

UNIT 5 SINGLE EUROPEAN ACT AND SINGLE MARKET

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5.0 INTRODUCTION

The Treaty of Rome (1957) envisaged the eventual establishment of a common market when it stipulated that the Community "shall have as its task, by establishing a common market and progressively approximating the economic policies of Member States, to promote throughout the Community a **harmonious** development of economic activities, a continuous and balanced expansion, an increase in stability, an accelerated raising of the standard of living and closer relations between the States belonging to it." Thus, the Treaty of Rome clearly envisaged that the Community's prosperity and, in turn, its political and economic unity would depend on a single, integrated market.

With the establishment of the customs union in 1968, customs duties and quantitative restrictions on the intra-Community trade of goods were removed, but many technical and administrative obstacles to free trade still persisted. Even though the European Community was often referred to as "the Common Market" and despite the clear goals envisaged in the Treaty of Rome, many of the original **barriers** to the internal market remained and new ones had sprung up. These included obstacles to the free movement of people, varying national technical specifications, health and safety standards, environmental regulations, quality controls, differences in indirect taxation, etc. that prevented the same product from being sold in all EC countries. Though efforts were made to remove these **barriers**, but in many cases discussion simply got bogged down in technical details since the Member States failed to agree on a common overall approach to overcome national differences in standards. In this unit we will analyse these processes and the outcomes.

5.1 OBJECTIVES

After going through this unit, you should be able to understand:

- the factors that lead to the formation of the idea of a single European Market;
- the various reports and recommendations for the establishment of a single European Market;

- basic features of the Single European Act 1987;
- main features and effects of the single market; and
- the obstacles coming into the way of working of the single market.

5.2 CHALLENGES OF THE 1970s AND THE 1980s

The economic recession in Western Europe in the 1970s in the aftermath of the 1973 oil crisis tended to reinforce the preoccupation of Member States with the protection of their national markets not only against non-member States, but also against one another. The consequent preoccupation with nationalism and protectionism by governments and lobbyists from major industries against both internal and external competition had created great resistance to unification. Thus, only marginal progress could be made in the removal of barriers to the creation of a Single Market.

In the early 1980s, however, Member States of the European Community began to show greater willingness to make a renewed concerted attempt to create a meaningful single market. This realization was the result of

- a) The loss of global competitiveness vis-a-vis the Community's main competitors, viz. Japan and the United States, led to a considerable decline in the share of the European Community in world trade in manufactured goods from the early 1970s till the mid-1980s;
- b) Increasing competition from the Newly Industrialized Countries of East and Southeast Asia, which led to more than doubling of the negative trade balance of the Community and the Asian NICs in the 1980s;
- c) Stagnation of economic and political integration in the wake of internal conflicts regarding the expansion of the budget, financing of the Common Agricultural Policy, and enhancement of political integration;
- d) The structure of European industry, which reflected the fragmented nature of the market and national attitudes apart from market divisions plagued by national attitudes. The numerous obstacles signified that even in those sectors where individual national industries were inefficient, the added costs, in turn, had made many of their products uncompetitive on the world market.
- e) "Eurosclerosis" or more than a decade of poor and declining economic performance since the early 1970s and the growth of unemployment, both of which led to intense political pressure for the imposition of protectionist measures both at the national and the Community level.
- f) The lack of effective application and commercialization of European research and development, which was fragmented along national lines. Moreover, companies in the European Community lacked resources and innovative ability required to bridge the gap between the marketplace and the laboratory, which were further weakened by their dependence on small national markets and by wasteful duplication of research.

There was a growing feeling within the Community that unless Western Europe took immediate steps, it would fall further behind North America and the Far East in world trade. It was felt that only a single European market of 320 million people, which enabled economies of scale in manufacturing, research and innovation and which enabled all operators, both large and small, to be freed of unnecessary duplicatory regulations, could provide the environment in which the challenges confronting Europe could be met.

5.3 COMMISSION WHITE PAPER, JUNE 1985

As the realization amongst businessmen, economists, national politicians and Members of the European Parliament increased and they felt that the revival of Europe was dependent on the creation of a continental market, the Heads of State/Government of all the Member States repeatedly made declarations committing themselves to the completion of a fully unified internal market. In 1985, they asked the European Commission to put forward concrete proposals to achieve that objective by 1992. The main architect of the drive towards the establishment of a Single Market was Jacques Delors – the President of the European Commission.

As a result, the Commission published a White Paper in April 1985 entitled *Completing the Internal Market*, which set out the necessary programme together with a clear timetable for action. It attempted to identify all the existing physical, technical and fiscal barriers which justified the continuing existence of frontier controls and prevented the free functioning of the market. It went on to propose 300 legislative proposals required for their removal and suggested the deadline of 31 December 1992 for the adoption of these measures.

The White Paper traced the consequences of the removal of each barrier and elaborated the follow-up action(s) that would be necessary to ensure that the removal of the different barriers worked in a coordinated way. The White Paper also outlined the complementary action that would be necessary in other Community policy areas if the programme was not to be jeopardized by barriers elsewhere such as differing environmental standards nor would be disrupted by the lack of an effective competition policy at the Community level or differing degrees of social protection throughout the Community, increasing disparities in regional development or an incoherent external relations policy. Chapter III of the White Paper discussed in detail the approach to the abolition of frontier controls. Chapter IV and V examined the approaches to be followed for the removal of technical and fiscal barriers.

The White Paper envisaged that the various proposals which were required to complete the internal market should be discussed, adopted and implemented according to a timetable between 1985 and 1992. It was suggested that most of the legislation at the Community level should be enacted in the early years and leave at least two years for the Member States to enact the necessary implementing legislation. To that end, the Commission had by the end of 1988 presented nearly 90 per cent of the programme to the Council. By April 1990, the pre-legislative phase of the internal market programme was completed when the Commission submitted its last proposal to the Council. By December 1990, a decision had been taken or a common position arrived at in the Council on the proposals. However, much of the Community law would have to be painstakingly translated into national law in the Member States and followed up by tightening up the enforcement of law.

What the White Paper "intended to do was to inject a new focus, impetus and dynamism into fundamental Treaty objective that was proceeding far too slowly, and in some respects had gone rather off the rails. Much of what was proposed in the White Paper, therefore, was not new, but had been around for some time – awaiting decisions by the Council of Ministers". [Nugent, 2003, p. 299.1]

5.4 CECCHINI REPORT

By the mid-1980s, there were clear signs that economic integration was at a standstill, and many non-tariff barriers existed within the European Community. It was argued that the large single American market enabled American companies to introduce innovative products several years before this was commercially possible in the European Community. These economic arguments were outlined in a study carried out at the request of the European Commission by a large number of independent economic experts, consultants and research institutes under the leadership of Paolo Cecchini – called the Cecchini Report (1988) – which sought to estimate the costs of the "non-single market" or the continuance of the fragmentation of markets. The "non-Europe", it argued, was burdened with heavy costs in both qualitative and quantitative terms such as uncompetitive industries, low productivity, poor innovation, etc. The Cecchini Report estimated that the removal of market barriers once-and-for-all would lead to substantial benefits. The report made the following conclusions:

- a) The total potential economic gain to the Community as a whole from the completion of the internal market was estimated to be in the region of ECU 200 billion (ECU = European Currency Unit) or more, expressed in 1988. This was expected to add about 5 per cent to the Community's gross domestic product.
- b) It predicted that in the medium term, market integration in the Community would deflate consumer prices by an average of 6 per cent as well as boost output, employment and living standards. It also predicted that it would produce economies in public sector costs equivalent to 2.2 per cent of GDP and boost the EC's trade with other countries by around 1 per cent of the GDP.

- c) The direct costs of frontier formalities, including associated administrative costs for both the private and public sectors were estimated to be of the order of 1.8 per cent of the value of goods traded within the Community. To this were added the costs to industry of other identifiable barriers to a complete internal market such as differing national technical regulations governing the manufacture and marketing of products, which were estimated to be a little under 2 per cent of companies' total costs. The combined total of all these savings then represented about 3.5 per cent of industrial value-added.
- d) It felt that there were substantial unexploited potential economies of scale in European industry. It was estimated that about one third of European industry could profit from cost reductions ranging from 1 to 7 per cent, depending on the sector concerned. Aggregate cost savings from improved economies of scale would thus amount to something in the order of 2 per cent of GDP.
- e) The creation of a Single Market would lead to the creation of 1.8 million new jobs, thereby reducing the unemployment rate by 1.5 per percentage points. [*Europe without Frontiers*, 1989), pp. 13 and 15.]

Constant competition, it was argued, would lead to a decline in prices, an increase in demand and output as well as productivity and research and development and the creation of new jobs. Though some economists criticized the Cecchini Report on the ground that it considerably exaggerated the anticipated benefits, the intensive debate about the completion of the Single Market which followed the publication of the report served as a powerful catalyst for more intensified efforts towards formal integration.

5.5 SINGLE EUROPEAN ACT, 1987

The Milan European Council meeting (June 1985) acknowledged that the legislative measures being adopted to give effect to the establishment of a Single Market were not likely to succeed unless the decision-making rules of the Community were revised. This fact, along with the realization that other treaty-related matters also needed revision led to the establishment of an Intergovernmental Conference (IGC) to negotiate and prepare treaty reforms. The IGC began its work in the second half of 1985 and completed its deliberations towards the end of 1985. At the Luxembourg summit (December 1985) of the Heads of State/Government, Member States agreed to the Single European Act (SEA), which was formally signed in February 1986. However, it did not come into force until 1 July 1987 because of ratification difficulties in Ireland. The SEA was the first major revision or amendment of the Treaty of Rome since its inception in 1957. It is widely regarded as a turning point for the integration process in Western Europe. The main provisions of the Single European Act were as follows:

- 1) The SEA replaced the Treaty requirement for decisions to be taken by unanimity (which had made decision-making a complex and lengthy process and slowed progress to the pace of the most reluctant state) with a qualified majority voting (QMV) as regards certain measures which sought the establishment and functioning of the internal market. The introduction of QMV in the Council of Ministers significantly reduced the ability of the smaller EC member states to create roadblocks in the way of liberalization measures so that the Big Three (Britain, France and the United Kingdom) and like-minded states were often able to push through measures related to the implementation of the Single Market.
- 2) The SEA introduced a new legislative procedure – called the "cooperation procedure" – which enabled the European Parliament to provide a greater input to the Community legislative process in relation to those areas where the procedure applied. The cooperation procedure required closer liaison between both the European Commission and the Council with the European Parliament, through the first and second reading of proposals, as they pass from the stage of Commission initiative to Council adoption. Although the new voting rules and the cooperation procedure facilitated quicker decision-making by all of the institutions involved, they did not **guarantee** the adoption of a legislative act at the end of the process since much continued to be dependent on the political will of the Member States.
- 3) The Single Act also incorporated a number of amendments to the original Treaties by including new policy areas like economic and social cohesion, environment, research and technological cooperation.
- 4) The Single European Act also gave a new impetus and legal basis to European Political Cooperation (EPC), which had been pursued since the early 1970s. However, this was not done by incorporation in

the treaties. The SEA confirmed the already existing goals for EPC and placed decision-making in the EPC on an intergovernmental basis by consensus. One of the most important results of the SEA was the establishment of a permanent secretariat for EPC in Brussels.

- 5) The Act increased the role and influence of the European Parliament in the architecture of Community institutions by the introduction of a new "assent procedure" whereby the European Parliament's assent, by an absolute majority of Members of Parliament, became necessary for the accession of new member states to the Community and for association agreements between the Community and third countries.
- 6) The Act gave legal recognition to meetings between the Heads of Government of Member States in the framework of the European Council, which had been taking place since 1975.
- 7) In order to enhance the capacity of the European Court of Justice, the Single European Act established a new Court of First Instance.

The importance of the Single European Act for the achievement of the Single Market lay in the fact that it provided the necessary political impetus and legal framework to achieve a truly unified market by 1992. The institutional reforms of the SEA were to prove essential not only for the establishment of a single market, but also in moving beyond it to economic and monetary union. The enactment of the Single European Act led to a period of considerable enthusiasm and hope in Europe. It gave Western Europe a mission and a purpose to create the synergy required to compete effectively against both Japan and the United States.

5.6 MAIN FEATURES OF THE SINGLE MARKET

The Single Market sought the removal of *tariff barriers*, physical barriers (which took the form of frontier controls causing stoppages, delays, administrative burdens, and red tape), technical barriers (such as different national product standards, technical regulations, and business laws), and fiscal barriers (which existed in different rates of Value Added Tax (VAT) and excise duties and in varying degrees of subsidies).

The free movement of persons essentially implied ensuring the freedom of individuals and companies to establish their business in the territory of other Member States. To that end, secondary legislation and Court rulings facilitated this by ensuring mutual recognition of many educational, professional and trade qualifications and by providing "key facilitators", notably in the form of establishment of various legal entitlements, irrespective of nationality and place of domicile, to education and job training, health care and social welfare payments. [Nugent, 2003, p. 300.] The free movement of people is guaranteed under the Schengen Agreement, which removes checks at most of the EU's internal frontiers, and strengthens controls at the EU's external borders, including international airports and seaports. The United Kingdom and Ireland have not joined the Schengen system, which also does not yet apply to the ten member states that joined the European Union in 2004.

Till the end of the 1980s, it was difficult to make any real headway in ensuring the free movement of capital because many Member States considered it an important economic and monetary instrument and were unwilling to transfer competences to the Community. By 1990, there has been free movement of capital though it has still not been possible to harmonize either taxation rates or banking rules. An integrated market in financial services was created by 2005, which has reduced the cost of borrowing for firms and consumers, and will offer savers a wider range of investment products which will be available from the European supplier of their choice.

A key element of the Single Market is "the approximation of such laws, regulations or administrative provisions of the Member States as directly affect the establishment or functioning of the common market" (Article 94 of the TEC). In the ultimate analysis, approximation is about "creating conditions that allow, encourage and increase the uniform treatment of persons, goods, services and capital throughout the EU". [Nugent, p. 302.]

The single market relies primarily on competition and regulatory authorities to ensure a level playing field for the free movement of goods and services. The basic rules of EU competition policy are enumerated in Articles 81 to 89 of the TEC. These provisions basically relate to restrictive practices, dominant trading positions and state aid. Since an effective competition policy is necessary for an open and integrated market, the European Commission has in recent years adopted a two-fold approach. It has become much more

active in examining cases of apparent malpractice and approved legislation which seeks to broaden the competition policy base. [Nugent, p. 303.1

The four freedoms of movement, viz. goods, services, people and capital, are underpinned by a range of supporting policies. For instance, companies are prevented from fixing prices or carving up markets among them by the EU's robust anti-trust policy. The mobility of people from one Member State to another is facilitated by the fact that member states recognize many of each other's academic and professional qualifications. With the removal of these obstacles and the opening of national markets, it was possible for a larger number of **firms** to compete against each other. It also led to lower prices for the consumer who could also have a greater choice of goods and services.

The various enlargements of the European Union from EU-15 to EU-25 in May 2004, when ten Central and East European countries were admitted, a Single Market of more than 454 million consumers was created. After the accession of Bulgaria and Romania, EU-27 would become a single market of 484 million consumers.

5.7 EFFECTS OF THE SINGLE MARKET

It was expected that economic gains would result from cheaper goods and services supplied from other Member States; improved efficiency as a result of more intense competition; removal of monopolies in national markets; cheaper unit costs of goods as it would now be possible to have economies of scale; and the stimulus given to greater innovation and the development of new products and processes. All of this was likely to benefit the consumer in terms of lower prices and lead to greater economic welfare. There were likely to be savings of cost and time since it would involve the elimination of delays and bureaucracy at the borders. Some, however, feared that more intense competition could lead to the emergence of unfair competition from monopolist companies crossing the border, which would have to be regulated by the European Commission.

The completion of the Internal Market was likely to deprive the Member States of a great many economic policy instruments and "significantly heighten" the exposure of hitherto sheltered economic activities to continental competition. At the public level, it was likely to lead to the prohibition of certain interventions or the obligation to stick to harmonized provisions which limited the autonomy of public policy. At the private level, the "Europeanization" of hitherto protected sectors would rapidly increase. The technical and legal framework (technical regulations, standards, patents, trademarks, mergers, etc.) for intra-EC trade and investment would shift to the Community level. [Pelkmans, 1988, p. 366.1

Even though the European Union has achieved a deep level of economic integration it would appear that borders in Europe still act as "formidable constraints" upon commerce between member states. This is so "even in sectors where the EU has sought to remove regulatory barriers to trade and sectors where different national regulations are not thought to be important constraints to trade. . . . If integration continues then it is likely that more and more competences will be transferred from the national to the EU level and the scope for independent policy initiatives at the national level will be increasingly curtailed". [Brenton, 2001, pp. 8-91.

Politically and institutionally, the attainment of the completed Internal Market would imply "a greater reliance on positive integration, much less autonomy for domestic micro-economic policies, less flexibility for domestic indirect tax policies and a commitment to faithfully coordinate macro-economic policies (such as the size of public borrowing, etc.)". [Pelkmans, p. 367.1 It was also expected that the creation of a Single Market would lead to losers as well as gainers as a result of greater competition, industrial restructuring, mergers and acquisitions, etc.

Outside Europe, the creation of a Single Market led to fears that it would lead to the emergence of an inward-looking "Fortress Europe" which would tend to restrict, rather than enhance, trade as it would tend to pass on the burdens of adjustment to foreign exporters. It was also felt that Spain and Portugal could potentially become more vocal advocates of protectionism.

5.8 OBSTACLES

Despite the substantial progress made in the establishment of a Single European Market, there are three kinds of obstacles to a completely open and integrated market. Firstly, there are intangible, but extremely important, obstacles arising from different historical experiences, cultures, traditions and languages, which are only very slowly being overcome. Secondly, there continues to be resistance on the part of Member States who are conscious of their national interests while developing and applying specific aspects of the Single Market. Thirdly, it is generally recognized that the "non-participation of certain Member States in the single monetary and exchange rate policies of 'Euroland'; the only partial development of common regional, social, environmental, transport, and consumer policies; and the diversity of corporate direct taxation systems" – are all factors which have never formally become part of the Single Market project, but nevertheless act as obstacles to complete market integration. [Nugent, pp. 304-305.]

5.9 THE SERVICES DIRECTIVE

In view of the low level of intra-EU trade in services (about 20 per cent) whereas services generated about two thirds of the Union's economic activity and employ nearly 70 per cent of its work force. The free movement principle has largely ended the ability of vested interests – often commercial but sometimes also unions – to deny consumers access to a full range of products and levels of service deemed adequate in other member states.

In 2001, the European Commission launched a major initiative – known as the Services Directive or the Bolkestein directive after the former Internal Market Commissioner Frits Bolkestein – to improve the practical working of the Internal Market by ensuring that service providers could operate as easily throughout the EU as they can in any single Member State. [European Commission, *An Internal Market Strategy for Services*, COM 2000(888), 29.12.2000, available at http://ec.europa.eu/internal_market/services/docs/services-dir/com-2000-888/com-2000-888_en.pdf.] This was in response to a specific request from the Lisbon European Council in the context of making the EU the most competitive economy in the world by 2010. The European Services Directive seeks to do for services trade what the 1992 agenda did for the creation of an internal market for goods. The Directive incorporates the "country of origin" principle, which enables workers in the service sector to merely carry paperwork adequate to the legal and documentary standards of their home country.

Under the Strategy, the Commission in 2001 accelerated a number of initiatives in specific problem areas (such as recognition of qualifications and sales promotions) whilst in parallel rigorously analysing persistent barriers to cross-frontier movement of services and where necessary pursuing infringement procedures, which often curtailed cross-border competition in services, restricted choice and increased costs for business and private customers and thereby limited economic growth and job creation. The Commission identified more than 90 barriers such as long and complicated procedures to obtain licences and permits lack of information on legal requirements, requirements to establish a permanent base in a country and discrimination on nationality grounds. "These are just some of the more than 90 barriers that we have identified. Their cumulative effect is to restrict competition, with the result that recipients get less choice and worse service, at increased prices." [Speech by UK Trade Minister Ian McCartney to British MPs, May 2006. Cited in <http://news.bbc.co.uk/1/hi/europe/4698524.stm>.] Under the Strategy, the Commission in 2002 was to set out a precise timetable for Member States to dismantle specific barriers identified, present non-legislative supporting measures (e.g. codes of conduct) and propose harmonised rules for service provision where strictly necessary. It will also propose a mechanism to ensure that in other areas EU Member States would be required to recognise each others' rules and practices, rather than impose their own, whilst ensuring a high level of protection of public interest objectives. [European Commission, Press Release IP/01/31, Services: Commission launches new strategy to dismantle remaining barriers, 11 January 2001.]

The Services Directive raised concerns in countries with high standards of social protection. These countries feared that cheaper, foreign companies would price out domestic companies. The Directive led to fears that it would devolve power away from the decades-old process of collective bargaining towards the courts in

settling disputes where service companies feel they were being unfairly discriminated against. Firms and unions, which were accustomed to operating in a **high-wage/low** competition environment, were apprehensive that competition would undercut relatively high rates of pay. The European Parliament altered the Directive, which now states that it would not affect labour law and rules regarding working hours, minimum wages, holidays and the right to strike, etc. Most of the friction was generated by the "country of origin" principle incorporated in the Directive whereby a company offering its services in another country would operate according to the rules and regulations of its home country. Some countries and trade unions feared this would result in **firms** being relocating to countries with lower wages and the weakest consumer, environmental protection, employment and health and safety rules or the influx of foreign workers.

Amongst Member States, France and Germany were the leading one which opposed the Services Directive in March 2005. However, subsequently the Grand Coalition led by Chancellor Angela Merkel Government in Germany changed its position and urged an early agreement on the new text of the Directive. The United Kingdom, the Netherlands, Spain, Poland, the Czech Republic, and Hungary signed a letter in the run-up to first reading in the European Parliament in February 2006, urging the European Commission to support an ambitious version of the Services Directive that would lead to a "truly functioning internal market". Member States agreed on a Common Position in May 2006 and the European Parliament approved the Directive at its second reading November 2006. However, it is unlikely to become law before 2009 or 2010 since it would take about three years for member states to translate it into national law.

The European Commission estimates that increased service-sector product quality, brought about by enhanced competition could significantly increase intra-EU exports as well as enhance long-run growth, jobs and welfare prospects by freeing up cross-border trade and investment in services. The European Commission's estimates point to a 1.8 per cent increase in GDP and 2.5 million new jobs.

5.10 SUMMARY

In this unit, you have studied the establishment and effects of the establishment of the Single Market – the core of today's European Union. To make it happen, the EU institutions and the member countries strove doggedly for seven years from 1985 to draft and adopt the hundreds of directives needed to sweep away the technical, regulatory, legal, bureaucratic, cultural and protectionist barriers that stifled free trade and free movement within the Union. The project for the establishment of the Single Market has been considerably driven by business and corporate interests and did not spark popular imagination in the way in which the introduction of the Euro excited and inspired European public opinion. However, the Single Market could not be established in its entirety in 1993. There is additional work involved in removing remaining obstacles to trade, particularly in the field of *services*; improving the *implementation* of existing rules; compliance with *procurement rules* at all levels of government should be made a priority; more affordable, legally secure and well-enforced *patenting* and other intellectual and industrial property right protection.

The establishment of a Single Market has a number of tangible benefits. With the removal of barriers, it is now possible for people, goods, services and money to move around Europe as freely as within one country. The opening of national EU markets has brought down the price of national telephone calls to a fraction of what they were ten years ago. Under pressure of competition, the prices of budget airfares in Europe have fallen significantly. The removal of national restrictions has enabled more than 15 million Europeans to go to another EU country to work or spend their retirement. In its first ten years of existence (since 1 January 1993) the Single Market created 2.5 million jobs and Euros 877 billion of extra prosperity. The Single Market has enhanced the ability of EU **firms** to compete in global markets. EU exports to third countries have increased from 6.9 per cent of EU GDP in 1992 to 11.2 per cent in 2001. The Single Market has made Europe a much more attractive location for foreign investors. New inflows of foreign direct investment into the European Union have more than doubled as a percentage of GDP.

5.11 EXERCISES

- 1) Explain the motivating factors for the establishment of a Single Market.
- 2) Discuss the main provisions of the Single European Act.
- 3) Discuss the major features and effects of the Single European Market.
- 4) Examine the need, nature and importance of the Services Directive.

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