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

The Internal Market for Goods: a cornerstone of Europe's competitiveness

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(Text with EEA relevance)

This Communication is presented in the context on the ongoing Review of the Single Market of the 21st Century. As such, it provides a brief analysis of one of the four freedoms – namely the free circulation of goods - and accompanies, and explains a number of concrete new initiatives designed to improve the free movement of goods.

To date, the most important technical barriers hindering the free movement of goods within the EU have either been removed or have been prevented from arising. Enterprises and citizens are generally satisfied with the way the internal market for goods currently operates.

However, the results of the public consultation on the future of the internal market reveal a number of outstanding weaknesses in the internal market for goods, which continue to have a negative effect on both businesses and consumers. For instance, stakeholders consider that national technical rules still mean that they do not really have access to free trade in the EU. That also means that consumers will not find these products on their national markets and that their choice will be reduced. Stakeholders also complain, for example about uncertainties and inconsistencies in existing EU requirements for the marketing of products and about shortcomings in the CE marking on products. Consumers are unsure as to the full meaning of the CE marking and some Member States are more demanding than others when applying the rules. Certificates of conformity may not be recognised in other countries and manufacturers may be subjected to different levels of costs from testing and certification bodies. Moreover, many citizens are still facing needless paperwork and extra costs for registering their car in, or transferring it to, their home country.

An integrated, borderless internal market remains the best way to enhance the competitiveness of the European economy. Given that that there is still too much bureaucracy, red tape and uncertainty involved in the trading of certain products within the EU, this Communication proposes four new initiatives to further facilitate the free movement of goods and to simplify and modernise internal market rules and principles, in accordance with the principles of Better Regulation:

- A proposal for a Regulation laying down procedures on the application of national technical rules on products lawfully marketed in another Member State;
- A proposal for a Regulation on accreditation and market surveillance activities;
- A proposal for a Decision on a common legal framework for industrial products;
- An interpretative communication on procedures for the registration of motor vehicles originating in another Member State.

These four initiatives are vital elements of the re-launched strategy for Jobs and Growth. They are an integral part of the new objectives and set of initiatives which the Commission will present in the the ongoing review of the Single Market of the 21st century.

1. INTRODUCTION

The Internal Market for Goods is a fundamental element of European Integration. What started 50 years ago as part of a customs union, involving the abolition of customs duties inside the European Community since 1968 and the establishment of a common external tariff, became over the years one of the major building blocks of Europe's strength and stability. Notwithstanding the huge complexity and size of the task, the Community has been able to put in place rather rapidly a legal framework that has transformed the lives of citizens and businesses for the better. The internal market for goods is not only a major catalyst of growth inside the Community but also exerts a strong influence on the capacity of the EU to compete internationally.

This communication is presented in the context of the ongoing review of the Single Market of the 21st Century, whose results will be presented in two steps during 2007: an interim report foreseen in February 2007 for the Spring European Council, to be followed up by more concrete proposals in autumn 2007. This review builds on a public consultation carried out in 2006 and will provide a global analysis of the Single Market's four freedoms. The final report will put forward a range of initiatives, which will complement what is outlined in the present Communication and its accompanying proposals.

This Communication accompanies and explains a number of new initiatives to facilitate further the free movement of goods against the background that there are still uncertainties and/or red tape involved in marketing certain products across the EU.

2. THE INTERNAL MARKET FOR GOODS FUNCTIONS WELL...

The internal market for goods has tied the European economies more closely together and trade between the Member States has expanded strongly. Intra-EU-27 trade accounts for two thirds of total trade and reveals **the major importance of trade between the 27 Member States compared with trade with the rest of the world.**

Today it would be difficult to imagine life in the EU without products from outside one's home country. In every store in Europe there is now a much wider choice of products of better quality. Even day-to-day products are not solely manufactured in the home country but come from all over Europe. But it is not only EU citizens who reap the benefits of the internal market for goods. Businesses can work much more efficiently by cutting compliance costs and through the economies of scale offered by the harmonisation of national technical rules.

In the internal market for goods, almost all the promises that were made in the 1985 White Paper on the completion of the Internal Market were kept. Through the application of Articles 28 to 30 EC Treaty and through secondary EC legislation, **almost all technical barriers to intra-EU trade in goods were eliminated**, and in particular obstacles in the supply-chain. Most of the groundwork was done before 1992. The most important remaining barriers to intra-EU trade in goods are in the non-harmonised area or in other, equally important areas such as taxation (where the

level of harmonisation is not sufficient to effectively remove all tax-driven barriers and distortions in the Single Market) and intellectual property.

Surveys show that **most enterprises and citizens are satisfied with the way the internal market for goods currently operates**. The results of a special edition of the Internal Market Scoreboard on “10 years of an internal market without frontiers” (2002) indicate that 76 % of companies participating in the survey and exporting to 6 or more other EU countries rated the impact of the internal market on their business as positive. Over 60 % of these companies said that the internal market had contributed to their success in selling their products in other Member States. A recent Eurobarometer¹ shows that 3 in 4 EU citizens (75%) believe that the internal market for goods has a positive impact.

3. ...BUT IT IS CHANGING FAST,...

Since the abolition of internal border controls as of 1st January 1993 the situation inside and outside the European Union has changed dramatically.

- **The consumer enjoys the benefits of the internal market for goods:** since 1993 the internal market for goods has been predicated on the elimination of all technical barriers in the supply chain so that the product could be sold locally to the consumer. The product was almost exclusively offered for sale to the consumer in his Member State of residence. Gathering information on other products for sale elsewhere in the EU was difficult and time-consuming. Now, the typical supply-chain of the early ‘90s is complemented by new supply-chains. Due to growing use of the internet, the abolition of frontiers within the EU, the introduction of the Euro, falling transport costs etc., customers/consumers have a much broader choice as to where, when and how they will buy a given product. Consequently, they are increasingly buying products (such as motor vehicles) in other Member States or from a distance. As a result, enterprises are becoming less likely to encounter barriers to trade within the EU, and consumers more and more likely to
- **Product innovation goes very fast:** New technologies are emerging that allow the fast introduction of new products and the increased flexibility of production processes.
- **Enterprises have to adapt rapidly to new challenges:** Enterprises are now facing major challenges, some of which come from within (increasingly rapid technological development, skills gaps), while others are external (society’s expectations regarding consumer, environmental and health protection). At the same time, a new world economic system has emerged characterised by high mobility. EU businesses are confronted with the increased internationalisation of the world economy driven by improving transport links, falling communication costs, reduced barriers to trade and investment and more vigorous competition with the emergence of new global competitors.

¹ http://ec.europa.eu/internal_market/strategy/index_en.htm.

4. ... AND THERE IS NO CAUSE FOR COMPLACENCY

Despite its many successes, **the Internal Market for goods is not complete**. It needs to take account of the latest technological advances, the global environment and the changing demands of consumers. Improving the Internal Market is a steadily ongoing process, requiring constant effort, vigilance and updating.

The Commission launched a **public consultation on the future of the Internal Market** in April 2006. Its results² show that, although many stakeholders are pleased with its considerable achievements, **two main difficulties are perceived concerning the internal market for goods**:

- **National technical rules still constitute important barriers to free trade within the EU.** The weak application and enforcement of the Treaty rules, in particular in the non harmonised product sectors, is considered a major hurdle, in particular for SMEs. Stakeholders argue that national technical rules still lead to substantial obstacles to the free movement of goods within the EU, resulting in extra administrative controls and tests. Stakeholders consider that the current system of market surveillance needs considerable improvement, as there is no consistency of approach in Member States. In addition, Member States lack adequate resources to cope with an ever changing business environment for trade.
- **Many EU rules are inconsistent or burdensome:** Stakeholders complain about uncertainties and inconsistencies in EU rules. For example, different definitions apply to the same product while other fundamental notions are not defined at all. Different conformity assessment procedures overlap and conformity assessment bodies are still confronted with legal obstacles. Stakeholders are therefore of the opinion that the regulatory framework for goods remains too fragmented. Stakeholders also point to the shortcomings of the CE marking, its actual meaning is often misunderstood.

In addition, **new barriers for citizens are gradually emerging**, for example in the motor vehicles area. The transfer of motor vehicles to another Member State is still a major source of complaints, in particular due to burdensome approval and registration procedures. Approval procedures for already used motor vehicles are often slow and expensive and sometimes lead to a prohibition to use a car that was previously lawfully used on the roads of another Member State. Registration procedures of cars originating in another Member State frequently require heavy administrative formalities.

5. TURNING TO SOLUTIONS

The results of the public consultation on the future of the Internal Market are unambiguous: the **quality of EU legislation on goods needs to be improved** and there is a strong need to **pay more attention to citizens' needs and interests** in the Internal Market for goods.

² SEC(2006)1215 of 20.09.2006.

The Commission is therefore coming forward with **four different initiatives**, namely:

- A proposal for a **Regulation** of the European Parliament and of the Council laying down procedures relating to the application of certain national technical rules to products lawfully marketed in another Member State and repealing Decision 3052/95/EC;
- A proposal for a **Regulation** of the European Parliament and of the Council setting out the requirements for accreditation and market surveillance relating to the marketing of products;
- A proposal for a **Decision** of the European Parliament and of the Council on a common framework for the marketing of products;
- An **interpretative communication** on procedures for the registration of motor vehicles originating in another Member State.

The objective of these actions is to resolve some of the main difficulties relating to the internal market for goods that emerged from the public consultation on the future of the Internal Market, by offering the following solutions:

5.1. Eliminating important barriers to free trade caused by national technical rules

The principle of free movement of goods is set out in the EC Treaty and is directly applicable in all Member States. **The Treaty obliges Member States to accept products lawfully manufactured or marketed in another Member State** which are not subject to Community harmonisation, unless the trade restriction can be specifically justified on the basis of overriding requirements in the general public interest, such as the protection of human health or the protection of the environment. This means that certain national barriers may be justified, while others may not.

In practice, however, **technical obstacles to the free movement of goods within the EU are still widespread**. Technical obstacles are created by national rules that oblige enterprises to adapt products lawfully marketed in the Member State of origin to the rules of the Member State of destination. In one survey, about 35% of enterprises reported problems with technical rules in another Member State and about 50% of enterprises decided to adapt their products to these rules³.

Several factors explain why these obstacles still exist. Many enterprises lack the expertise, time, adequate human resources and money to assert their rights in the Member State where they intend to sell their products. There is also a widespread lack of awareness of enterprises and national authorities about the principle of free movement of goods. They often face legal uncertainty about the burden of proof in case of discussion. Moreover, enterprises run a risk when they decide to market a product in another Member State. It is difficult for businesses to find out beforehand if they can sell their products lawfully in another Member State. Although the Court of Justice confirmed the principle that Member States are obliged to compensate

³ Second Biennial Report on the Application of the Principle of Mutual Recognition in the Single Market - COM(2002)419final of 23 July 2002.

individuals for loss and damage caused by breaches of directly applicable Community law for which they can be held responsible, this uncertainty leads in practice to risk avoidance: enterprises will “play it safe” by avoiding any possible conflict or discussion with the national authorities of the Member State of destination.

The **principle of free movement of goods is enshrined in the Treaty** and has been the subject of numerous rulings of the Court of Justice. Efforts to make it fully operational must be strengthened so that products lawfully marketed in one Member State can easily be marketed elsewhere in the EU. The *proposal for a Regulation laying down procedures relating to the application of certain national technical rules on products lawfully marketed in another Member State and repealing Decision 3052/95/EC* therefore ensures that enterprises can rely on this Treaty principle and that national administrations have the tools to implement it.

The philosophy of the proposal is **transparency and efficiency**: transparency of information to be exchanged between enterprises and national authorities, efficiency by avoiding any duplication of checks and testing, whilst allowing Member States to maintain a high level of protection of their consumers and the environment. In particular, the proposal addresses the burden of proof by setting out the procedural requirements for denying the market access of a product. The proposal establishes that the Member State of destination must justify in writing the precise technical or scientific reason for its intention to refuse the access of the product to the national market. The economic operator will also be entitled to defend his case and to submit solid arguments to the competent authorities.

5.2. Getting products onto the market: safety first!

The gradual development of the internal market for goods has created a **patchwork of different rules and procedures**. Some of them are very burdensome for enterprises and supervisory authorities and cause unnecessarily high administrative costs and legal inconsistencies for application. Although originally designed to increase health and safety, technical regulations can also become instruments for market protectionism.

Firstly, the rules on the **conformity assessment** of products must be made much less complicated for enterprises and authorities. As it stands, some products must undergo different procedures to meet the requirements of several different directives. In many areas, enterprises have to ensure compliance not only with one piece of legislation, but with a variety of legal instruments. Due to different wording and concepts it gets more and more difficult for enterprises to understand their legal obligations. They are forced to have increased recourse to legal expertise in order to implement the law properly. In some cases manufacturers are even forced to go to different testing bodies to have the same product certified under different directives. Moreover, an independent and authoritative attestation of the competence, impartiality and integrity of conformity assessment bodies has become necessary.

Secondly, **market surveillance activities** are crucial to protect the consumers from unsafe or non-compliant products. The safety of the European market place depends to a great extent on the active and uniform enforcement of Community product safety requirements. However, national authorities lack the necessary means to apply

market surveillance efficiently and consistently. They are constantly confronted with new challenges, for example fast changing economies, new products on the market and increasing number of third country imports. In addition, the increased internationalisation and complexity of commercial transactions make it more and more difficult to identify the actors in the distribution chain and authorities are often unable to find the right person to address when there is a problem.

The way in which market surveillance is currently organised in Europe is no longer adequate for an internal market without internal borders. Products circulate freely inside the Community without passing any internal checkpoints, but the powers of national authorities are limited to their own territory.

The consequence is that unsafe products slip through the net and are placed on the market. These products often constitute a health and financial risk for the consumer. This situation also creates an unfair competitive advantage for operators not playing to the rules, especially in price-sensitive areas. By not observing material or procedural requirements, they can make important savings on the compliance costs and consequently offer their products to lower prices than their competitors who respect the law

Therefore, market surveillance activities need to be coordinated and strengthened throughout the internal market without frontiers, where often concerted, Europe-wide action is needed.

Thirdly, the **CE marking** needs much better protection. In theory, the role of the CE marking is simple: it shows to enforcement authorities and to consumers that the manufacturer declares that he has applied all applicable EC directives. A product that carries the CE marking, therefore, benefits from free circulation inside the Community.

Furthermore, many traders inside and outside the EU do not always understand the meaning of the CE marking, and a number of products bearing the CE marking do not comply with the legislation. These products normally do not offer the same level of safety as compliant products and therefore constitute a major risk for consumers. Moreover, non-compliant products could be produced at lower cost. This situation therefore creates an unfair competitive advantage for operators not playing to the rules.

The *proposal for a Decision on a common framework for the marketing of products* will **streamline the various conformity assessment procedures** for products in order to avoid overlaps and to cut down burdensome procedures. It will also present harmonised provisions for future legislation.

In parallel with this proposal, the Commission will ensure the **legal protection of the CE marking** by its registration as a collective mark. This new protection will allow public authorities to take rapid and efficient action against abuses. It will also protect businesses that respect the rules against rogue traders who put the CE marking on a product that does not offer the high level of protection that is required in Europe.

The *proposal for a Regulation setting out the requirements for accreditation and market surveillance relating to the marketing of products* will facilitate conformity assessment through **accreditation** of laboratories and testing houses, so that their certificates and test reports will be readily accepted throughout the EU.

The safety of the consumer remains at the forefront. The *proposal for a Regulation setting out the requirements for accreditation and market surveillance relating to the marketing of products* will therefore also strengthen **market surveillance activities** throughout the EU, so that non-compliant products can be easily identified and withdrawn from the market.

5.3. Helping citizens to transfer their car to another Member State

The Commission promised in the Citizens' Agenda⁴ to lift specific barriers for citizens. Barriers often arise when citizens purchase motor vehicles in another Member States. While several measures (for example the EC whole vehicle type-approval (WVTA) system and the new block exemption regulation on the application of the competition rules to motor vehicle sales and servicing) made the cross-border purchase of motor vehicles significantly easier, many citizens are still facing needless paperwork and extra costs for registering their car in, or transferring it to, their country of residence. The many practical problems caused by bureaucratic registration formalities still constitute an impediment for citizens to purchase their car abroad.

It is likely that most of these problems will disappear in the long term, when all cars will have the harmonised registration certificate.

The Commission has therefore opted for the publication of an *interpretative communication on procedures for the registration of motor vehicles originating in another Member State*. The communication gives a comprehensive overview of the principles of EC law that apply to the registration of vehicles in a Member State other than the State of purchase, and to the transfer of registration between Member States, in the light of recent developments in European legislation and in the case-law of the Court of Justice.

The communication will serve as a basis for a Citizen's guide on the transfer of vehicles within the EU.

⁴ COM (2006) 211 of 10.05.2006

6. CONCLUSION

One of the main priorities of the European Commission is to make the Internal Market for goods work better for enterprises and citizens. The fundamental requirements are not so different to what they were in 1985 when the Commission published its White Paper on the Completion of the Internal Market and in 1993 with the introduction of a single European market. Now, as then, an integrated borderless market is the best way to enhance the competitiveness of the European economy. A better functioning Internal Market for goods is thus a critical element of the re-launched strategy for Jobs and Growth to enable the EU to compete and succeed in a globalised economy, in which our main trading partners have large and unified markets. These four initiatives are an important step in this direction. They are an essential part of the new Single Market Strategy for the 21st century.