>	<p>+</p>	<p>The recommendation, which was based on best practices provided by Member States, was published in July (SEC (2004)918).</p>	<p>This is an attempt to promote learning amongst Member States to help them organise their internal systems for the implementation of EU</p>

<p>quality of transposition of Internal Market Directives.</p>		<p>As a follow-up to the Competitiveness Council held at the end of September 2004, Member States agreed to conduct an internal screening of their administrative procedures and practices to identify those best practices which can be used to improve their records. Results will be reported in 2005.</p>	<p>directives as efficiently as possible. This should translate into better transposition records.</p>
<p>Organising “preventive” dialogues between the Commission and Member States after adoption but before national implementation of Directives.</p>	<p>+</p>	<p>The Commission holds transposition “package meetings” with Member States to clarify legal provisions and help speed up implementation. These have been held with most EU-15 Member States; and will start with the new Member States as from 2005. In parallel, the Commission increasingly organises more technical discussions with all Member States shortly after adoption of a directive to promote understanding and to secure consistent implementation. Examples include market abuse, occupational pensions and financial conglomerates.</p>	<p>The aim is to achieve better and more consistent implementation of the rules and avoid delays. Prevention (i.e. detection of problems early) is always better than cure (the Commission having to take legal action for non-conformity of national implementing measures).</p>
<p>The Commission proposes that a standard transposition period should be set within the Inter-Institutional Agreement on Better Regulation, from which departures are only permitted if this can be justified by the complexity of the measure.</p>	<p>+</p>	<p>This standard transposition period (2 years maximum) is now set in the Inter Institutional Agreement (2003/C 321/01).</p>	<p>This will make the transposition process and obligations more predictable and in so doing facilitate planning.</p>

<p>Proposal for a Regulation on co-operation between national authorities responsible for the enforcement of consumer protection laws.</p>	<p>+</p>	<p>The Regulation was adopted in October, 2004 (EC2006/2004). Member States have until December 2006 to implement its provisions. Informal cooperation to facilitate implementation has already started.</p>	<p>This will establish a network to detect, investigate and stop cross border rogue traders. There is also the possibility to conclude EU agreements with third countries to do the same.</p>
<p>The Commission to propose a legal instrument to make certain implementation aspects, such as electronic notification of implementing measures and the use of concordance tables, mandatory.</p>	<p>+/-</p>	<p>This has proven not to be necessary anymore as the mandatory use of concordance tables is included in the above mentioned Inter Institutional Agreement. A large number of Member States notify electronically and the Commission expects that this will further increase in 2005.</p>	<p>This will make the transposition process and obligations more transparent.</p>
<p>The Commission to publish the results of a study on the different options for improving the enforcement of Internal Market law.</p>	<p>+/-</p>	<p>While the Commission continues to take the view that Member States should take more ownership of the Internal Market, it has decided after discussions with the Internal Market Advisory Committee to pursue a bottom-up rather than a top-down approach. This means that it will give priority to putting in place the (information) systems to enable Member States to co-operate amongst themselves, exchanging information and providing mutual assistance. It will start with developing a system that can support the administrative co-operation needed for the services directive. Member States will of course want to ensure that their internal</p>	<p>The aim is to strengthen administrative co-operation so that the Internal Market can work better in practice. Stronger links between national administrations of the different Member States can be expected to contribute to greater confidence in each other's systems and controls.</p>

		organisation takes account of this need to co-operate.	
Internet facility setting out the various redress procedures available to citizens, consumers and businesses.	+/-	Access to a wide range of information, advice and redress networks will be provided through the Your Europe portal, to be launched in January 2005 (see last action under next chapter).	This will allow citizens, consumers and businesses to see the whole range of possibilities available to them and the time and costs involved in each option. It will enable them to choose the means of redress most suited to their needs.

10. Providing more and better information

Action	Status	State of play	Expected impact
Member States to draw up national information plans.	-	Only four Member States have submitted such information plans. It is therefore proposed to pursue cooperation on Internal Market information in other ways, particularly through the Your Europe portal project (see below).	Better information will lead to more citizens and businesses taking advantage of the many opportunities offered to them by the Internal Market.
Member States to take responsibility for national-level information made available through the Dialogue with Citizens.	+	The pre-existing information has now been updated, with the exception of a small number of documents on which information from the responsible Member State is still awaited. In the case of the new Member States, the exercise of preparing the necessary fact sheets has been launched. In order to ensure that information remains up to date, Member States should take ownership of the fact sheets and keep them up to date.	The Dialogue provides citizens with targeted, practical information about how to exercise their Internal market rights. It does so by providing a series of EU level guides dealing with different areas (e.g. living, working and studying in another Member State) and national fact sheets providing detailed instructions on how to exercise Internal Market rights in individual Member States.

<p>The Commission to improve the Dialogue web-sites to provide better access to practical information.</p>	<p>+</p>	<p>A new user-friendly Dialogue with Citizens website was launched in May 2004 (http://europa.eu.int/citizensrights). Improvements to the Dialogue with Business website are being pursued in the framework of the Your Europe project (see below).</p>	<p>See above</p>
<p>The Commission to extend the Citizens Signpost Service to the new Member States.</p>	<p>+</p>	<p>The service was extended to new Member States on 1 May 2004. About 500 enquiries were received from residents of the new Member States between May and November.</p>	<p>Enable citizens from new Member States to benefit from the service which provides practical advice and/or signposting to an appropriate local, national, or EU organisation</p>
<p>The Commission and Member States to extend the Euroguichet (network of European Consumer Centres (ECC). The aim is to have at least one ECC in all MS.</p>	<p>+</p>	<p>The Commission is working on extending the network, and from beginning 2005 merging it with the European Extra-Judicial Network (EEJ-Net). EEJ-Net is a network of clearing houses which inform and assist consumers in using alternative disputes resolution schemes throughout the enlarged EU.</p> <p>Currently, there are 15 ECCs in 13 Member States. There will in principle be a contact point of the merged network in each "old" Member State as well as in Norway and Iceland. Merged centres will be created in some of the New Member States in 2005.</p>	<p>The aim of the network is to provide information to consumers and assist them in pursuing cross border-complaints. The merger with the EEJ-Net should create a credible system that all stakeholders can trust by providing consumers with a seamless and effective service. There are a number of other significant benefits that such a merger could bring: more efficient administrative and financial management; greater profile and coherence of the actions and a strengthening of the knowledge-base (a combined structure will enable statistical data to be more efficiently processed).</p>
<p>The Commission to set up a top-class information portal bringing together the</p>	<p>+</p>	<p>The first version of the Your Europe portal will be launched in January 2005.</p>	<p>The new portal, which is financed under the IDA (Interchange of Data between</p>

<p>Dialogue and the Signpost Service with other related initiatives, such as SOLVIT, European Consumer Centres, Fin-Net and EEJ-Net.</p>			<p>Administrations) programme, will provide access to a wide range of practical information for citizens and businesses at both EU and national level as well as to advice and problem-solving services. It is managed by an editorial board with representatives of the Member States. Work will continue with a view to developing an improved version, including e-services, by 2006.</p>
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