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**COMMUNICATION DE LA COMMISSION
AU CONSEIL, AU PARLEMENT EUROPÉEN,
AU COMITÉ ÉCONOMIQUE ET SOCIAL EUROPÉEN
ET AU COMITÉ DES RÉGIONS**

Deuxième rapport de mise en œuvre de la stratégie pour le marché intérieur 2003-2006

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PARTIE A: INTRODUCTION

Le présent rapport fait partie du « paquet de mise en œuvre » de la politique économique et de l'emploi, conjointement avec les rapports de mise en œuvre des grandes orientations de la politique économique et des lignes directrices de l'emploi. Ces trois rapports seront tous présentés en appoint au rapport de la Commission (rapport à mi-parcours sur la stratégie de Lisbonne) au Conseil européen du printemps 2005.

Le récent rapport Kok¹ nous rappelle l'importance du marché intérieur dans le renforcement de la compétitivité et la création de la richesse nécessaires pour élever les niveaux de vie et conserver le modèle social européen, reflétant ainsi le message principal de la stratégie pour le marché intérieur 2003-2006².

Tandis que chaque État membre a la responsabilité première de veiller à ce que ses propres politiques économiques soient génératrices de croissance et de prospérité, le marché intérieur est un projet commun auquel tous les États membres doivent contribuer et dont nous avons tous à gagner. Dans l'Union des 25, il s'agit d'un défi encore plus grand mais les récompenses potentielles sont encore plus importantes. Tel a été le deuxième message principal de la stratégie pour le marché intérieur.

Le succès économique de l'Union européenne repose ainsi sur une responsabilité collective; un ensemble d'initiatives des États membres et d'actions européennes conçues pour fusionner les marchés nationaux dans un seul grand marché intérieur. Une telle action doit porter à la fois sur le côté de l'offre et le côté de la demande, en tenant compte des intérêts des entreprises et des consommateurs. Le présent rapport sur la mise en œuvre de la stratégie pour le marché intérieur 2003-2006 confirme la nécessité d'agir en commun. Son analyse des progrès et retards en l'état démontre qu'il faut faire davantage pour obtenir un accord sur des propositions essentielles et obtenir un meilleur fonctionnement dans la pratique du marché intérieur, au moment où l'intégration des marchés est plus ou moins stagnante.

Au début de son mandat, et alors que la révision à mi-parcours de la stratégie de Lisbonne prend de l'élan, la Commission se félicite de l'occasion de mettre en lumière le marché intérieur et de mobiliser davantage les soutiens en faveur de son achèvement et de son fonctionnement efficace dans la pratique.

¹ Groupe de haut niveau présidé par Wim Kok : Facing the Challenge : the Lisbon strategy for growth and employment, 3 novembre 2004.

² COM(2003) 238 final du 7.5.2003.

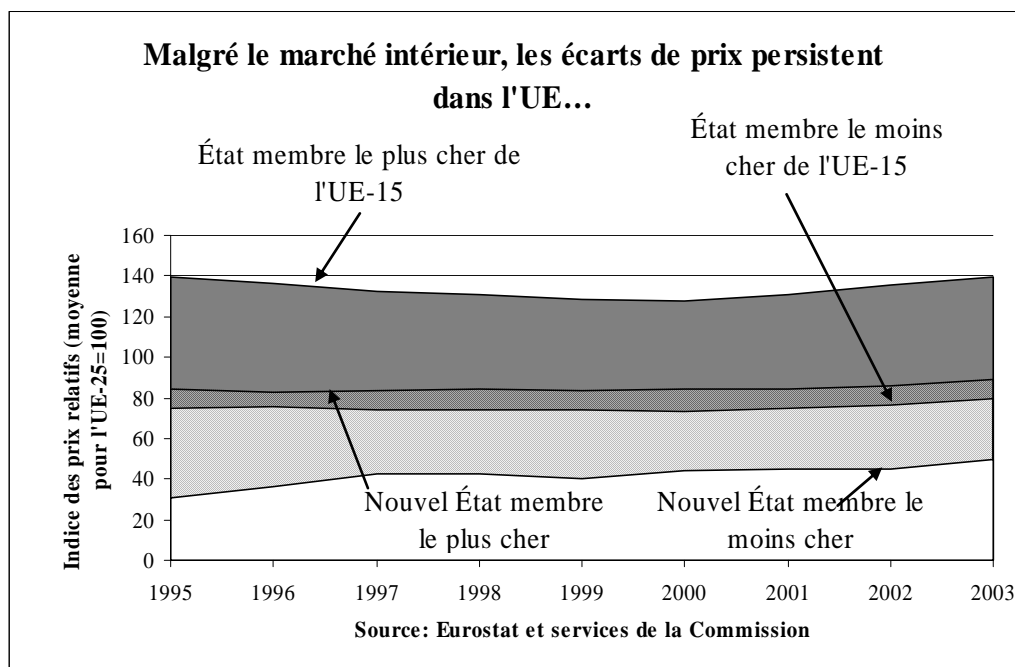
PARTIE B: L'ÉTAT ACTUEL DU MARCHÉ INTÉRIEUR

A la lenteur de la croissance économique s'ajoutent d'autres indicateurs clés qui laissent à penser que l'intégration du marché intérieur stagne.

Les prix dans l'Union européenne ne convergent pas ...

Lorsque les échanges sont faciles, la concurrence qui en résulte rapproche fortement le prix de marchandises comparables dans l'Union. Dans les secteurs de biens pour lesquels le marché intérieur a plus fortement facilité les échanges – par exemple l'habillement, la chaussure et l'alcool – la convergence des prix a été la plus forte³. Globalement, y compris dans la zone Euro, des barrières persistantes ont pour conséquence que les prix de biens comparables d'un État membre à l'autre s'obstinent à conserver leurs différences (voir le graphique 1).

Graphique 1

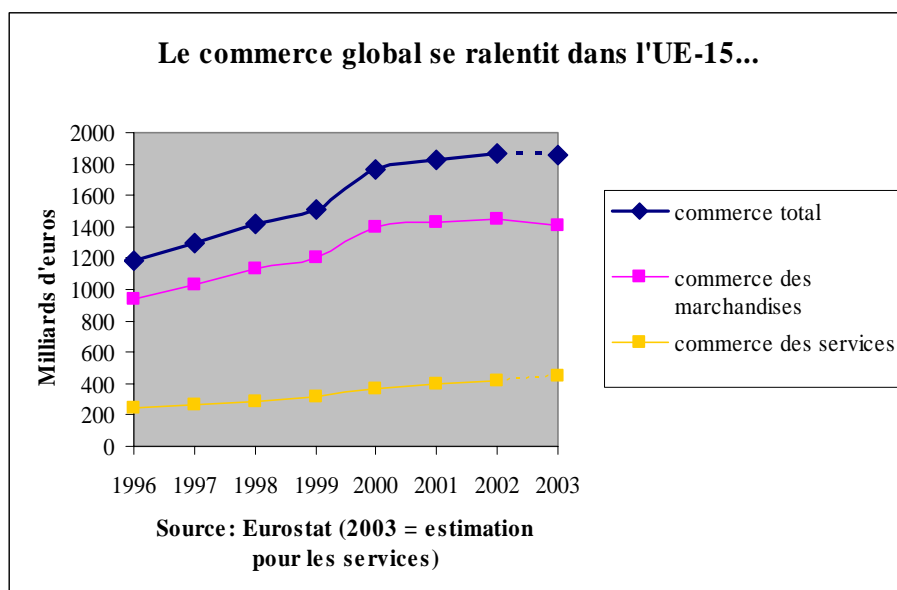


³ Engel, C. & Rogers, J. (2004) "European product market integration after the euro", *Economic Policy*, July, pp.348-384

Les échanges se ralentissent...

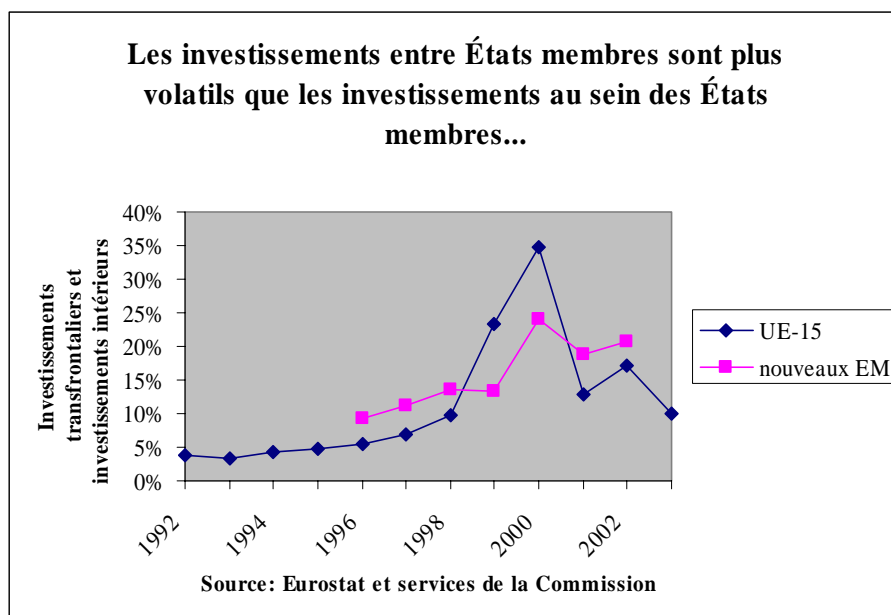
Les échanges de biens manufacturés entre États membres stagnent depuis 2000 et ont de fait diminué en 2003. Les échanges de services paraissent plus durables (bien que les données ne soient disponibles que jusqu'en 2002), mais les piètres résultats des échanges de marchandises obèrent les chiffres du total des échanges – les échanges de services ne représentant que 20% environ de la valeur des échanges de marchandises. Un ralentissement des échanges se traduit par une moindre pression de la concurrence sur les prix.

Graphique 2



Et les flux d'investissement à l'extérieur sont plutôt volatils...

Graphique 3



Des études donnent à penser qu'un accroissement des investissements extérieurs entraîne des gains de productivité dans les économies bénéficiaires⁴. L'accroissement des investissements transfrontaliers entre États membres dans l'Union a été un moteur notable de l'intégration du marché intérieur et cette augmentation a été sensiblement plus rapide que celle des investissements intérieurs au cours des dix dernières années. Dans l'Union des 15, la valeur totale des flux des investissements directs internationaux en 2000 était douze fois supérieure à ce qu'elle était en 1992 mais elle était retombée en 2003 à une proportion (encore respectable) de quatre fois le niveau de 1992.

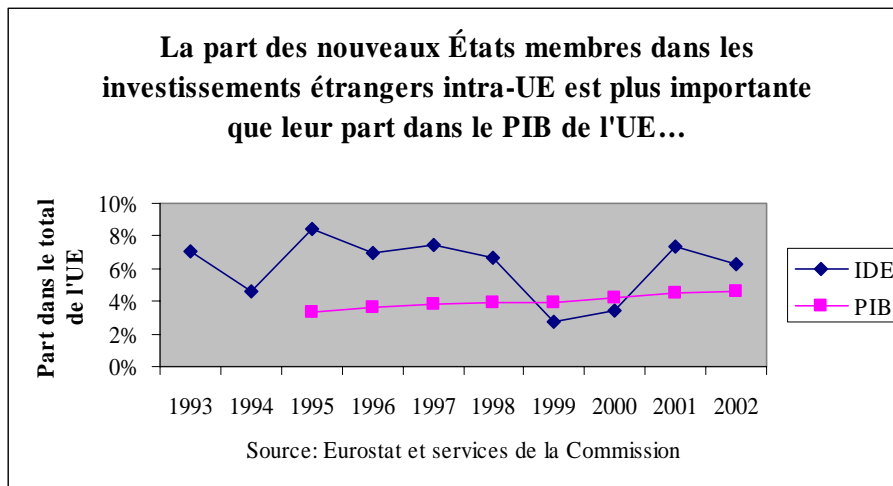
Il pourrait y avoir de nombreuses raisons à la volatilité des investissements directs à l'étranger au cours de ces dernières années, et notamment la fin du boum des « dot com » et les attentats du 11 septembre. Néanmoins, la volatilité des flux d'investissements directs à l'étranger comparés aux investissements intérieurs (voir le graphique 3) donne à penser que le chemin qui mène à l'intégration est encore long et que les investisseurs ne considèrent pas encore les investissements dans le marché intérieur de la même façon que les investissements sur leurs marchés nationaux.

Ce graphique indique aussi que les flux d'investissements étrangers par rapport au total des investissements sont plus forts dans les nouveaux États membres que dans l'Union des 15 (en dehors des années exceptionnelles qu'ont été 1999 et 2000). Les nouveaux États membres bénéficient aussi d'une proportion d'investissements directs à l'intérieur de l'Union proportionnellement beaucoup plus élevée par rapport à leur importance économique (voir le graphique plus bas), alors qu'au départ, leur niveau d'investissements était beaucoup plus bas. Cela donne à penser que l'intégration du marché intérieur est un facteur important du développement de l'économie du côté de l'offre dans les nouveaux États membres et que leur

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.

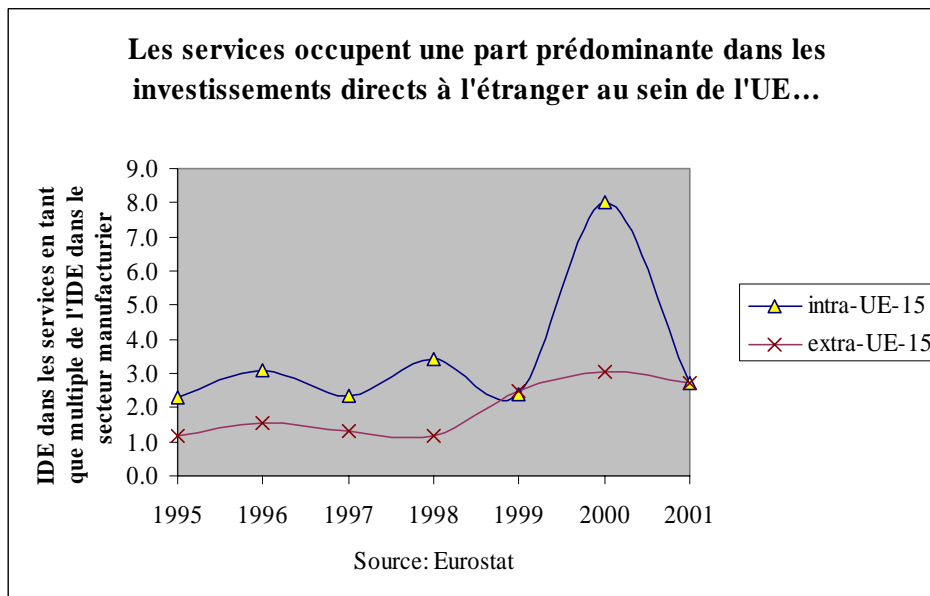
accès au marché intérieur de l'Union peut être un attrait important pour les investissements étrangers.

Graphique 4



Les investissements étrangers entre les États membres de l'Union des 15 sont concentrés sur les secteurs des services. Généralement, les services bénéficient de trois fois plus d'investissements étrangers que le secteur manufacturier; en 2000, les services ont bénéficié de huit fois plus d'investissements. Les entreprises de l'Union privilégient aussi les services par rapport à l'industrie de transformation dans le reste du monde, mais sensiblement moins que dans l'Union (voir le graphique 5).

Graphique 5



Ce qui explique pourquoi l'intégration des marchés des services dans l'Union est si importante...

Les investissements directs étrangers au sein de l'Union sont très largement dominés par les services. Les services dominant aussi l'économie de l'Union, l'avantage potentiel de l'intégration du marché des services de l'Union est manifestement énorme. Ceci explique pourquoi une directive sur les Services, qui pourra libérer le plein potentiel du secteur des services, notamment en facilitant la liberté d'établissement, est si importante.

Une analyse récente⁵ met en lumière le degré de fragmentation que peuvent atteindre les marchés des services⁶: dans le secteur de la comptabilité, par exemple, les réglementations nationales ont pour effet qu'une entreprise d'un État membre qui cherche à exercer une activité dans un autre État membre subit, en moyenne, des coûts d'exploitation de 23 % supérieurs à ceux d'un concurrent local. L'élimination de ces obstacles ferait faire un bond à la productivité et augmenterait ainsi les salaires dans l'ensemble de l'Union de 0,4 % en moyenne et l'emploi de 0,3 %⁷. Une autre analyse⁸ estime que les échanges au sein de l'Union pourraient augmenter de 15 à 30 % si les marchés des services étaient intégrés, tandis que le stock d'investissements étrangers dans les services se gonflerait de 20 à 35 %. L'absence de concurrence dans le secteur des services financiers fait faire de mauvaises affaires aux consommateurs: prix plus chers, moindre accès au crédit. Selon des estimations, les obstacles datant d'avant 2000 rencontrés par les entreprises étrangères dans le secteur bancaire auraient provoqué une hausse des prix de quelque 5,3 %. L'intégration des services financiers pourrait entraîner une hausse du PIB de l'Union de 130 milliards d'euros (aux prix de 2002) et un accroissement des investissements des entreprises de 6,0 %.

De même qu'une meilleure sécurité juridique...

Dans les secteurs où il n'existe aucune législation communautaire spécifique et où le principe de la reconnaissance mutuelle pourrait ainsi s'appliquer⁹, ni les producteurs ni les autorités de surveillance du marché ne savent avec certitude dans quelle mesure des produits d'un État membre peuvent pénétrer sur le marché d'un autre État membre sans être modifiés; d'après le Panel d'entreprises européennes, 53 % des entreprises ne connaissent même pas ce principe. Près de 80 % des participants à une récente enquête¹⁰ pensent que les difficultés réglementaires constituent le principal problème pour faire des affaires dans le marché intérieur.

L'impact de cette incertitude est sensible sur le plan économique. Selon des estimations, la non-application du principe de la reconnaissance mutuelle aurait de fait réduit les échanges de marchandises au sein du marché intérieur de 10 %, soit 150 milliards d'euros, en 2000¹¹. En

⁵ Commission européenne (à paraître prochainement) *Economic Assessment of the Barriers to the Internal Market for Services*, Copenhagen Economics.

⁶ Pour 20 États membres.

⁷ *Opus cité*

⁸ CPB document N° 69, October 2004, Free movement of services within the EU

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

⁹ D'après ce principe, aucun État membre n'a le droit d'interdire, sauf pour des motifs démontrés d'intérêt légitime comme la protection de la santé ou la sécurité, la vente sur son territoire de tout produit légalement produit ou commercialisé dans un autre État membre.

¹⁰ RIIA and Accenture (2004) "Unfinished Business: Making Europe's Single Market a Reality"

¹¹ Commission européenne (2001)

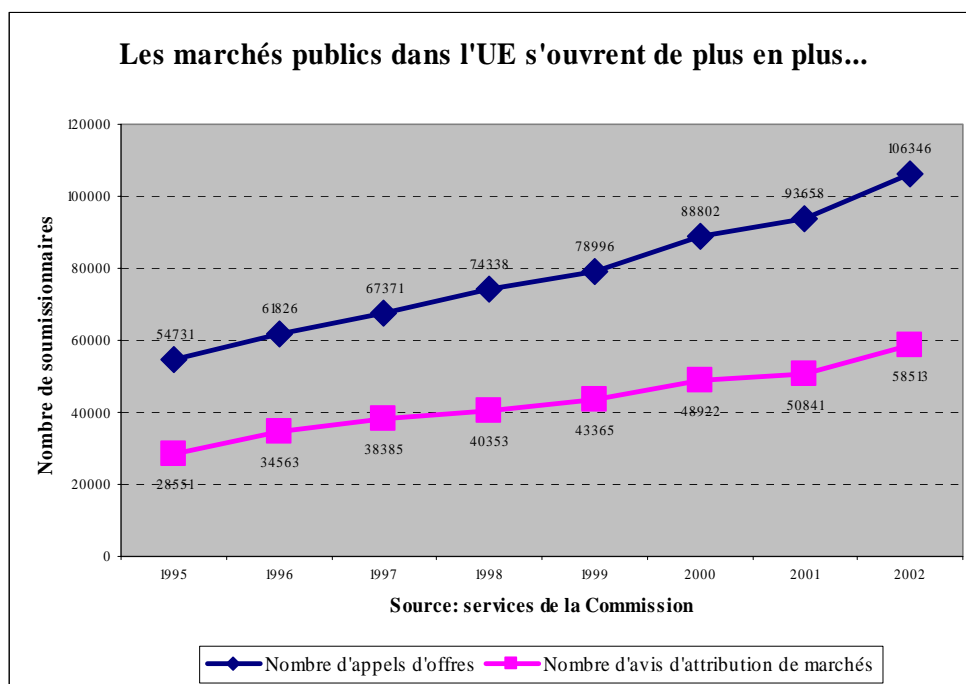
http://europa.eu.int/comm/internal_market/en/update/economicreform/cardiff02ensta.pdf, p. 24.

conséquence, le choix des consommateurs est limité et ils sont obligés de payer plus cher parce que le jeu de la concurrence n'est pas pleinement exploité.

Et les marchés publics en Europe...

En 2002, les marchés publics de fournitures dans l'Union totalisaient une valeur de 1500 milliards, soit plus de 16 % du PIB. Traditionnellement, les États membres ont favorisé les entreprises nationales mais ce vaste marché est en train de s'ouvrir: le nombre d'appels d'offres publics publiés au Journal officiel en proportion de la valeur totale des marchés publics a constamment augmenté mais continue de ne représenter que 16 % de cette valeur totale.

Graphique 6



Il est essentiel d'un point de vue économique d'élargir les règles du marché intérieur en matière de marchés publics. Les autorités qui procèdent à des achats en recourant à la réglementation des marchés publics ont payé des prix environ 34 % moins cher que les autorités qui n'ont pas utilisé cette réglementation¹². L'Italie estime avoir épargné 3,7 milliards d'euros sur un total de 23 milliards d'euros d'achats en 2003. L'Irlande estime qu'elle pourrait réaliser des économies potentielles de plus de 1 milliard d'euros au cours des cinq prochaines années grâce aux seuls marchés publics électroniques.

Une plus large ouverture des marchés publics stimulerait les échanges, la productivité et la croissance. Cela contribuerait également à un assainissement des finances macro-économiques. Une économie de 10 % tout juste dans les dépenses courantes pour les marchés publics ramènerait l'ensemble des 15 États membres d'avant mai 2004 sous les limites du déficit budgétaire fixées par le pacte de stabilité et de croissance.

¹² http://europa.eu.int/comm/internal_market/publicprocurement/docs/public-proc-market-final-report_en.pdf

PARTIE C: ÉTAT DE LA MISE EN ŒUVRE DE LA STRATÉGIE

L'intégration du marché intérieur a peut-être temporairement calé mais l'expansion du marché intérieur aux dix nouveaux États membres depuis mai dernier s'est faite relativement en douceur. L'intégration du marché dans l'Union des 25 offrira des possibilités pour une nouvelle impulsion économique. Comme le rapport de mise en œuvre de l'année dernière¹³ l'a souligné, il reste une marge pour un accroissement sensible des échanges et des investissements entre l'Union des 15 et les 10 nouveaux États membres à court et moyen termes. Il existe donc des raisons d'être optimiste à propos de la contribution que le marché intérieur continuera d'apporter à la compétitivité de l'Europe.

En plus des effets positifs d'un marché intérieur élargi, plusieurs mesures ont été adoptées au cours des dernières années, dans des domaines tels que les services financiers, les industries de réseau ou le droit des sociétés, dont on peut s'attendre à ce qu'elles commencent à produire des effets positifs sur le terrain.

Autre fait encourageant, deux tiers des actions prévues ont été réalisées à la fin de 2004 (voir les exemples au tableau 1) bien que nombre d'entre elles soient généralement des propositions de la Commission qui, pour contribuer à la croissance et à la compétitivité, doivent encore faire l'objet de décisions au sein du Conseil et du Parlement et être effectivement mises en œuvre par les États membres. (Pour plus de détails sur l'état d'avancement de chaque action, voir l'annexe II).

Tableau 1: Progrès de la mise en œuvre de la stratégie

LES PROGRÈS	L'ENJEU
<p>Marchés des services</p> <p>Une proposition essentielle de directive visant à faciliter les échanges transfrontaliers et l'établissement est en cours de discussion au sein du Conseil et du Parlement. Le Conseil de printemps de 2004 a préconisé son adoption dans les délais envisagés, soit avant la fin de 2005.</p>	<p>Une récente étude du Bureau pour l'analyse de la politique économique des Pays-Bas estime qu'un marché intérieur au fonctionnement efficace dans les services pourrait renforcer les échanges (de l'ordre de 15 à 30%) ainsi que les investissements directs étrangers (de 20 à 35%)¹⁴.</p>
<p>Services financiers</p> <p>40 des 42 mesures du plan d'action pour les services financiers ont à présent fait l'objet d'un accord. Les services financiers commencent à s'intégrer, l'accent étant à</p>	<p>Des études¹⁵ suggèrent par exemple qu'un resserrement de l'écart des taux des actions et des obligations permettrait un accroissement potentiel du PIB de l'Union</p>

¹³ COM(2004) 22 final du 21.1.2004.

¹⁴ CPB document N° 69, October 2004, Free movement of services within the EU
<http://www.cpb.nl/eng/pub/document/69/doc69.pdf>

¹⁵ 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).

présent mis sur la mise en œuvre et l'entrée en vigueur du nouveau cadre législatif.	de 1,1% au cours des dix prochaines années; une augmentation de l'emploi de 0,5% et une réduction moyenne du coût du capital de 0,5%.
<p>Politique des consommateurs</p> <p>D'importantes mesures visant à promouvoir les intérêts des consommateurs ont fait l'objet d'un accord ou sont en bonne voie d'être adoptées. Il s'agit notamment de la proposition de directive sur les pratiques commerciales déloyales, de la réglementation sur la coopération en matière de protection des consommateurs et de la directive sur la sécurité générale des produits.</p>	<p>Une enquête a montré que seul 1 consommateur sur 5 a confiance dans les achats transfrontaliers¹⁶.</p>
<p>Fiscalité</p> <p>Trois directives ont été adoptées dans le domaine de la fiscalité des entreprises, notamment des modifications de la directive sur les relations entre maison mère et filiale. Dans le domaine de la TVA, un succès notable a été l'adoption d'une directive concernant la réglementation applicable à la fourniture de services électroniques.</p>	<p>Un grand nombre d'obstacles persistants à la liberté de circulation sont liés à la fiscalité. Une récente enquête du Panel des entreprises européennes indique que les frais pour se mettre en conformité augmentent considérablement pour les activités transfrontalières¹⁷.</p>
<p>Gouvernance du marché intérieur</p> <p>Le réseau de résolution des problèmes SOLVIT comprend à présent tous les pays participant au marché intérieur. Le volume des cas a doublé en 2004. Sur les 500 cas traités, 72% ont été résolus avec succès. Le délai moyen pour résoudre un cas est de 10 semaines.</p>	<p>20% des sociétés ont répondu à une enquête de la Commission¹⁸ qu'elles seraient intéressées par des activités commerciales dans le marché intérieur, mais qu'elles ne possédaient pas assez d'informations ou bien qu'elle redoutaient de se heurter à des problèmes administratifs.</p>

Il existe des indices d'une reconnaissance croissante de l'importance d'un marché intérieur fonctionnant sans heurts pour l'avenir économique et social de l'Europe. Néanmoins, ceci n'a pas suffi en soi à entraîner des décisions plus rapides et plus ambitieuses sur un certain

¹⁶ 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).

¹⁷ SEC(2004) 1128 du 7.9.2004.

¹⁸ Enquête pour les dix ans du marché intérieur.

http://europa.eu.int/comm/internal_market/score/index_fr.htm

nombre de dossiers critiques (voir le tableau 2). Ceci s'explique probablement par la tendance des décisions à être bloquées ou retardées lorsque les intérêts particuliers de certains États membres ou de groupes particuliers de la société l'emportent sur les intérêts stratégiques à long terme de l'Union et de ses citoyens dans leur ensemble.

Le brevet communautaire en constitue un exemple-type. Le coût de l'inaction dépasse de loin les avantages d'un brevet meilleur marché. Son adoption rapide serait un signal politique fort de la volonté d'atteindre les objectifs de Lisbonne..

Tableau 2: Retards dans la réalisation des actions

LES RETARDS	L'ENJEU
<p>Propriété industrielle et intellectuelle</p> <p>L'échec du Conseil Compétitivité à s'accorder sur un brevet communautaire abordable.</p>	<p>À l'heure actuelle, alors que l'obtention de la protection d'un brevet coûte environ 10 000 euros aux États-Unis, cela coûte 50 000 euros pour obtenir uniquement une protection dans seulement 8 pays de l'Union.</p>
<p>Promotions des ventes</p> <p>Depuis plus de 3 ans, le Conseil est incapable de s'accorder sur une mesure destinée à faciliter les promotions de ventes paneuropéennes.</p>	<p>Les promotions de ventes sont un élément indispensable de la stratégie des sociétés lorsqu'elles cherchent à se développer sur de nouveaux marchés.</p>
<p>Qualifications professionnelles</p> <p>Une simplification radicale du système de reconnaissance des qualifications professionnelles (fusionnant 15 directives existantes en une seule) a été retardée en partie à cause de la lenteur de l'avancement du dossier au sein du Parlement.</p>	<p>Pour les droits des citoyens, l'innovation et la compétitivité, il importe de faciliter la libre circulation des professionnels qualifiés en Europe.</p>
<p>Mise en œuvre de la réglementation du marché intérieur</p> <p>La mise en œuvre en temps utile des directives sur le marché intérieur s'est considérablement détériorée depuis 2003. Seuls 2 États membres (LT, ES) ont atteint l'objectif du Conseil européen de maintien des déficits de transposition à hauteur ou au-dessous de 1,5 %. Il n'y a eu aucune réduction du volume des infractions pour l'Union des 15.</p>	<p>La transposition et l'application tardives et/ou incorrectes de la législation du marché intérieur provoque une incertitude juridique et sape la confiance des citoyens et des entreprises dans l'exercice de leurs droits.</p>
<p>Marchés publics</p>	

Alors qu'un nouveau cadre a été adopté pour les marchés publics et que sa mise en œuvre est à présent en cours, il subsiste des inquiétudes concernant l'application effective de la réglementation dans les États membres malgré un accroissement des appels d'offres publiés dans certains États membres.

Les marchés publics de l'Union représentent plus de 16 % du PIB de l'Union. Des études de la Commission confirment que l'application correcte de la réglementation réduit les prix payés de l'ordre de 30 %.

Tirer le meilleur parti du marché intérieur n'est pas seulement une affaire de prise de décisions. Cela exige aussi un changement d'attitude, les États membres devant réfléchir et agir dans un esprit plus « européen » et modifier en conséquence les pratiques administratives. Les sociétés européennes se féliciteraient d'un tel changement – les organisations professionnelles soulignent que d'après leur expérience, la législation et les pratiques administratives nationales ne sont souvent pas en accord avec les principes du marché intérieur.

L'UNICE par exemple, a enquêté auprès de ses membres et découvert que plus de la moitié doivent adapter leurs produits pour les vendre dans plus d'un État membre, tandis que près de la moitié doivent dupliquer les essais de leurs produits s'ils veulent vendre sur des marchés recouvrant plusieurs États membres¹⁹. Et les prestataires de services se heurtent aussi à des réglementations nationales ou locales coûteuses et souvent contradictoires. Ce tableau est confirmé par d'autres enquêtes nationales²⁰.

Dans un contexte de stagnation constante de l'intégration des marchés européens (voir la partie B plus haut), ces nouvelles sont inquiétantes. Un repli sur soi sera très dommageable pour les perspectives de croissance économique de l'Europe. Ce n'est pas un hasard si les États membres ayant fait de solides parcours dans le marché intérieur ont tendance à avoir des économies plus compétitives et plus dynamiques. Dans ce contexte, les initiatives, comme celles menées actuellement par le Danemark²¹, visant à éliminer les obstacles auxquels se heurtent les entreprises d'autres États membres souhaitant exercer leurs activités, méritent des félicitations et représentent un modèle de meilleures pratiques qui devrait intéresser d'autres États membres.

¹⁹ UNICE (2004) "It's the Internal Market, stupid! A company survey on trade barriers in the European Union", Brussels (disponible en anglais seulement).

²⁰ Enquête de la Suède sur les obstacles commerciaux aux services 2003-11-03, dnr 100-416-2003

²¹ Le Danemark a établi une task force pour le marché intérieur, destinée à passer la réglementation au peigne fin et à vérifier sa compatibilité avec le marché intérieur. Des résultats positifs ont déjà été réalisés.

PARTIE D : CONCLUSION – SUBSISTANCE DE DEFICITS DANS DES DOMAINES PRIORITAIRES CLES

L'analyse de l'état actuel de mise en œuvre souligne la nécessité de se concentrer plus fortement sur un certain nombre de volets essentiels au cours de la période restante du programme de la stratégie pour le marché intérieur:

1. Boucler le cadre juridique

Alors qu'une grande partie du cadre juridique du marché intérieur est déjà en place, il subsiste d'importantes lacunes dans des domaines économiques essentiels. Dans le domaine des marchandises, la révision de la nouvelle démarche et un éventuel règlement concernant l'application du principe de reconnaissance mutuelle se détachent. D'importantes propositions d'actions, comme la directive Services, sont à l'ordre du jour du Conseil et du Parlement et doivent être adoptées et mises en œuvre dans les meilleurs délais. Il en va de même pour le brevet communautaire et les inventions mises en œuvre par ordinateur ainsi que les mesures restantes concernant le programme d'évaluation de la stabilité financière (FSAP).

2. Mieux veiller sur le cadre existant

S'accorder sur une réglementation au niveau européen ne constitue que le début. Pour produire les effets souhaités sur le terrain, la réglementation doit être mise en œuvre à temps et entrer effectivement en vigueur dans chacun des 25 États membres. Ce sont les États membres qui ont un rôle vital à jouer en faisant fonctionner le marché intérieur au quotidien. En particulier, ceci implique qu'ils coopèrent davantage les uns avec les autres et avec la Commission, qu'ils échangent des informations, qu'ils se prêtent mutuellement assistance et qu'ils résolvent les problèmes. Ce travail de réseau doit être facilité par des systèmes d'information modernes comme ceux qui sous-tendent le réseau SOLVIT. En outre, les réseaux d'affaires, y compris ceux des PME, devraient être utilisés de manière optimale, comme par exemple les Centres Européens d'Information (CEI).

3. Assurer une cohérence et une synergie plus grandes avec d'autres politiques communautaires

Les politiques du marché intérieur ne fonctionnent pas en vase clos. Elles doivent concorder avec d'autres objectifs politiques importants, dans la mesure du possible, pour établir des synergies. Les priorités immédiates sont les liens avec la politique des consommateurs, de la concurrence et de l'environnement. Des synergies avec d'autres domaines, telles que la politique régionale ou la politique agricole, sont également importantes. Les effets sur la concurrence d'un marché intérieur fonctionnant de façon efficace profitent aux consommateurs sous la forme d'un plus grand choix et de prix plus compétitifs. En même temps, le Conseil Européen²² a reconnu l'importance d'une dimension 'consommateurs' forte au sein d'un marché intérieur qui fonctionne bien ; elle constitue une priorité pour toutes les institutions communautaires. Les consommateurs doivent être convaincus que les produits sont sûrs et que leurs droits sont bien protégés. Il faut donc concevoir des mesures propres

²² Conseil européen des 20 et 21 mars 2003.

à préserver les effets de la liberté de circulation favorables à la concurrence dont dépendent les avantages économiques pour les consommateurs, tout en protégeant ces derniers contre des risques pour leur santé, leur sécurité et autres. En outre, des politiques de l'environnement, conjuguées avec la liberté de circulation, peuvent fournir des opportunités en matière d'innovation et de renforcement de la concurrence grâce à une meilleure efficacité des ressources et à de nouvelles possibilités d'investissements.

4. Veiller à ce que le cadre juridique du marché intérieur soit mieux adapté au cadre économique mondial

Dans l'économie hautement mondialisée d'aujourd'hui, l'impact d'une législation adoptée à des milliers de kilomètres d'ici se ressent de plus en plus dans l'Union et inversement. Lorsque des sociétés opèrent de plus en plus sur le plan mondial, par exemple dans la finance, la réglementation ne saurait rester à la traîne. La stratégie exige donc un renforcement du dialogue avec les principaux partenaires commerciaux. Le but du dialogue est de parvenir à une législation efficace qui renforce l'ouverture du marché et réduise le fardeau réglementaire des entreprises intervenant sur les marchés mondiaux. Ainsi, ce dialogue devrait promouvoir la convergence et réduire la divergence ou les conflits entre réglementations. Les gains pouvant être tirés d'une coopération fructueuse peuvent être sensibles en termes d'emplois et de croissance.

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 deficit²³ 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 States²⁴ 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 State²⁵. 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 States²⁶ are not the same.

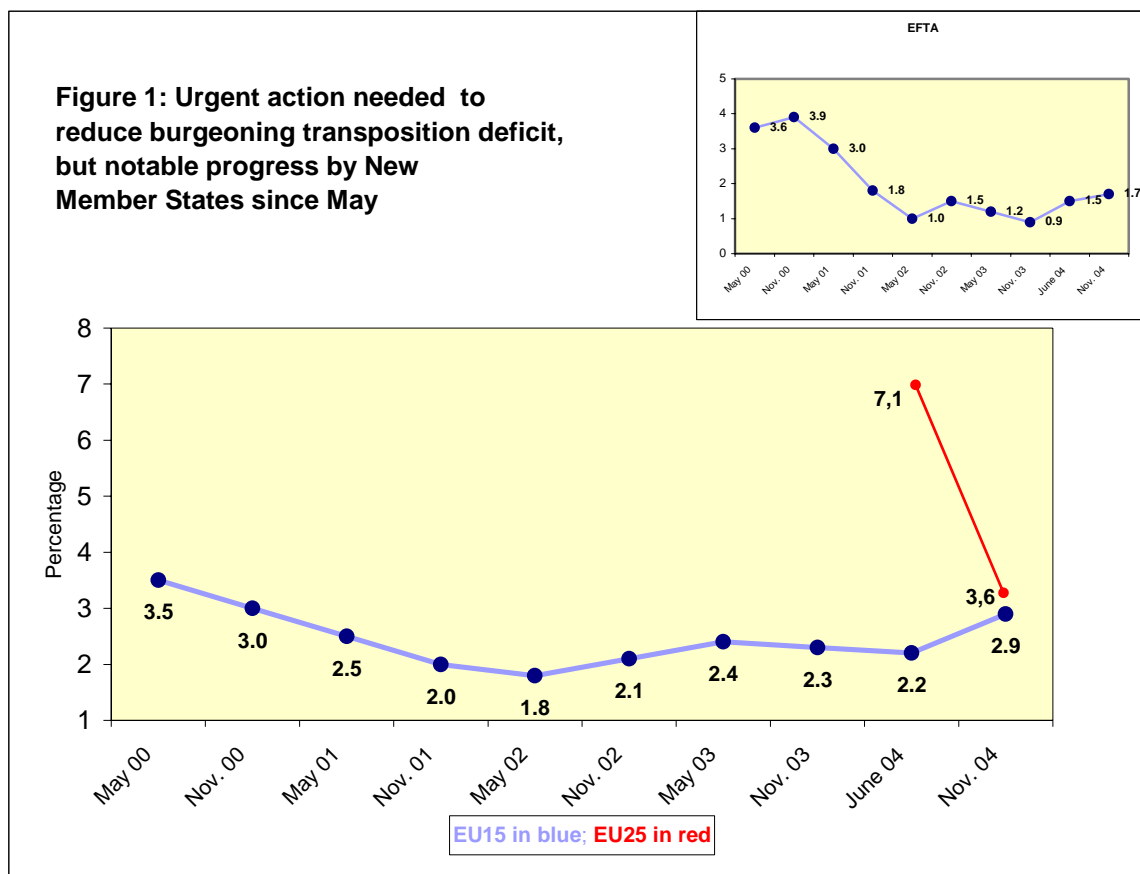
Member States' failure is not only a breach of their legal obligations - it also deprives businesses and citizens in practice of their rights and undermines the day-to-day working of the Internal Market.

²³ 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)

²⁴ Belgium, Denmark, Germany, Greece, Spain, France, Ireland, Italy, Luxembourg, the Netherlands, Austria, Portugal, Finland, Sweden, United Kingdom.

²⁵ This is usually referred to as the fragmentation factor.

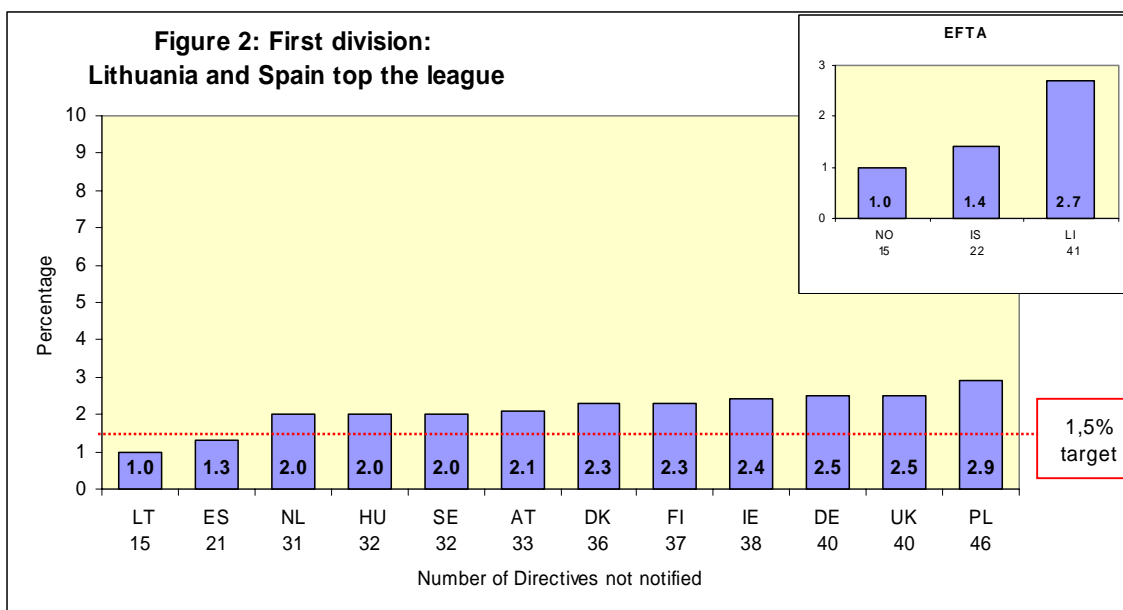
²⁶ Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia. The transposition deficits for the EU 10 Member States are still to a certain extent provisional, as part of the national implementing measures are still under verification by the Commission. Wherever 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:

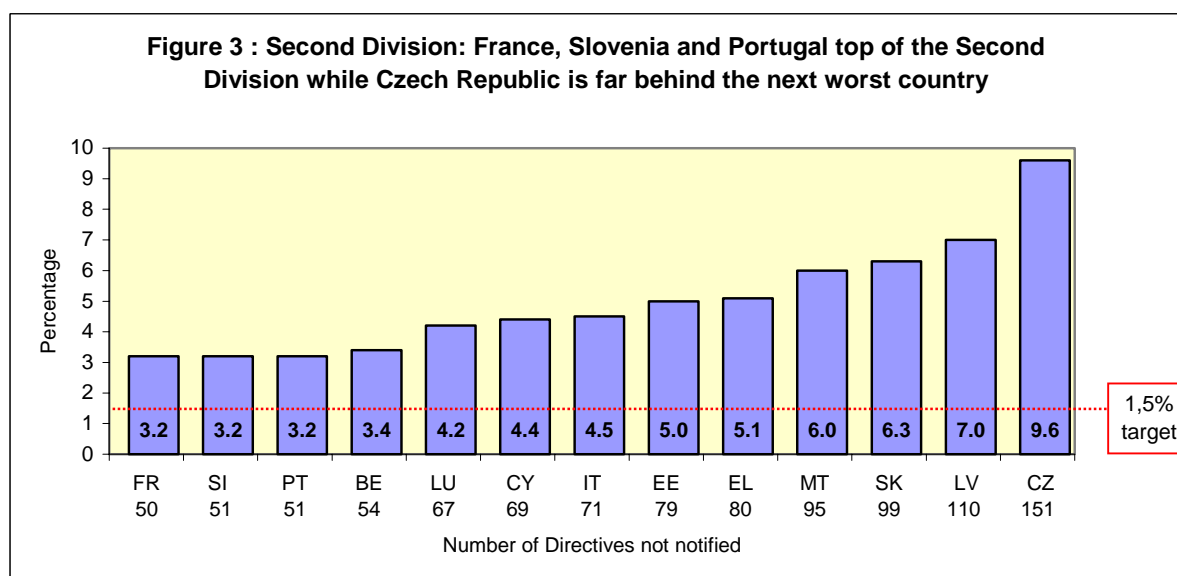
- Lithuania and Spain are to be commended for being the only Member States to have met the 1.5% interim target set by the European Council.
- The Netherlands has improved on its recent disappointing record.
- Hungary has made impressive progress in reducing its transposition deficit and is now in fourth 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

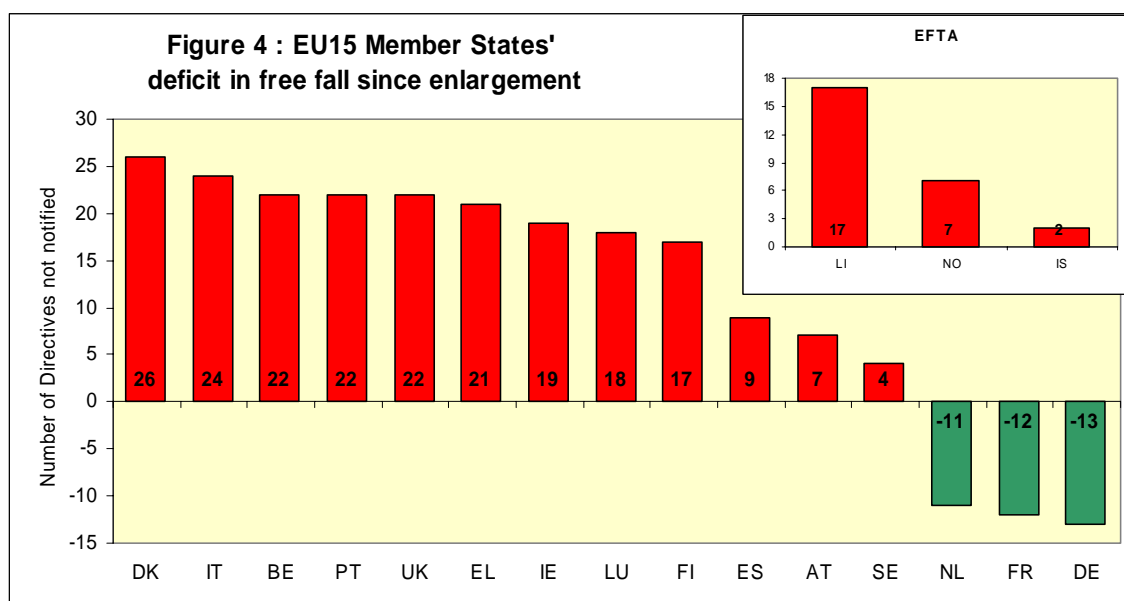
The transposition deficit of countries in the Second Division is more than double the 1.5% European Council target. Of these countries:

- 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.



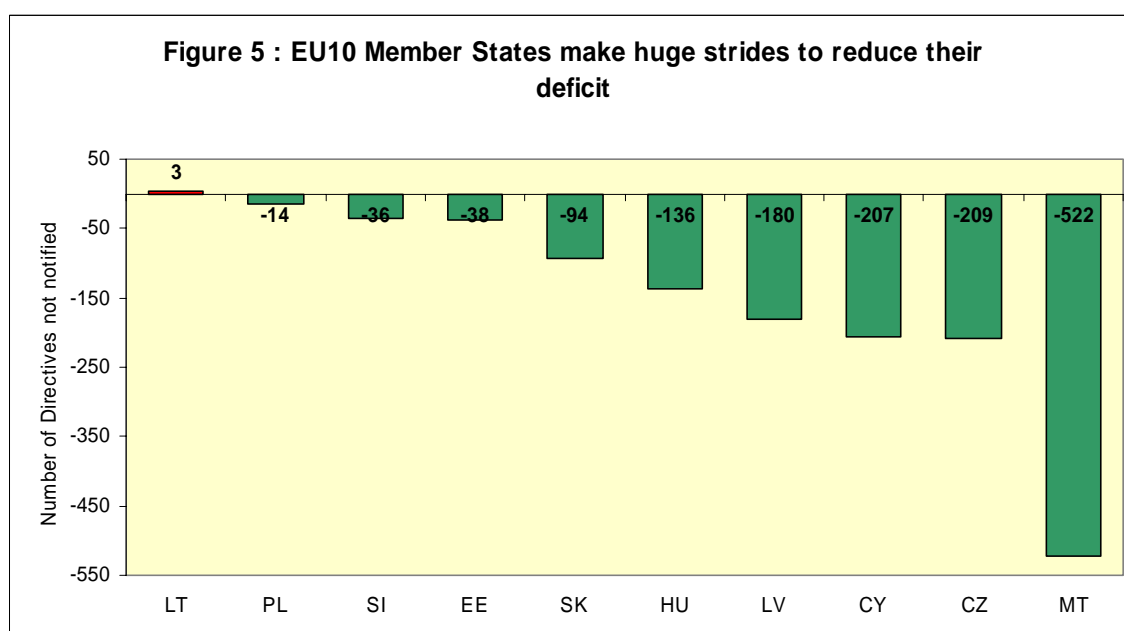
Transposition deficit, by Member State, as at 30 November 2004

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.

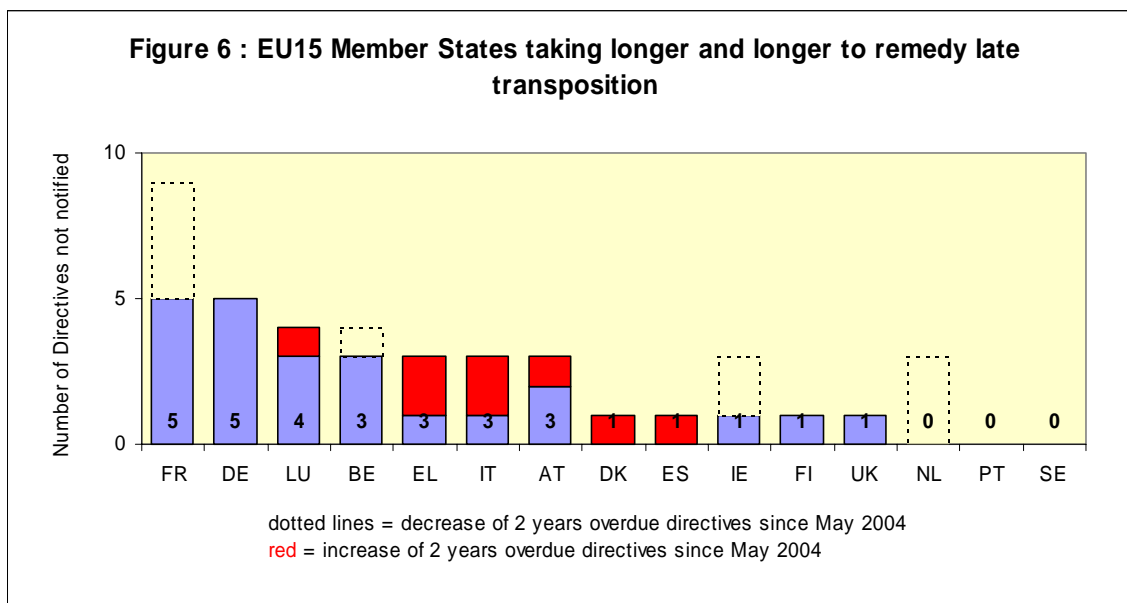


Change in the number of outstanding directives, by Member State, since May 2004. For example, Malta has reduced its huge backlog by 522 directives.

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

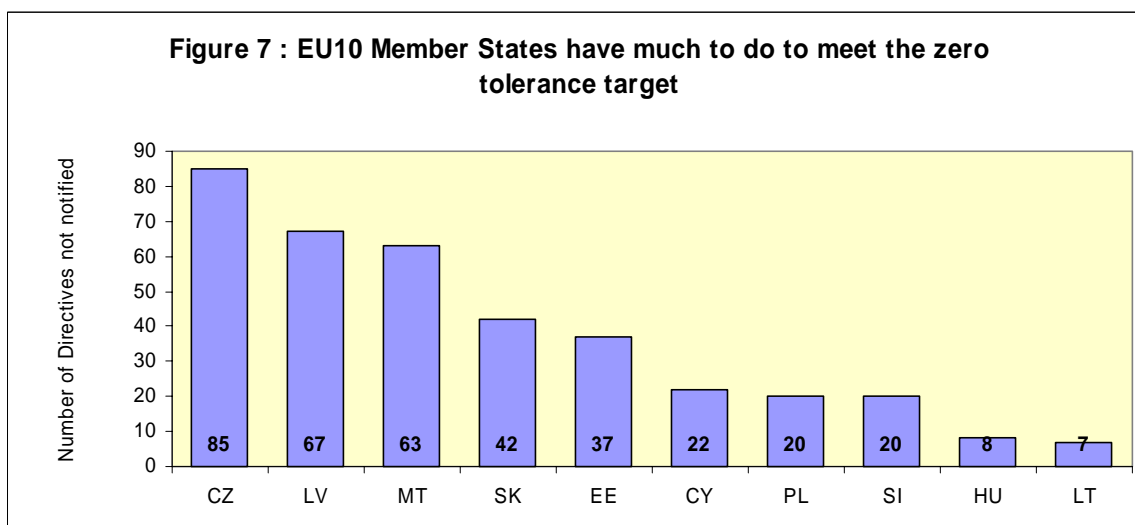
tolerance' target for directives whose implementation is over two years late. Of the EU 15 Member States:

- 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.



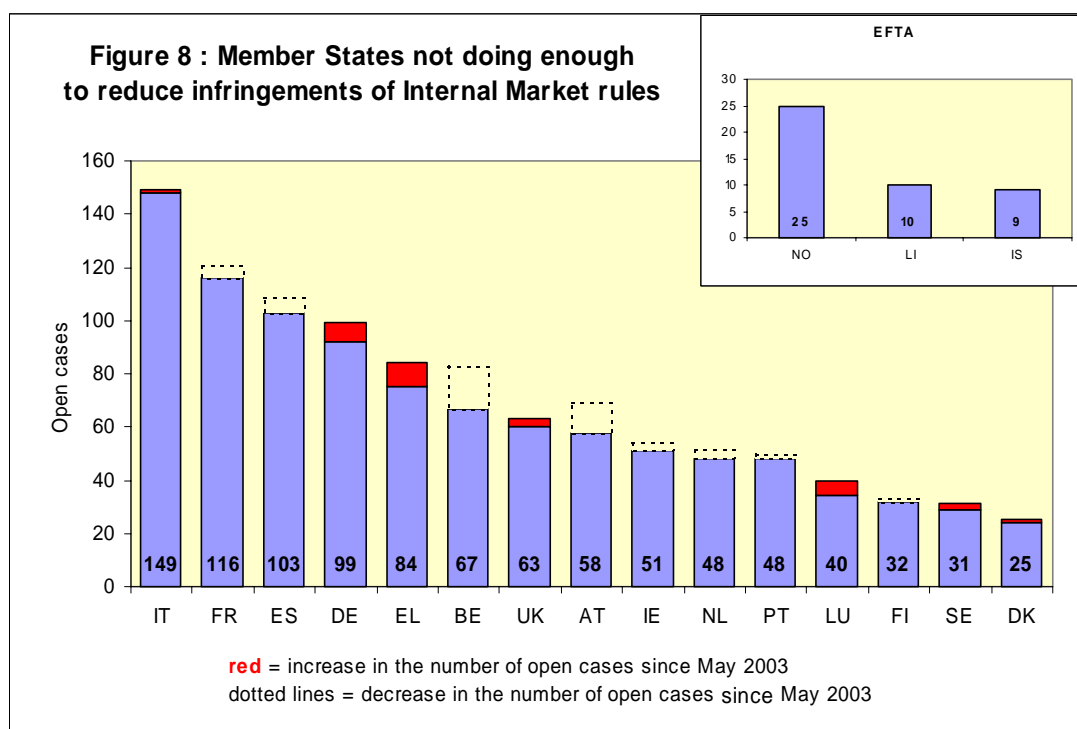
Number of directives to be transposed to meet the 'zero tolerance' target.

2. Application by Member States of Internal Market rules: infringements²⁷

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

²⁷

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>	+	<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 ensure that they implement the mutual recognition principle in their national law,</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>

		where possible in a horizontal way (most new Member States have done this). Furthermore, in its Recommendation on Transposition of Internal Market law ²⁸ , 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.	
Commission to develop with the Member States indicators to measure progress towards a higher quality regulatory framework for the Internal Market.	+/-	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.	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.
The Commission to develop a coherent approach to the question of legislative	+/-	This concerns particularly the use of different instruments (i.e. harmonisation, mutual	It is important that the different instruments chosen to support various policy objectives are

²⁸ SEC(2004) 918.

technique and the choice of legal instrument in the Internal Market.		recognition) and coherence between Internal Market and other important policies, such as consumer policy.	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.
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9. Enforcing the rules

Action	Status	State of play	Expected impact
Meet transposition targets as set by the Spring European Council.	-	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.	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.
The Commission to issue a Recommendation setting out “best practices” to speed up and improve the quality of transposition of Internal Market Directives.	+	The recommendation, which was based on best practices provided by Member States, was published in July (SEC (2004)918). As a follow-up to the Competitiveness Council held at the end of September 2004, Member	This is an attempt to promote learning amongst Member States to help them organise their internal systems for the implementation of EU directives as efficiently as possible. This should translate into better transposition records.

		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.	
Organising “preventive” dialogues between the Commission and Member States after adoption but before national implementation of Directives.	+	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.	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).
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.	+	This standard transposition period (2 years maximum) is now set in the Inter Institutional Agreement (2003/C 321/01).	This will make the transposition process and obligations more predictable and in so doing facilitate planning.
Proposal for a Regulation on co-operation between national authorities	+	The Regulation was adopted in October, 2004 (EC2006/2004). Member States have until	This will establish a network to detect, investigate and stop cross border rogue traders.

responsible for the enforcement of consumer protection laws.		December 2006 to implement its provisions. Informal cooperation to facilitate implementation has already started.	There is also the possibility to conclude EU agreements with third countries to do the same.
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.	+/-	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.	This will make the transposition process and obligations more transparent.
The Commission to publish the results of a study on the different options for improving the enforcement of Internal Market law.	+/-	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 organisation takes account of this need to co-operate.	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.

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.
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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.
The Commission to improve the Dialogue web-sites to provide better	+	A new user-friendly Dialogue with Citizens website was launched in May 2004	See above

access to practical information.		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).	
The Commission to extend the Citizens Signpost Service to the new Member States.	+	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.	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
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.	+	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. 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.	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).
The Commission to set up a top-class information portal bringing together the Dialogue and the Signpost Service with other related initiatives, such as SOLVIT, European Consumer Centres,	+	The first version of the Your Europe portal will be launched in January 2005.	The new portal, which is financed under the IDA (Interchange of Data between Administrations) programme, will provide access to a wide range of practical information for citizens and businesses at both EU and

Fin-Net and EEJ-Net.			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.
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