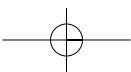
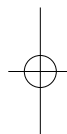
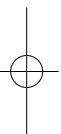


Part II

Policies





Chapter 4

The Single Market

A New Approach to Policy

Alasdair R. Young

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Summary

The single European market programme marked a turning-point in European integration. Its roots, however, stretch back well before 1985. Detailed harmonization had proved a frustrating approach to market integration, especially as external competition challenged European industry. New ideas about market regulation permeated the EU policy process and, supported by ECJ judgments and Commission entrepreneurship, facilitated legislative activism and important changes in the policy-implementing processes. Although the task of 'completing' the single market remains unfinished, it has moved to the heart of European integration and altered the pattern of state-market relations in Europe.

Introduction

The plans to complete the single market induced an explosion of academic interest in the European Union (EU). Before 1985 the theoretical debate on political integration had stalled, studies of EU policy-making were sparse, and few mainstream economists devoted themselves to the analysis of European economic integration. In the late 1980s all that changed, as competing political analyses proliferated and the economic consequences of the new legislative programme were examined. Indeed, many new theoretical approaches to the study of European integration have taken the single market as their main point of reference, just as many earlier theorists had taken agricultural policy as their stimulus. For many the single European market (SEM) programme constitutes the critical turning point between stagnation and dynamism, between the 'old' politics of European integration and the 'new' politics of European regulation.

This chapter re-examines the renewal of the single European market as a major turning point in European policy-making. In essence, it presents the argument that many of the analyses that proliferated in response to the Single European Act (SEA) and the SEM overstated their novelty and understated some of the surrounding factors that helped to induce their 'success'. Thus, accounts in the late 1980s emphasized the newness of the SEM programme, but in retrospect we can observe a significant degree of continuity with what had come before. Nonetheless, the incorporation of the SEM programme represents a very significant redefinition of the means and ends of policy. It enabled the European integration process to adapt to new constellations of ideas and interests and produced a different policy mode that has permeated many other policy areas (Majone 1994).

The SEM is also important for its impact on the European public policy model *within* the member states. Thus, market regulation at the supranational level of European governance jostles, often uneasily, with other issues on the political and economic agendas of the EU member states. There are also tensions between supranational regulation for transnational markets, engaging transnational regulators and large market operators, and encapsulated national politics, engaging those responsible for, and dependent on, the reduced domestic political space, smaller-scale entrepreneurs, local regulators, and national or regional politicians.

These repercussions have not been confined to the member states that accepted the SEA and the SEM. The formal and informal extraterritorial impact on neighbours, partners, and competitors has been powerful. The SEM has been extended formally to neighbouring countries through the European Economic Area (EEA), and the pre-accession process for central and east European states (see Chapter 16), and to many eventually by full accession. More informally, the SEM has changed the conditions under which goods and service providers from third countries may enter the world's second largest market. The economic, social, and political costs of adjustment within the single market have also generated rearguard action, sometimes focused on other EU policies that might provide compensation or displacement to external competitors.

Box 4.1 The treaty base of the single market (Treaty of Rome)

Art. 28 TEC (ex Art. 30 EEC)	Prohibition on quantitative restrictions on imports and all measures have equivalent effect
Art. 39 TEC (ex Art. 48 EEC)	Free movement of workers
Art. 43 TEC (ex Art. 52 EEC)	Right of establishment
Art. 49 TEC (ex Art. 59 EEC)	Freedom to provide services
Art. 56 TEC (ex Art. 67 EEC)	Free movement of capital
Art. 94 TEC (ex Art. 100 EEC)	Procedure for the approximation of laws that directly affect the common market

Background

The objective of establishing a single market started with the Treaty of Rome (see Box 4.1). It set targets for creating a customs union and the progressive approximation of legislation, as well as for establishing a 'common market', complete with free movement for goods, services, capital, and labour (the 'four freedoms'), all within a single regime of competition rules (see Chapter 5). The path was more clearly defined for the customs union than for the common market (Balassa 1975; Pelkmans 1984), reflecting the greater preoccupation of policy-makers in the 1950s with tariffs and quotas than with technical barriers to trade (TBTs) and trade in services.

In the 1960s and 1970s, however, new technologies, new products, new concerns with consumer welfare and environmental protection, and pressure from domestic firms to curb competition all contributed to the adoption of new national rules and regulations, which, whether intentionally or not, impeded trade. Thus, as tariffs among the member states were removed or lowered, other barriers were revealed, and even reinforced. Local market preferences, as well as national policy and industrial cultures, became increasingly divisive.

Harmonization and its increasing frustration

In the early 1960s the Commission began to tackle the negative impact of divergent national rules on trade. These efforts gathered pace after the complete elimination of customs duties between member states on 1 July 1968 (Dashwood 1977: 278–89). Initially the Commission tended to regard uniform or 'total' harmonization—the adoption of detailed, identical rules for all the member states—as a means of driving forward the general process of integration. After the first enlargement, however, the Commission adopted a more pragmatic approach and pursued harmonization only where it could be specifically justified. That is, it only insisted on uniform

rules when an overriding interest demanded it, using 'optional' rather than 'total' harmonization.

The principal instrument of the original European Economic Community (EEC) for advancing the four freedoms was the Directive, in principle setting the essential framework of policy at the European level and leaving the 'scope and method' of its implementation to the member states. In the case of TBTs, harmonization was based on Article 94 (ex Art. 100 EEC). Other articles provided the legal foundation for the freedoms of movement for services, capital, and labour and for aligning many other national regulations (see Box 4.1).

Harmonization measures were drafted by the Commission in cooperation with sector-specific working groups, composed of experts nominated by member governments. Advice from independent specialists supplemented the Commission's resources and provided a depth and range of expertise comparable to that of the much larger national bureaucracies. The Commission also regularly invited comments on their drafts from European-level pressure groups (Dashwood 1977: 291–92). Beginning in 1973 with the 'low-voltage directive' the Commission, where possible, incorporated the work of private standard making bodies—primarily the European Committee for Standards (CEN) and the European Electrical Standards Coordinating Committee (CENELEC)—into Community measures by 'reference to standards' (Schreiber 1991: 99).

Progress, however, was greatly impeded by the need for unanimity in the Council of Ministers. Different national approaches to regulation and the pressures on governments from domestic groups with an interest in preserving the status quo made delays and obstruction frequent (Dashwood 1977: 296). The Commission exacerbated this problem by over-emphasizing the details and paying too little attention to the genuine attachment of people to familiar ways of doing business and buying goods (Dashwood 1977: 297). As a result, only 270 directives were adopted between 1969 and 1985 (Schreiber 1991: 98).

The slow pace of European harmonization could not keep pace with the proliferation of national rules as the member states increasingly adopted national measures to protect their industries and to respond to new concerns about consumer and environmental protection in the late 1970s and early 1980s (Commission 1985*b*; Dashwood 1983). As a consequence, some of the earlier progress in harmonization was undone, contributing to a decline of intra-EU imports relative to total imports (Buigues and Sheehy 1994: 18), and sharply increasing the number of ECJ cases concerning the free movement of goods.

The ECJ's jurisprudence, however, began to bite at the heels of national policy-makers. In 1974 the *Dassonville* ruling established a legal basis for challenging the validity of national legislation that introduced new TBTs. The famous *Cassis de Dijon* judgment in 1979 insisted that under certain specified conditions member states should accept in their own markets products approved for sale by other member states (Alter and Meunier-Aitsahalia 1994: 540–41; Dashwood 1983: 186). Nonetheless, there was cumulative frustration in the Commission and in the business community at the slow pace of progress and the uncertainties of reliance on the ECJ, whose rulings apply only to the cases lodged. The high level of economic interdependence within the EU made these TBTs costly and visible (Cecchini, Catinat and Jacquemin 1988; Pelkmans 1984).

At the same time there was mounting pressure for reform. In the early 1980s the governments of western Europe were facing an economic crisis. The poor

competitiveness of European firms relative to those of their main trading partners in the US and, particularly, Japan contributed to large trade deficits (Pelkmans and Winters 1988: 6). Transnational companies proliferated and often squeezed the profit margins and markets of firms confined to national markets. The sharp increase in oil prices following the revolution in Iran in 1979 helped to push west European economies into recession. Inflation and unemployment both soared during the early 1980s. Business confidence was low and investment, both foreign and European, began to turn away from the Community (Pelkmans and Winters 1988: 6).

The emerging reform agenda

While the crisis was clear, the response was not (see, for example, Tugendhat 1985). Large trade deficits and high inflation constrained the ability of member governments to use expansionary economic policies to bring down unemployment. Economic interdependence further reduced the efficacy of national responses to the crisis and provided an incentive for a coordinated response to the region's economic problems.

The prospects for a collective response was enhanced by changes within the member states. These are widely described in the political integration literature as a convergence of national policy preferences during the early 1980s (Cameron 1992: 56; Moravcsik 1991: 21; 1998; Sandholtz and Zysman 1989: 111). This convergence, it was claimed, reflected wide-spread acceptance of neo-liberal economic ideas, which stress that markets, rather than governments, are better placed to generate economic growth. Neo-liberal ideas thus advocate that governments should interfere less in economies and concentrate on policies such as the privatization of state-owned industries and the removal of regulations, particularly those governing economic competition.

Although new government policies did certainly emerge in the early 1980s, closer examination reveals that these differed substantially between countries in terms of their origins, motivations, and intensities. Political parties advocating neo-liberal economic policies came to power in the UK, Belgium, the Netherlands, and Denmark, in part due to a rejection of the parties that had overseen the economic decline of the late 1970s (Hall 1986: 100). The rejection was less marked in Germany, where the underlying strength of its economy preserved an attachment to the established 'social market' framework. In France the 'policy learning' was explicit. Expansionary fiscal policies had led to increased inflation and unemployment, exacerbated the trade deficit, and swelled the public debt (Hall 1986: 199). By 1983 the French government had started to look for European solutions, reversing its threat of autumn 1982 to obstruct the common market (Pearce and Sutton 1985: 68). The Spanish government sought to link socialist modernization at home with transnational market disciplines abroad. Convergence is thus something of a misnomer—European market liberalization served quite different purposes for different governments and different economic actors.

New ideas about markets and competition thus started to be floated in response to the problems of the European economy. These were influenced by the wave of deregulation in the US in the late 1970s and early 1980s (Hancher and Moran 1989: 133;

Majone 1991: 81; Sandholtz and Zysman 1989: 112). Furthermore, the ECJ's 1979 *Cassis de Dijon* judgment advanced the concept of mutual recognition of national standards (see below), which provided the Commission with a lever with which to pursue greater market integration (Dashwood 1983).

From the early 1980s European Council communiqués repeatedly expressed concern about the poor state of the single market (Armstrong and Bulmer 1998: 17). In December 1982 it responded to a Commission communication that recommended the removal of TBTs, simplification of frontier formalities, the liberalization of public procurement, and closer alignment of taxes (*Bulletin of the European Communities*, 12/1982) by creating an Internal Market Council to meet regularly to consider such issues.

Throughout 1983 support for revitalizing the single market continued to grow. In April the heads of some of Europe's leading multinational corporations formed the European Round Table of Industrialists (ERT) to advocate the completion of the single market (Cowles 1994). The Union of Industrial and Employers' Confederations of Europe, UNICE, added its voice to calls for greater market integration.

The single European market programme

Meanwhile the Commission began to look for ways to attack barriers to market access, both by systematically identifying them and by exploring ways of relaxing the constraints on policy change. It suggested the 'new approach' to standards harmonization, which advanced 'mutual recognition' of equivalent national rules and restricted much of harmonization to agreeing only 'essential requirements'. It thus built on the jurisprudence of the ECJ, notably the definition in *Cassis de Dijon* of essential safety requirements (Schreiber 1991). It also built on British support for deregulation and French and German efforts to coordinate the activities of their national standards bodies (H. Wallace 1984). Towards the end of 1983 the Commission privately persuaded the British, French, and German government to accept this new approach, which was formally adopted by the Council in May 1985 (*Bulletin of the European Communities*, 5/1985).

The 'new approach' limits legislative harmonization to minimum essential requirements and explicitly leaves scope for variations in national legislation (subject to mutual recognition). Under the 'new approach' responsibility for developing detailed technical standards is delegated to CEN and CENELEC. It is paralleled in financial services by 'home country control', which sets minimum standards for national regulation of financial service providers, but then allows them to operate throughout the single market regulated by the government of the country in which they have their headquarters (home country).

In 1985, after consultations with the member governments, the new president of the Commission, Jacques Delors, decided that a drive to 'complete the single market' was perhaps the only strategic policy objective that would enjoy any sort of consensus. In his inaugural speech to the European Parliament (EP), Delors committed himself to completing the single market by 1992. The Milan European Council in June 1985 endorsed the White Paper (Commission 1985a) drawn up by Lord Cockfield, the Commissioner for the single market, containing 300 (later reduced to 282) measures that would complete the single market by 1992 (see Table 4.1).

Table 4.1 The White Paper on the single market: a taxonomy

Markets Measures	Products	Services	Persons & labour	Capital
Market access	<ul style="list-style-type: none"> ■ Abolition of intra-EC frontier controls ■ Approximation of: <ul style="list-style-type: none"> ■ technical regulations ■ VAT rates and excises ■ Unspecified implications for trade policy 	<ul style="list-style-type: none"> ■ Mutual recognition & 'home country control', removal of licensing restrictions (in banking and insurance) ■ Dismantling of quotas and freedom of <i>cabotage</i> (road haulage) ■ Access to inter-regional air travel markets ■ Multiple designation in bilaterals (air transport) 	<ul style="list-style-type: none"> ■ Abolition of intra-EC frontier checks on persons ■ Relaxation of residence requirements for EC persons ■ Right of establishment for various highly educated workers 	<ul style="list-style-type: none"> ■ Abolition of exchange controls ■ Admission of securities listed in one member state to another ■ Measures to facilitate industrial cooperation and migration of firms
Competitive conditions	<ul style="list-style-type: none"> ■ Promise of special paper on state aid to industry ■ Liberalization of public procurement ■ Merger control 	<ul style="list-style-type: none"> ■ Introduction of competition policy in air transport ■ Approximation of fiscal and/or regulatory aspects in various services markets 	<ul style="list-style-type: none"> ■ European 'vocational training card' 	<ul style="list-style-type: none"> ■ Proposals on takeovers and holdings ■ Fiscal approximation of: <ul style="list-style-type: none"> ■ double taxation ■ security taxes ■ parent-subsidiary links
Market functioning	<ul style="list-style-type: none"> ■ Specific proposals on R&D in telecoms and IT ■ Proposals on standards, trade marks, corporate law, etc 	<ul style="list-style-type: none"> ■ Approximation of: <ul style="list-style-type: none"> ■ market & firm regulation in banking ■ consumer protection in insurance ■ EC system of permits for road haulage ■ EC standard for payment cards 	<ul style="list-style-type: none"> ■ Approximation of: <ul style="list-style-type: none"> ■ income tax provisions for migrants ■ various training provisions ■ mutual recognition of diplomas 	<ul style="list-style-type: none"> ■ European economic interest grouping ■ European company statute ■ Harmonization of industrial and commercial property laws ■ Common bankruptcy provisions
Sectoral policy	<ul style="list-style-type: none"> ■ CAP proposals: <ul style="list-style-type: none"> ■ abolition of frontiers ■ approximation and mutual recognition in veterinary and phytosanitary policies ■ Steel: <ul style="list-style-type: none"> ■ call to reduce subsidies 	<ul style="list-style-type: none"> ■ Common crisis regime in road transport ■ Common air transport policy on access, capacity and prices ■ Common rules on mass risks insurance 	<ul style="list-style-type: none"> ■ Largely silent on labour-market provisions 	<ul style="list-style-type: none"> ■ Call to strengthen EMS

Source: Pelkmans and Winters (1988: 12).

During this same period, but outside the Community framework, the French and German governments in 1984 agreed the Moselle Treaty in order to mitigate the impact of border controls. In 1985 it was converted, at the insistence of the Benelux governments, into the first Schengen Agreement (see Chapter 18).

The Single European Act

Although the SEM programme laid out the course to take, there were still institutional impediments to its realization. In June 1984 the meeting of the European Council in Fontainebleau cleared the way for those institutional impediments to be addressed (Armstrong and Bulmer 1998: 18). It resolved the question of Britain's budget rebate and the outstanding issues of the Iberian enlargement, thereby clearing the way for serious consideration of revision of the treaties. At this meeting, the Commission tabled the 'new approach' and the British government tabled a memorandum that called *inter alia* for the creation of a 'genuine common market' in goods and services (Thatcher 1984). The meeting also established the Ad Hoc Committee on Institutional Reform (Dooge Committee) to consider reforms to the Community's decision-making procedures, with the Iberian enlargement in mind. Earlier that year in its Draft Treaty on European Union, the EP had sought to focus attention on institutional reform, calling *inter alia* for increased parliamentary powers and greater use of qualified majority voting (QMV) in the Council of Ministers (European Parliament 1984).

By December 1985 a remarkably quick and focused Intergovernmental Conference (IGC) had agreed the terms of institutional reform that became the SEA. In addition to its important focus on accommodating enlargement, the SEA specifically endorsed the '1992 programme' to complete the single market and altered the main decision rule for single market measures (taxation, free movement of persons, and the rights and interests of employed persons excepted) from unanimity to qualified majority voting in the Council. It also enhanced the powers of the Parliament by introducing the cooperation procedure with respect to single market measures. Thus, a strategic policy change and institutional reform were linked symbiotically and symbolically.

This linkage was crucial. First, it locked together institutional change and substantive policy goals. Secondly, the agreement to proceed with the single market was embedded in a broader set of agreements. This was connected with the accommodation of new members and budgetary redistribution, but also a number of flanking policies—such as the environment and technology policy—were included to assuage the concerns of some member governments about the liberalizing dynamic of the SEM programme (Armstrong and Bulmer 1998: 14).

Squaring the theoretical circle

Theoretical accounts of the SEM and SEA fall into two main approaches: one that emphasizes the role of supranational actors (neo-functionalism), the other that stresses the importance of the member governments (liberal intergovernmentalism).

Comparisons of the two approaches are complicated by the fact that some observers focus on the SEM, whilst others concentrate on the SEA.

Those analysts that concentrate on the single European market programme tend to stress the role of supranational actors. Cowles (1994) emphasizes the importance of transnational business interests in shaping the EU agenda in favour of the completion of the single market. Sandholtz and Zysman (1989) also give pride of place to supranational actors, although they cast the Commission in the leading role, with big business lending support. Garrett and Weingast (1993) contend that it was the ECJ's idea of mutual recognition that provided a focal point for agreement among member governments that favoured liberalization. Alter and Meunier-Aitsahalia (1994) and Pollack (2003) recognize that the importance of the idea of mutual recognition, but stress the Commission's entrepreneurial exploitation of this idea as a formula for liberalization. These accounts thus are at least compatible with neo-functionalism.

Analysts that focus on the SEA, by contrast, emphasize bargaining among the member governments (intergovernmentalism). Moravcsik (1991, 1998), in particular, argues that the SEA was the product of interstate bargaining, principally between the British, French, and German governments, and that traditional tools of international statecraft, such as threats of exclusion and side payments, explain the final composition of the '1992 programme' and the SEA. Garrett (1992) argues that the member governments were willing to accept limits on their policy autonomy because they were engaged in an extended cooperative project and wanted to be able to ensure that their partners would comply with agreements. Cameron (1992) concludes that ultimately the member governments, particularly in the context of the European Council, were the crucial actors, although he concedes that supranational actors, such as the Commission, ECJ, and big business, may have influenced their preferences.

As these two theoretical approaches actually seek to explain distinct, albeit related, events, both may be broadly accurate. The Commission, transnational business interests, some member governments, and to an extent the ECJ, played the lead role in shaping the SEM programme, while bargaining among the member governments primarily determined the outcome of the SEA (Armstrong and Bulmer 1998: 19). This account is consistent with different types of actors having different impacts on different types of policy (Cowles 1994; Peterson 1995). When it comes to 'history-making' decisions, such as the SEA, the member governments are the crucial actors. When dealing with policy-setting decisions, of which the SEM is a particularly weighty example, the supranational institutions, and their allies, tend to be important.

Subsequent institutional reform

The SEA in effect set the institutional framework for the single market programme, and its broad parameters remain largely unchanged. The most significant subsequent change has been the introduction of the co-decision procedure in the Maastricht Treaty on European Union (TEU). The Treaty of Amsterdam established clearer guidelines about when member governments might adopt national rules stricter than agreed common rules. The Constitutional Treaty considered eliminating those few single market issues, such as taxation, still not subject to QMV, but met with fierce

opposition from the British and Irish governments in particular. More strikingly, the institutional reforms first introduced with respect to single market measures have been subsequently extended to other areas of policy-making.

The politics of policy-making in the SEM

The SEM and SEA fundamentally changed the politics of market integration within the European Community. First, the SEM revived ‘negative integration’, that is, the removal of national rules that impede economic exchange. This is most obvious in the mutual recognition principle, the abolition of frontier controls and the elimination of exchange controls. Secondly, the SEA changed the institutional framework for ‘positive integration’—agreeing common rules to replace national ones—by reinstating QMV and enhancing the powers of the EP. In addition, with respect to the ‘new approach’ and ‘home country control’, the SEM blurred the distinction between positive and negative integration by setting only minimum requirements. These different modes of integration have profound political implications by both affecting who the key actors are and influencing their relative power (see Table 4.2).

Negative integration

Negative integration is the elimination of national rules that impede economic exchange. It can occur as the result of political agreement among the member governments on the basis of a proposal from the Commission, as was the case with eliminating border procedures and abolishing exchange controls. In such instances,

Table 4.2 The significance of different modes of market integration

Type of integration	Mode	Description	Estimated share of intra-EU trade accounted for by affected products
Negative	mutual recognition principle	different national standards assumed to be equivalent in effect	50%
Positive	‘new approach’	common objectives with reference to voluntary standards	20%
	approximation common authorization	common detailed rules common approval of individual products required	30% pharmaceuticals GM crops and food

Source: adapted from Holmes and Young (2000), and Commission (2002b).

negative integration, for all intents and purposes, looks much like positive integration (see below). More commonly, however, negative integration occurs as the result of a national measure being found incompatible with the treaties as the result of a judicial process. In such instances firms are usually the initiators, and the courts (ultimately the ECJ) are the decision-makers.

The principle of mutual recognition is at the heart of negative integration. It is deceptively simple. The basic idea is that all member-government regulations, whatever their differences in detail, should be deemed equivalent in effect. Consequently, products produced legally in one member state should be considered equally safe, environmentally friendly, etc. as those produced legally in any other member state. If one member government prohibits the sale of a product produced legally in another member state, the producing firm can challenge that prohibition under European law. If successful, the importing member government must accept the product, and negative integration has occurred.

Under EU law, however, member governments have the right, albeit within limits, to enforce strict national rules despite principle of the mutual recognition. Crucially, the principle applies only when the assumption that the national rules are equivalent in effect holds. This is not always the case, and Article 30 TEC (ex Art. 36 EEC) of the Treaty of the European Community permits restrictions on trade for a number of public policy reasons, including public morality and the protection of human, animal, and plant health and safety. It is possible, therefore, that a government's more stringent regulation will be upheld. As a consequence, there are incentives for its trading partners to negotiate a common rule in order to eliminate the disruptive impact on trade of different rules (Vogel 1995; Young and Wallace 2000). This is one of the reasons why mutual recognition applies primarily to relatively simple products. It also means that strict-standard governments can play an important role in setting the agenda for positive integration. The more important their national markets, the more likely we are to see attempts to agree on a common rule.

Positive integration

Because different countries, for a wide variety of reasons, adopt different regulations and because those regulations serve public policy goals and usually only impede trade as a side effect, it is frequently not possible to simply eliminate national rules ('negative integration'). In such cases, in order to square the twin objectives of delivering public policy objectives and liberalizing trade it is necessary to replace different national rules with common European ones ('positive integration'). Given the relative importance of 'positive integration' in the EU's market integration project (see Table 4.2), it is more appropriate to describe the SEM as *reregulatory*, than *deregulatory*.

The policy cycle and institutional actors

Within the single market programme, the Commission is the formal agenda-setter as only it can propose new measures. The reality is somewhat more complicated. Member governments can request that the Commission develop proposals and, as noted above, can indirectly shape the agenda by pursuing policies that disrupt the free flow of goods or services within the single market. In addition, member governments, as part of compromises on legislation, often build in 'policy ratchets' requiring that an

issue be reconsidered by some specified time in the future. Lastly, the Maastricht Treaty gave the EP the right to request that the Commission propose legislation.

As discussed earlier, the SEA introduced two important changes to the legislative process on single market measures: QMV, and the enhanced role of the EP. Although QMV is the formal decision-making procedure in the Competitiveness Council (which since June 2002 incorporates the Internal Market Council) it is used relatively infrequently. Thus, in 1989–93 only 91 decisions out of 233 taken were adopted by QMV (*Financial Times*, 13 September 1994). Somewhat perversely these votes sometimes isolated member states that had the most substantive interest in the outcome. It should be noted, however, that all decisions are taken ‘in the shadow of the vote’. This means that apparently consensual decisions may mask significant compromises by isolated governments or those in small minorities.

Although the SEA increased the role of the EP by giving it the power, under the cooperation procedure, to reject or amend proposals, this power was significantly constrained. The Parliament had to vote to amend or reject a proposal by an absolute majority of its members; the Commission could choose not to integrate parliamentary amendments into its revised proposal to the Council; and the Council could overturn the Parliament’s amendments or rejection by a unanimous vote. Consequently, the Parliament only very rarely rejected proposals under the cooperation procedure and only about 40 per cent of its amendments, many of which are only minor changes to the substance of the text, ended up in directives (European Parliament 1993). If some member governments favoured the amendments made by the EP, however, the EP could have a significant impact on policy, as it famously did in the 1989 directive setting strict new emissions limits for small cars (see Box 4.2).

The introduction of the co-decision procedure under the TEU augmented the EP’s importance in single market matters, particularly strengthening its ability to reject proposals. This has led to a marked increase in the number of parliamentary amendments accepted by the Commission and Council (Hix 1999: 96). The increased influence of the Parliament formally in decision-making, and informally in proposal shaping, has had an impact on policy outcomes by enhancing the representation of

Box 4.2 The Small Car Emissions Directive

In 1987 the Commission advanced a proposal for standardizing limits on emissions from small cars. Member governments, reflecting the interests of their automobile manufacturers and/or the environmental concerns of their citizens, were divided over the proposals. The Danish, Dutch, and Greek governments, in particular, did not consider the proposals sufficiently stringent, but they were outvoted under QMV. Under the newly introduced cooperation procedure, however, the European Parliament also had a say. The EP also considered the proposals too weak and took a strong stand, threatening to veto the proposal if it was not made significantly more stringent. Given the fierce opposition of the Danish, Dutch, and Greek governments, there was little prospect that the Council would have been able to muster the unanimous vote necessary to overturn such a parliamentary veto. As a consequence, the Council adopted a stricter standard by QMV in June 1989.

Source: adapted from Peterson and Bomberg, 1999: 190–91.

civic interests, such as consumer and environmental groups (Peterson and Bomberg 1999; Young and Wallace 2000).

As the vast majority of the SEM legislative programme is in the form of directives, the member states have a central role in implementation. The transposition of directives into national law is a necessary, but not very visible, process, since in most cases it occurs through subordinate legislation that is not much debated. Criticisms of 'Brussels bureaucracy' often relate to rules that had been transposed into national law without debate and with little attention from national parliamentarians, but then 'Brussels' is always an easy scapegoat for unpopular changes.

Although the Commission formally has a role in enforcing the single market, its staff is too small and its policy remit too broad for it to actively engage in policing all nooks and crannies of the single market. Instead, the job of ensuring compliance is decentralized and relies heavily on firms and non-governmental organizations identifying issues and either bringing them to the Commission's attention or addressing them directly through the courts.

The policy players

The SEM is about regulation, and, in keeping with Ted Lowi's (1964) characterization of regulatory politics, interest-group competition characterizes the politics of single market measures. 'Brussels' had for a long while attracted pressure groups and lobbyists from the 'cognoscenti' among the would-be influencers of Community legislation, but the SEM contributed to both a dramatic expansion of such activity and some changes in its form.

In part, the increase in the number of 'Eurogroups' was a simple reaction to the range and quantity of sectors and products affected by the SEM programme and the speed with which they were being addressed. Organizations (pressure groups, firms, local and regional governments, and NGOs), which had previously relied on occasional trips to Brussels, started to establish their own offices there or to hire lobbyists on retainer. This shift to Brussels was in part a response to the looming shadow of QMV, which meant that firms and interest groups could no longer count on 'their' member government being able to defend their interests. Building alliances with like-minded groups from other countries, other member governments, and within the Commission became crucial, and that meant having a presence in Brussels. The Commission, with limited staff and pressed for expertise, readily opened its doors to these actors.

Another change following the SEA and the launch of the SEM was the increase in the number of civic interest groups, although they found it much harder to exercise effective political muscle. The consumer and the purchaser had been the intended beneficiaries of the SEM programme and the 'minimum essential requirements' of harmonizing and liberalizing directives were often to help them or their assumed interests. However, it is easier to discern consumers as objects of policy than as partners in the process, although they are often sporadic participants (Young 1997; Young and Wallace 2000). In part as a consequence, in contrast to the favourable opinion of business to the SEM, wider public expectations began to wane from 1990 onwards (Franklin, Marsh and McLaren 1994; Reif 1994), and public antipathies have emerged in response to the apparent efforts of 'Brussels' to remove differences of local taste (food standards being a particularly emotive issue). The Commission has responded

by launching initiatives to make citizens aware of their rights and of the opportunities presented by the single market.

In addition to changes in the volume and types of interest groups active in Brussels, the SEM has also contributed to changes in the form of interest group participation in policy-shaping. Individual firms and direct-member associations came to rival the previously dominant conventional peak and trade associations in the consultative processes. Another change was greater reliance on consultancy (an import from the US), which started to erode the old distinctions between public policy-making and private interest representation. The Commission, member governments, and firms all found themselves relying increasingly on consultants to inject 'expertise'.

Although 'Brussels' had become much more important, firms and interest groups retained close contacts with their national governments as important players in the SEM policy process. Rather than consistently preferring national or European policy, the SEM contributed to a rise in 'forum shopping', with non-state actors pursuing their policy objectives through whichever channel was considered most likely to deliver the desired result.

In this process the Commission plays a pivotal role. Its sole right of initiative ensures that, but what really matters is how the Commission has chosen to use it. Although *reregulatory* rather than *deregulatory*, the SEM did have the effect of liberalizing markets and increasing competition among firms from different member states. In such circumstances, the costs of policy change (liberalization) are concentrated on the protected firms and the benefits tend to be disbursed thinly across a wide range of actors (consumers and users), although some particularly competitive firms are likely to benefit. In such circumstances, a policy entrepreneur is required to champion change and galvanize support—a role that the Commission has grasped with gusto.

Opening up the policy space

In addition to the institutional changes introduced by the SEA, the sheer reinvigoration of European policy-making has also affected state-market relations in Europe. It has done so in two principal ways: increasing governments' autonomy from society and opening up existing policy networks. Participation in any international negotiation privileges governments with respect to societal actors (Putnam 1988; Moravcsik 1993b). In particular, governments may be able to use an international agreement or external pressure to press through desired domestic reforms that have been blocked by powerful domestic interests.

In addition, the policy networks surrounding the SEM,—both because they are relatively new, and by involving actors from all the member states—tend to be more open than those in individual member states. As a result, an increasing number and variety of interests now have access to the policy process. Furthermore, if there is to be a European regulation, producers tend to want their national rules to provide the template. As a consequence, powerful business interests often compete with each other, thereby undermining the 'privileged position of business' in the European policy process.

Hence, SEM regulations are usually contested by 'advocacy alliances', tactical, often loose groupings of diverse proponents of particular policies (Young and Wallace 2000). Such 'advocacy alliances' bring together combinations of member governments, supranational European institutions, producer and civic interests. Thus, these alliances bridge the policy-shaping and policy-setting aspects of the policy cycle.

The regulatory policy mode

The SEM policy process, therefore, combines high levels of interest group engagement with Commission entrepreneurship, Council bargaining, and Parliamentary deliberation over common rules. These rules are subsequently often enforced through the courts by private actors. As such the SEM is the exemplar, not surprisingly, of the EU's regulatory policy mode (see Chapter 3).

It is, however, important to recognize that the regulatory mode actually contains two distinct dynamics: one that promotes market liberalization, the other more stringent regulation. These different dynamics apply to different types of regulation and broadly mirror patterns in other polities. With regard to economic regulations—such as controls on prices or competition—the SEM has been liberalizing. With regard to social regulations, such as consumer safety or environmental product standards, the SEM has tended to increase competition among the member states, but by producing relatively stringent common rules (Peterson 1997; Sbragia 1993; Scharpf 1999; Young and Wallace 2000).

There are two keys to these different dynamics. The first concerns policy ideas. While neo-liberalism has expounded the benefits of removing restrictions on competition (Majone 1991), post-material values and more recent ideas such as the 'precautionary principle' have supported more stringent social regulations (Weale 1992; Vogel 1989). The second key concerns how the potential for negative integration affects the bargaining power of the member governments within the Council under the shadow of QMV. With regard to economic regulations, the prospect of negative integration is pronounced, putting those member governments with restrictions in a weak position to do more than slow the pace of liberalization (Holmes and McGowan 1997; Schmidt 1998; Young and Wallace 2000).

With regard to social regulations, however, the Treaty of the European Community accepts, within limits, the right of member governments to adopt social regulations that impede trade. In addition to putting such issues on the agenda, as noted above, this puts the stricter-standard country in a stronger bargaining position; its firms are protected and its citizens are content, while foreign goods or services are excluded. The cost of no agreement, therefore, falls more heavily on its partners. Under QMV no individual government can hold out alone for stricter standards, but there is usually an 'advocacy alliance' of civic interest groups, stringent-standard producers, several member governments, the Parliament, and often the Commission in favour of more stringent standards. As a consequence, the SEM has tended to contribute to 'trading up' (Vogel 1995).

Substance and impact

Progress on the single market legislation has been impressive, with nearly 1,500 measures adopted by 2002 (Commission 2002c: 10), and the estimated economic impacts are significant (see Box 4.3). In addition, one of the most important 'outputs' of the SEM has been the change in business attitudes and business behaviour, much of it anticipating legislation (Jacquemin and Wright 1993). It is, however, important to

Box 4.3 The estimated impact of the single market programme

- EU GDP in 2002 was 1.8 percentage points higher due to the single market;
- About 2.5 million more jobs have been created since 1992;
- Extra cumulative prosperity of €877 billion since 1992;
- EU exports to third countries increased from 7 to 11 per cent GDP in period 1992–2002;
- Inflows of FDI into the EU have more than doubled as a percentage of GDP;
- 80 per cent of EU citizens believe that the SEM has led to wider choice, and 67 per cent believe that it has led to improved quality;
- Over 60 per cent of companies exporting to more than five EU member states said that the SEM has helped to boost their cross-border sales;
- Electricity, natural gas, and telephone prices are now lower than in the US.

Source: Commission 2002c.

recognize that the benefits of the single market have been more apparent to large firms operating in multiple markets than to small and medium-sized companies (Commission 1998a) and consumers (Commission 2002c: 12).

Despite the impressive efforts, however, the single market is still not complete, and in many respects never will be, insofar as it is an on-going project requiring constant up-dating (Commission 2002c: 4). Indeed, there are a number of causes for concern (Commission 2004a). First, prices for the same products in different member states stopped converging before 1998, and price variation remains significantly higher in the EU than in the US. This suggests that significant obstacles to trade remain. Secondly, the net outflow of foreign investment has increased, although this may just reflect cyclical factors.

The transposition of directives into national law is less of a problem than it was, but the Commission (2004a: 16) is still not satisfied, as over 8 per cent of single market directives have not been transposed in all member states. There are four particular problem areas when it comes to completing the single market: inadequate implementation of directives; problems with the operation of the mutual recognition principle; important lasting cultural differences among the member states; and persistent gaps in the legislative programme, especially with regard to services. Each of these problems is likely to be exacerbated in an EU of twenty-five.

Although the transposition of directives into national law has eased as a problem, actual implementation is a pressing concern. In 2002 the Commission had 1,500 infringement proceedings open against member states for failing to apply directives fully (Commission 2002c: 11). France, Italy, Germany, Spain, and Greece accounted for more than half of those proceedings. The Commission (2002b: 11) considers that this does 'enormous' damage to the effective functioning of the single market.

The effective functioning of the single market is also disrupted by problems with applying the mutual recognition principle. These are most pronounced with regard to technically complex products (such as buses, lorries, construction products, and precious metals), and products that may pose a threat to safety or health (such as

foods), although the principle works quite well when applied to relatively simple products (Commission 2002b: 2).

A contributing factor to the problems with the application of the mutual recognition principle are significant underlying cultural differences among the member states. Such differences can also complicate agreeing common new rules. Cultural differences are particularly pronounced with respect to food, as shown by the different attitudes towards biotechnology (see Chapter 13), but they also permeate other areas. In services, for example, different attitudes toward public-service obligations made the liberalization of network utilities—such as telephones, electricity, and gas—difficult. Furthermore, consumers in different markets may prefer different product characteristics or may feel more comfortable doing business with established local firms (Müller 2003). Thus, cultural differences also have a bearing on whether the removal of legal and physical barriers is sufficient to create a single market.

The most pronounced gaps in the single market's legislative programme concern services. These problems have been most pronounced in sectors dominated by public monopolies, such as energy and telecommunications markets, and in highly regulated services, such as financial services, particularly insurance (Müller 2003). Energy and telecommunications markets were finally liberalized in the 1990s. In 1999 the EU adopted the Financial Services Action Plan, a raft of forty-two measures designed to create a genuinely single market in financial services. There are, however, still a number of barriers that impede service providers from operating smoothly across borders. The Commission sees this as a particular problem in retail and business services (Commission 2002c: 22). The absence of coherent European company law, however, remains the most striking lacuna.

Beyond the EU level the single market programme has contributed, directly and indirectly, to changes in the institutions of regulation within the member states. This is most pronounced in network utilities and food safety, where EU directives required the establishment of at least quasi-independent national regulatory authorities to oversee competition, in the case of the former (see Chapter 5), or to provide expert, independent advice on safety, in the case of the latter (see Chapter 13). These authorities usually do not have the same degree of independence or authority as their US counterparts, and most only provide expert advice or guidance to politicians who, at least formally, take the decisions.

Policy linkages

Now that products and services move more easily between member states, attention has shifted to the processes and conditions under which they are produced and provided. Irrespective of other arguments for European policies on environmental and social issues (see Chapters 10 and 12), the preoccupation of entrepreneurs with operating on a level playing field turned attention to the relevance of such rules for costs, competitiveness and profitability. Concerns for a level playing field also supported the case for a tough competition policy (see Chapter 5).

In addition, the single market was invoked to build support for the two big policy initiatives that followed it: economic and monetary union (EMU) (see Chapter 6); and justice and home affairs (see Chapter 18). The single market programme also has implications for the EU's external policies. It has affected the terms on which third-country

goods and services enter the EU (see Chapter 15; Young 2004) and, as a consequence of the 'doctrine of implied powers', it has enhanced the EU's capacity to participate effectively in international trade negotiations (see Chapter 15; Young 2002). It has also provided a core framework for relations with the EU's 'near abroad' (see Chapter 16; Young and Wallace 2000).

The single market in an enlarged EU

Extending the single market programme to the new member states in advance of their accession has eased their adjustment to membership. Nevertheless, their membership is likely to complicate the single market, both by increasing the need for positive integration and by making it harder to achieve.

By increasing the diversity of membership, the new members will complicate the already delicate regulatory balance within the EU, particularly with respect to the mutual recognition principle (Holmes and Young 2000). An early indication of this was the Commission's concern with food safety standards in the new member states and the possibility that safeguard restrictions might be imposed (*Financial Times*, 23 February 2004). If the principle of mutual recognition becomes less effective, either obstacles to trade will proliferate or more common rules will have to be adopted. The larger membership, even given the revised decision rules, will significantly complicate agreeing such common rules. This applies particularly to new areas of policy—such as the regulation of new technologies—and areas where the single market is still incomplete. By complicating both negative and positive integration the most recent enlargement may mark the high water mark of market integration.

Conclusions: a new approach to policy

The single European market programme represents an approach to policy different both from that within the EU prior to the mid-1980s and from that found in most member states. It is an explicitly regulatory mode of policy-making. As a consequence, new relationships have been established between public and private actors at the EU level and between actors operating at the national and European levels. This has tended to open up the policy process, although business groups, especially large firms, have a 'privileged position', as they do at the national level. There is, however, more likely to be competition among such privileged actors than in member states.

The SEM has also reduced the dependence of many economic actors on national policy. The scope for national policy-makers to control economic transactions on their territories has become more limited and will remain limited so as long as the transnational legal regime of the EU holds together. That is not to say, however, that the political turf has been won by EU-level policy-makers, since the new regulatory mode involves a diffusion of policy authority rather than its concentration at the European

level. Although the Commission has been heavily engaged in promoting the single market, its own net gain in authority is open to debate, not least since it has also become the butt of residual criticism about the downside effects of market liberalization. Moreover, the member governments—as participants in decision-making, the enforcers of most EU legislation, the guardians of ‘home country controls’, and the proponents of subsidiarity—remain key players in the regulatory process.

In addition, the member governments are in the position of defending the losers from the single market against the incursions of European regulation. Hence, the single market programme has to be seen as an important element of the legitimacy test faced by the EU since the early 1990s. It is, moreover, paradoxical that this test has been most severe in member states whose governments are strongly committed to market liberalization (the UK being a case in point).

The SEM probably would not have become such a relative ‘success story’ had not policy and industrial entrepreneurs been able to talk up the importance of what they were seeking to do and thus to give political sex appeal to an otherwise dreary list of separate and technical proposals. For a variety of reasons, politicians found it convenient to use the single market and the constraints from ‘Brussels’ as cover for changes in domestic policies and as a justification for both inaction and action at home. Commission officials were delighted to have found a theme that had such wide resonance and played it for all it was worth in developing the symbolism of European integration and its impacts on citizens as well as on firms. Sustaining political integration on the back of a programme of market liberalization has, however, proved elusive.

Further reading

On the original development of the 1992 programme, see Cockfield (1994), and Pelkmans and Winters (1988). For a recent economic evaluations, see Commission (2002c, 2004a), and the Commission’s biennial *Single Market Scoreboard* and web site at http://www.europa.eu.int/comm/internal_market. The introduction to the Commission’s (1995) ‘pre-accession strategy’ summarizes the SEM and its development. For the theoretical debate, see Armstrong and Bulmer (1998), Cowles (1997), Majone (1996), Moravcsik (1991), and Sandholtz and Zysman (1989). For discussions of the political dynamics of the SEM, see Armstrong and Bulmer (1998), Scharpf (1999), and Young and Wallace (2000).

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