

1992

**IMPLEMENTING THE EUROPEAN COMMUNITY
SINGLE MARKET:
SIXTH FOLLOWUP REPORT**

Investigation No. 332-267

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UNITED STATES INTERNATIONAL TRADE COMMISSION

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PREFACE

This report is the last in a series of reports that the U.S. International Trade Commission (USITC) has prepared in response to a congressional request. On October 13, 1988, the USITC received a joint request from the House Committee on Ways and Means and the Senate Committee on Finance (presented as appendix A) for an investigation under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to provide objective factual information on the European Community (EC)'s single-market initiative and a comprehensive analysis of its potential economic consequences for the United States. The USITC issued an initial report and five followup reports: *The Effects of Greater Economic Integration Within the European Community on the United States*. The current report is the sixth followup report and is the first in the series to focus strictly on the status of implementation of EC measures by the member states. The aim is to complete the USITC assessment of EC progress in attaining its single-market objectives by measuring how far EC legislation has been given effect, or been implemented, in member states. This information will allow readers to better anticipate the effects of integration.

Copies of the notice of the sixth followup report were posted at the Office of the Secretary, U.S. International Trade Commission, Washington, DC 20436. The notice was published in the *Federal Register* (58 F.R. 39567) and is included in appendix B of this report, along with the original *Federal Register* notice and previous followup report notices.

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EXECUTIVE SUMMARY

Since 1985, when the European Community (EC) launched an ambitious program to complete the integration of its 12 member-state economies, it has made steady progress in enacting legislation intended to achieve its goal. December 31, 1992, marked the self-imposed EC deadline for the so-called single-market program. The EC Council has adopted nearly all of the 282 legislative measures identified in the 1985 EC Commission White Paper and its updates as necessary to ensure the free movement of goods, capital, people, and services, along with hundreds more flanking and follow-on measures.

Under EC law, EC adoption of those measures does not complete the integration process. Member states must also give effect to ("implement") these measures. Many EC 92 measures are directives that require special procedures by member states to become fully effective. Member states implement a directive by transposing it into national legislation, whereas other measures, such as regulations and decisions, are generally directly applicable to member states, and thus do not require formal transposition.

Although EC rules are binding, failure to transpose a directive quickly or properly can limit the practical effectiveness of integration. For example, the speed at which such transposition occurs could affect business planning and operations. Moreover, it could affect businesses because the EC allows some divergences in national enactments of EC rules, to permit flexibility in application.

In July 1993, the U.S. International Trade Commission (USITC) launched a study focusing strictly on member-state implementation of single-market rules. The purpose was to assess the status of implementation overall, by member state and by subject area, and, so far as possible, to identify the factors that influenced implementation rates. The EC Commission was the primary source for statistics and other information about the more than 500 measures covered by this report. The USITC merged information from the EC Commission with material from member-state governments, business persons, and other persons and organizations familiar with the process. Because the status of implementation constantly changes, and informants often supplied conflicting information, the presentation of accurate and consistent material in the USITC report was often difficult. The resulting report is the seventh in the series that began in 1989 at the joint request of the House Committee on Ways and Means and the Senate Committee on Finance. The Commission's principal findings are as follows:

- Considerable progress has been achieved in implementing internal market measures whose implementation deadlines have passed. As of September 1, 1993, member states had implemented about 81 percent of these measures.
- Progress on some issues has been slow. Table A shows that lagging areas include public procurement, intellectual property, the social dimension, telecommunications standards, and miscellaneous standards. Implementation rates for these areas range between 41.3 and 61.1 percent.
- Member-state implementation rates vary only slightly. Table A shows that nine member states have implementation rates between 80.4 and 83.5 percent. Denmark has the highest implementation rate, at 89.6 percent. Greece has the lowest at 74.6 percent, followed by Germany with 77.5 percent. Timely implementation of EC laws is facilitated in member states that develop a broad consensus about national implementation early by soliciting views of government ministries, parliament, and the private sector during the legislative process in Brussels. Implementation is also easier in member states where the national government has authority to implement Community law by ministerial decree or regulation, without having to seek parliamentary approval.
- The three major reasons for implementation delays are administrative, technical, and political. Most delays occur because of administrative reasons, including lack of staff, lack of experience, different priorities, a cumbersome and time-consuming legislative process, a change of government, and problems related to determining which ministry has jurisdiction over the subject matter. Technical problems play a role most often in

Table A
Percent of EC 1992 legislation Implemented, by member states and subject areas, as of Sept. 1, 1993

	Belgium	Denmark	France	Germany	Greece	Ireland	Italy	Luxem- bourg	Nether- lands	Portugal	Spain	United Kingdom	AVERAGE
NONSTANDARDS													
Procurement	50.0	66.7	66.7	0.0	50.0	100.0	66.7	66.7	0.0	75.0	50.0	83.3	56.3
Energy Market	100.0	100.0	66.7	66.7	66.7	100.0	66.7	66.7	100.0	66.7	0.0	100.0	75.0
Financial Services ..	90.9	100.0	90.9	81.8	54.5	86.4	90.9	81.8	95.5	77.3	77.3	81.8	84.1
Movement of Goods ..	88.2	94.1	94.1	94.1	91.2	90.9	94.1	97.1	91.2	94.1	100.0	91.2	93.4
Movement of People ..	73.7	100.0	78.9	78.9	94.7	100.0	84.2	100.0	84.2	84.2	78.9	83.3	86.8
Social													
Dimension	33.3	83.3	58.3	16.7	18.2	75.0	16.7	16.7	33.3	25.0	25.0	91.7	41.3
Transportation	95.0	100.0	95.0	90.0	90.0	100.0	95.0	90.0	90.0	90.0	100.0	100.0	94.6
Company Law	66.7	100.0	83.3	83.3	66.7	66.7	91.7	83.3	72.7	83.3	75.0	91.7	80.4
Competition Policy	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Taxation	100.0	100.0	94.7	94.7	77.8	100.0	100.0	94.7	100.0	88.9	94.4	78.9	93.7
Quantitative													
Restrictions	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Intel. Property	33.3	100.0	66.7	33.3	100.0	66.7	100.0	33.3	33.3	33.3	66.7	66.7	61.1
STANDARDS													
Agriculture	89.3	89.8	78.3	80.2	73.8	69.4	86.0	81.0	79.3	90.4	83.9	84.3	80.2
Processed Foods	85.4	79.2	83.3	72.9	81.3	83.3	77.1	85.4	87.5	85.4	83.3	83.3	82.3
Chemicals	52.9	88.2	79.4	73.5	70.6	67.6	58.8	64.7	85.3	55.9	64.7	61.8	68.6
Pharmaceuticals	95.8	83.3	70.8	66.7	79.2	79.2	95.8	91.7	70.8	66.7	70.8	79.2	79.2
Medical Devices	0.0	100.0	0.0	0.0	0.0	0.0	100.0	100.0	0.0	100.0	0.0	100.0	41.7
Motor Vehicles	76.1	86.7	73.9	77.8	80.4	84.4	80.0	67.4	84.4	82.2	86.7	80.0	80.6
Other Machinery	94.7	97.4	94.7	97.4	78.9	94.7	86.8	92.1	97.4	89.5	97.4	97.4	93.2
Telecommun.	57.1	71.4	57.1	64.3	50.0	57.1	57.1	57.1	50.0	64.3	50.0	71.4	58.9
Environment	85.0	94.7	85.0	70.0	60.0	85.0	70.0	90.0	85.0	95.0	85.0	80.0	82.0
Miscellaneous	75.0	75.0	75.0	75.0	25.0	75.0	25.0	25.0	75.0	25.0	25.0	75.0	54.2
Generic	87.5	87.5	75.0	87.5	100.0	87.5	100.0	100.0	87.5	87.5	75.0	100.0	89.6
Total (standards)	82.2	86.8	78.6	77.2	74.0	76.4	79.2	79.2	81.4	81.6	79.9	81.4	79.8
TOTAL	81.9	89.6	80.9	77.5	74.6	80.6	81.2	80.5	81.5	81.4	80.4	83.5	81.1

Source: Compiled by USITC from official sources issued by the Commission of the European Communities.

transposition of standards directives. In situations where supporting standards are not in place and where conformity assessment bodies are not set up, member states may be unwilling or unable to implement. Another technical problem has occurred with the money laundering directive, which requires member states to adopt a law that criminalizes money laundering, before the member state can implement the directive. Political problems are rarely cited for delaying implementation, although some policy differences linger. Member-state officials generally claim that political problems were resolved before measures were adopted at the EC level.

- Other broader factors appear to have slowed momentum towards EC single-market objectives. Among the most important are an ongoing recession, monetary instability, growing disparities in economic priorities among key EC member states, difficulties in securing ratification of the Maastricht Treaty on full economic and political union, and the need to engage in final phases of the Uruguay Round of multilateral trade negotiations. Not only have such developments fueled uncertainty and drained resources, they have made execution of the EC Commission's role more difficult as advocate and watchdog of Community interests.
- In the end, meeting the objectives of the single-market program will depend on whether member states apply the EC measures effectively and consistently. Actual application of some EC rules, such as rules for public procurement, has already been problematic. As a result, concern is growing among member states and businesses over uneven compliance and enforcement. In response to this concern, the EC is currently developing a "strategic program" to "reinforce the effectiveness of the single market" by establishing a closer partnership with member states.

CHAPTER 1

INTRODUCTION

The 1992 Integration Program

In 1985, the European Community (EC)¹ began a program to stimulate growth and international competitiveness by increasing the economic integration of the internal market among its 12 member states.² Economic stagnation, reduced European competitiveness, and the increasing ineffectiveness of EC institutions provided the impetus for agreement on further integration by the member-state governments. A White Paper issued in June 1985 by the EC Commission set out a timetable for the issuance of nearly 300 legal measures that were designed to abolish physical, technical, and fiscal barriers to trade among the member states. The integration program was scheduled for completion by the end of 1992.

The U.S. Government and U.S. industry initially viewed the EC 1992 process with concern, typified by the suggestion that the EC was attempting to erect a "Fortress Europe" of barriers to trade with non-EC countries. More recently, U.S. concern has lessened; U.S. industry representatives have shown support for the integration program and its reduction of barriers to trade within the EC. However, such issues as broadcasting and public procurement have remained contentious. The U.S. Government and U.S. industry continue to monitor EC integration with interest.³

The 1992 integration program met its deadline to the extent that the EC Commission and EC Council in Brussels passed most of the nearly 300 internal market measures called for in the 1985 White Paper.⁴ However, EC legislation in certain sectors is not as complete as in others; the EC institutions have significant work left to do on measures relating to the internal energy market, company law, and intellectual property rights. Moreover, passing legislation in Brussels is not enough. Member states must implement the directives agreed on by the EC Commission and EC Council.

¹ With the entry into force on November 1, 1993, of the Maastricht Treaty on European Union, the EC has been renamed the *European Union*. However, because the program covered in this report is called "EC 1992" and because most events discussed herein occurred before that date, the name EC has been retained for clarity.

² The 12 member states are Belgium, Denmark, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, and the United Kingdom.

³ See, for example, National Association of Manufacturers, *Europe after 1992: Boom or Bust? The NAM's Fifth Report on the European Community Internal Market and the Ongoing Issues for U.S. Manufacturers*, June 1993.

The present report is the seventh report volume in a series on the EC 1992 program issued by the U.S. International Trade Commission (USITC). Previous volumes provided detailed information on the internal market measures in each of the subject areas, including their implications for the United States. This report, however, focuses on implementation alone, to show how far the member states have gone toward making economic integration of the internal market a reality. Topics covered here include how EC institutions monitor and enforce implementation, the status of implementation in each member state, and the status of implementation by subject area.

Implementation Defined

A legal act such as an internal market measure called for by the White Paper begins first as a proposal drafted by the EC Commission, which is the executive body of the Community. Once proposed by the EC Commission, a measure is then legislatively passed, or "adopted," by the EC Council, to become finalized. During the legislative process, the European Parliament and the Economic and Social Council have opportunities to review the proposed measure. When issued by the EC Council, the internal market measure is published in the *Official Journal of the European Communities* (OJ), and it becomes a legal act of the EC, usually requiring compliance with its terms by the member states.

Under EC law, the issuance of the internal market measures does not complete the integration process. EC law requires a further step, called "implementation." At its June 1993 summit meeting in Copenhagen, the European Council stated that, although the integrated "single market" had become a legal reality on January 1, 1993, the member states still needed to take action to make it a practical reality by complying with their obligation under article 8A of the Treaty of Rome, as amended by the Single European Act, to fully implement the single-market measures.⁵ The EC Commission stated in August 1993 that "[t]he transposal of Community law into national law, and in particular the implementation of directives, assumed special significance in the run-up to the 1993

⁴ EC Commission, *Working Document of the Commission on a Strategic Programme on the Internal Market, attached to Reinforcing the Effectiveness of the Internal Market*, Communication from the Commission to the Council and the European Parliament, COM (93) 256, June 2, 1993 ("Working Document"), p. 7.

⁵ Treaty of Rome, Mar. 25, 1957; Single European Act, effective July 1, 1987, reprinted in 1986 EC Bulletin Supplement No. 2; *European Report*, No. 1869 (June 24, 1993), Document, p. 6. The Treaty of Rome established the European Economic Community.

deadline.⁶ The European Consumers' Organization has warned that uneven implementation, application, and enforcement of EC legislation by the member states will deprive consumers of the promised benefits of the single market.⁷ The U.S. Chamber of Commerce expressed a similar concern that the failure to quickly and properly implement might create "an uncertain and confusing business environment."⁸ Recently, however, complaints about implementation have been rare.⁹

As used in this report, the term "implementation" means the process by which the member states of the EC give effect to EC Council and EC Commission legislation.¹⁰ Some EC measures are directly applicable to the member states, so that implementation merely means compliance with such measures. Other measures are not directly applicable but require the enacting of national legal instruments corresponding to the EC legislation, a process called "transposition." Under the Treaty of Rome, each EC member state has the legal obligation (1) to transpose certain EC measures into national law, and (2) to notify the EC Commission of that transposition. Notification is to the Secretary General of the EC Commission.¹¹

Not all EC measures require transposition and notification. The form and effect of an EC action are spelled out by the Treaty of Rome. Article 189 defines the five forms of legal instruments available to the Council and the EC Commission: regulations, directives, decisions, recommendations, and

opinions.¹² In general, regulations are directly applicable in member states, and need no implementing legislation to ensure effectiveness.¹³ Indeed, a member state is acting improperly in some instances when it conceals the EC character of a regulation by reenacting it as national legislation.¹⁴ Decisions generally are also directly applicable, but, unlike regulations, they are individual in scope, with legal consequences for only those specifically addressed.¹⁵ Decisions may be addressed to member states, firms, or individuals.¹⁶ Recommendations and opinions are nonbinding.¹⁷

Directives require transposition and notification because they are binding on the member states only as to the result to be achieved but leave to each member state the choice of the form and method of implementation.¹⁸ Most directives require member states to enact implementing measures within 2 to 3 years.¹⁹ However, a member state can extend the

¹² EEC Treaty, art. 189. The 1992 integration program also includes a small number of conventions, which are international agreements between governments. Although not subject to transposition in the normal sense, they require ratification in order to be fully implemented. EC Committee of the American Chamber of Commerce in Belgium, *EC Information Handbook 1993/1994*, p. 12.

¹³ Officials of the EC Commission, Celex, interview by USITC staff, Brussels, Oct. 4, 1993.

¹⁴ See, for example, *Amsterdam Bulb BV v. Hoofdproduktsschap voor Siergewassen*, case No. 50/76, [1976 Transfer Binder] *Common Market Reporter* (Commerce Clearing House (CCH)) ¶ 8391 (1977).

¹⁵ Official of the EC Commission, Legal Service, interview by USITC staff, Brussels, Oct. 6, 1993.

¹⁶ Treaty of Rome, art. 189; P. Herzog and H. Smit, *Law of the European Economic Community* 189.18 (1988).

¹⁷ EEC Treaty, art. 189; Herzog and Smit 189.19.

¹⁸ The European Court of Justice (ECJ), the EC judicial institution, has held, "As regards the transposition of the directive into national law, it must be observed that this does not necessarily require the provisions of the directive to be enacted in precisely the same words in a specific, express provision of national law; a general legal context may be sufficient if it actually ensures the full application of the directive in a sufficiently clear and precise manner." *Commission of the European Communities v. Italian Republic*, case No. 262/85, [1986-1988 Transfer Binder] *Common Market Reporter* (CCH) ¶ 14,518, p. 18,963 (1987), citing, *Commission of the European Communities v. Federal Republic of Germany*, [1985-1986 Transfer Binder] *Common Market Reporter* (CCH) ¶ 14,203 (1985). In the Italian case, the directive concerned environmental protection, and the Court stated that, "a faithful transposition becomes particularly important in a case such as this, in which the management of the common heritage is entrusted to the member states in their respective territories." *Commission v. Italian Republic*, p. 18,963.

¹⁹ EC Committee of the American Chamber of Commerce in Belgium, *EC Information Handbook 1993/1994*, p. 10. Some directives have two deadlines: one for transposition and another for entry into force in the member states. These dates sometimes differ because the EC seeks to ensure that national measures are in place and have been checked by the EC Commission before the directive actually enters into force. Officials of the EC

⁶ EC Commission, *Tenth Annual Report to the European Parliament on Commission Monitoring of the Application of Community Law—1992*, COM (93) 329 final, OJ No. C 233, Aug. 30, 1993, p. 6.

⁷ Bureau Europeen des Unions de Consommateurs (BEUC), *BEUC's Comments on Commission's Communication "Reinforcing the Effectiveness of the Internal Market"*, BEUC/252/93/final, Sept. 21, 1993.

⁸ U.S. Chamber of Commerce, International Division, *Europe 1992, A Practical Guide for American Business*, Update No. 4, 1993, p. 4.

⁹ Trade association official, interview by USITC staff, Brussels, Oct. 5, 1993. U.S. firms generally raise issues similar to those of EC firms, such as the concern that member states may not be able to properly apply standards directives where standards or notified bodies do not yet exist. U.S. Department of Commerce official, interview by USITC staff, Brussels, Oct. 4, 1993; and Officials of the EC Commission, DG III, interview by USITC staff, Brussels, Oct. 4, 1993.

¹⁰ In the EC, the term "implementation" is sometimes used in such other contexts as where the EC Commission or the EC Council needs to pass measures to supplement legislation already passed. See, for example, Working Document, p. 8.

¹¹ Officials of the EC Commission, Celex, interview by USITC staff, Brussels, Oct. 4, 1993.

deadline by obtaining a "derogation," which accords it more time to implement a directive.²⁰ In addition, certain directives provide transitional periods during which the legislation is not fully in effect.²¹ Because directives are the most common type of measure in the 1992 integration program, the EC sees their transposition as necessary for the single market to be fully effective. Some have criticized the EC use of directives because of their need for implementation, and have preferred using such more compulsory measures as regulations.²²

The implementation process can be complicated. A member state generally transposes an EC directive in one or more of three ways: (1) legislation passed by the national parliament; (2) a decree issued by the head of government or a government minister; or (3) a circular or other decision issued by a government minister or department.²³ In some cases, a member state implements using a combination of measures, such as a general law supplemented by more specific decrees.²⁴ However, in some cases a member state considers the transposition method it has used to be a proper way to implement a directive, but the EC Commission disagrees. This has been the case particularly with respect to administrative circulars, which often lack legally binding effect, thus causing the EC Commission to find them inadequate.²⁵ On occasion, the legal form of transposition has caused controversy within a member state, as in Ireland recently (see chapter 2).

Once a basic law or decree is issued, it often needs supplemental administrative regulations that aid in enforcing the law.²⁶ Moreover, government officials at

the central, regional, and local levels must carry out the laws, decrees, and regulations properly. Some industry sources express concern that member states may pass legislation to pay lip service to their obligation to implement, and then fail to put the law into effect.²⁷ Similarly, the EC Commission is monitoring this postimplementation stage²⁸ because it has identified the "risk of fragmentation of the market arising either from divergent interpretation and enforcement of Community law or from the introduction of national rules which needlessly segment the market."²⁹

Although the EC sees implementation as an important aspect of the internal market, to a large extent directives have force and effect even without implementation. Some directives specify this by their own terms. For example, the directive concerning the "CE" mark, which indicates compliance with relevant standards, requires a member state to accept goods for importation to which a "CE" mark was affixed in another member state, whether or not the first member state has implemented the directive itself. This largely insulates a citizen of the second member state from harm caused by the first member state's failure to implement, but a citizen of the first member state is not so protected.³⁰

In Italy, EC directives reportedly take precedence over national law even if not transposed.³¹ In all member states, private parties may bring an action against a member state to enforce rights granted by a directive.³² If a directive is sufficiently precise and unconditional, an individual may rely on provisions of the directive in court when a member state has failed to fulfill its obligation to properly transpose a directive into national law.³³ In the *Francovich* case, the

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Commission, DG III, interview by USITC staff, Brussels, Oct. 4, 1993.

²⁰ For a list of selected derogations, see U.S. Department of State, message reference No. 15494, prepared by U.S. Mission to the EC, Brussels, Dec. 10, 1992.

²¹ EC Commission, *Reinforcing the Effectiveness of the Internal Market*, Communication from the Commission to the Council and the European Parliament, COM (93) 256 final, June 2, 1993, p. 1.

²² Trade association official, interview by USITC staff, Brussels, Sept. 13, 1993.

²³ Official of the EC Commission, Directorate General (DG) XV, interview by USITC staff, Brussels, Jan. 21, 1991. Member states designate their legal instruments in a variety of ways. Ireland and the United Kingdom use "statutory instruments," Luxembourg issues "memorials," and Portugal implements some measures by "portaria." For example, Portuguese Government official, interview by USITC staff, Lisbon, Sept. 21, 1993.

²⁴ U.S. Department of State telegram, message reference No. 017194, prepared by U.S. Embassy, Rome, Oct. 1, 1993.

²⁵ Official of the EC Commission, DG XV, interview by USITC staff, Brussels, Jan. 21, 1991.

²⁶ This aspect is similar to U.S. practice in that many statutes in the United States Code are supplemented or interpreted by regulations issued by administrative agencies and published in the *Federal Register* and the *Code of Federal Regulations*.

²⁷ Trade association official, interview by USITC staff, Luxembourg, Sept. 14, 1993.

²⁸ Official of the EC Commission, DG III, interview by USITC staff, Brussels, Jan. 22, 1991.

²⁹ *Internal Market After 1992, Meeting the Challenge*, report to the EEC Commission by the High Level Group on the Operation of the Internal Market, Oct. 1992.

³⁰ Officials of the EC Commission, DG III, interview by USITC staff, Brussels, Oct. 4, 1993.

³¹ U.S. Department of State telegram, message reference No. 017194, prepared by U.S. Embassy, Rome, Oct. 1, 1993.

³² Such suits cannot be brought directly before the ECJ, but must be filed in a national tribunal. If, in such a case, questions of EC law arise, the suit may appear before the ECJ pursuant to article 177 of the Treaty of Rome. The member-state court may seek from the ECJ "criteria of interpretation relating to Community law which may enable it to assess" whether the member-state law is compatible with EC law. *Syndicat National des Fabricants Raffineurs d'Huile de Graissage v. Groupement d'Interet Economique "Inter-Huiles,"* case No. 172/82, [1981-1983 Transfer Binder] *Common Market Reporter* (CCH) ¶ 8913 (1983).

³³ *Francovich & Ors v. Italian Republic* (Joined Cases C-6/90 and C-9/90) [1993] 1 CEC p. 604.

European Court of Justice (ECJ) suggested that an individual could recover damages from a member-state government for its failure to implement a directive.³⁴ When member-state law is inconsistent with a directive, an individual may use the directive in defense even against a penal sanction, but only after the deadline for the member state to pass implementing legislation.³⁵ However, courts will deny relief where a directive does not meet the requirement of sufficient precision or unconditionality.³⁶

Methodology of the Report

No single definition of the EC 1992 program has yet emerged. The USITC series of studies has defined the EC 1992 program in broader terms than did the EC Commission White Paper. The USITC and others have viewed follow-on measures and flanking policies with an internal market focus as part of the program. For example, the White Paper did not include either the internal energy market or the social dimension, but most observers consider them part of the EC single-market program. Appendix C lists the more than 600 enacted measures that, in the USITC's view, compose the program. Most of the measures are directives and regulations, but there are also some decisions, recommendations, and conventions included.

This USITC report examines the status of implementation by member states of the binding measures listed in appendix C, whose implementation deadlines fell before September 1, 1993. About 521 measures were in this category. Fully 70 percent of these measures are standards, of which nearly one-half cover farm-based agriculture and processed foods. Excluding standards, measures covering the movement of goods account for almost a quarter of the total.

The current USITC report presents implementation rates for the EC as a whole, for member states, and for subject areas. Implementation rates can show how much of the EC 1992 program has completed the legislative cycle. However, implementation rates alone do not show the progress the EC has made in

completing its internal market program because implementation is only the second stage in a three-stage process. The first stage of the legislative process, analyzed in all of the previous USITC EC 1992 reports, ends when member states in the EC Council adopt a new measure. Implementation rates show the percentage of the measures adopted by the EC Council that have been given effect or implemented in member states. Thus, any EC delay in adopting measures in a particular subject area will not be reflected in the implementation rate. For example, the EC has adopted less than half of the proposed legislation in the area of intellectual property, but the implementation rate is 61 percent, which is comparable to other subject areas where stage one is nearly or totally complete. Subject areas where the EC lags in adopting legislation will be noted in the appropriate sections in chapter 3.³⁷

Also, this report does not analyze the third stage in the process—application of Community legislation. Although member states may formally implement EC directives, enforcement and thus compliance may be lax. Fieldwork indicated that uneven enforcement of EC legislation across member states is a growing concern of member states and the business community. In general, it is too early to evaluate this third stage, although some problems are already evident.³⁸

The implementation rates calculated in this report are not directly comparable to EC Commission statistics for a variety of reasons. Most important, the universe of measures on which our calculations are based is different from that used by the EC Commission. To date, EC Commission implementation statistics have focused primarily on that subset of the 282 White Paper measures that have entered into force and which require national implementing measures (about 219 directives, as of September 10, 1993³⁹). The USITC statistics, on the other hand, cover 521 measures, including measures such as regulations that are directly applicable. Furthermore, the EC Commission and the USITC allocate measures into subject categories differently. For example, measures listed under the EC category "control of goods" fall under both our transport and movement-of-goods categories. Also, the environment is a smaller category in the USITC report because it covers only those environmental measures that are not clearly sector-specific.

³⁷ For a full discussion of the issues related to EC Council adoption of legislation, please refer to previous USITC EC 1992 reports.

³⁸ For more information, see chapter 3 of this report.

³⁹ EC Commission, DG XV, *Internal Market Brief*, Sept. 10, 1993.

³⁴ Ibid; ECJ official, interview by USITC staff, Luxembourg, Sept. 14, 1993.

³⁵ Public Prosecutor v. Ratti, case No. 148/78, [1978-1979 Transfer Binder] *Common Market Reporter* (CCH) ¶ 8569 (1979).

³⁶ See, for example, Von Colson v. Land Nordrhein Westfalen, case No. 14/83, [1983-1985 Transfer Binder] *Common Market Reporter* (CCH) ¶ 14,092 (1984) (Directive did not specify type of sanction, so directive is not specific enough for individuals to rely on to strike down sanction provided in member-state legislation).

Data

The implementation statistics in appendix C are based on strictly official EC Commission sources. Although many EC Commission sources are available, including written reports and electronic data bases, the USITC chose sources and prioritized them with the advice of EC Commission officials, based on comprehensiveness and timeliness.

The EC Commission maintains two computer data bases, Info92 and Celex. Info92 lists the national laws that transpose EC directives by title, number, and date of publication. Whereas Info92 gives information on the 1992 integration program, Celex lists member-state implementation measures corresponding to EC legislation in general.

The USITC relied most on the Info92 data base—for about 63 percent of the measures—because it appeared to supply the most up-to-date information. Info92 is updated daily and is relatively comprehensive; it covers White Paper directives as well as related internal market measures. For the remaining measures not included in Info92, the USITC compiled implementation statistics from the EC Commission's *Tenth Annual Report on the Monitoring of the Application of Community Law—1992* (April 1993)⁴⁰ (20 percent), and the Celex data base (17 percent). Although Celex covers all Community law, it is up-to-date only as of the beginning of 1993. The USITC had hoped to use the EC Commission's first annual report on the internal market,⁴¹ but its publication date was delayed from early fall 1993.

This current USITC report records as implemented regulations and decisions, which are generally directly applicable, and those directives that have been transposed by member states and notified to the EC Commission. The USITC report does not include recommendations in the implementation-rate calculations because they are not a binding form of legislation. Conventions noted in the appendix were not included in the statistics because their dates of entry into force fell later than September 1, 1993. Outstanding derogations were taken into account, as well as measures (particularly decisions) that apply to only a few member states. Transition periods, especially common to standards, were not taken into account because transposition deadlines fell before transition periods started. The deadline for implementation of directives corresponds to the deadline for member-state transposition rather than the date of entry into force of the directive, which is either the same or a later date.

⁴⁰ EC Commission, *Tenth Annual Report*, Apr. 28, 1993.

⁴¹ For a reference to the forthcoming document, see Working Document, p. 31.

In many places, the USITC needed help with interpretation of Info92, the *Tenth Report*, and Celex from experts at the EC Commission. For example, it was learned that both Info92 and Celex normally record member states' official notifications to the EC Commission of transposition.⁴² However, they do not consistently record instances in which the EC Commission has later determined that the member-state law did not properly implement the EC directive.⁴³ Thus, in this report, implementation of directives can be considered to correspond to notification, and nonimplementation can be understood to reflect the absence of notification.

In addition to interpretive problems, there were conflicts in information on the status of implementation. According to officials of the EC Commission, these conflicts resulted primarily from the difference in the timeliness of the information. Because implementation statistics change constantly and because Info92 is the more up-to-date source, this problem was resolved by choosing a cut-off date (September 1, 1993) and relying on Info92 to the fullest extent possible. Nonetheless, conflicts occurred in information supplied by different offices within the EC Commission.

Moreover, during USITC fieldwork for this investigation, further conflicts of information emerged between the information from these EC Commission sources, and from that of member-state officials and other sources. For example, in one subject area, 9 measures were found to have 36 conflicts. These conflicts were explained as resulting from delays between the time when a member-state permanent representative notifies the Secretary General of the EC Commission of transposition and the time when Info92 incorporates the information in its data base.⁴⁴ Although officials at Info92 estimated only a 10-day lag, other problems can lead to longer delays. For example, fieldwork indicated that problems with translation may delay processing the information.⁴⁵ Also, member-state officials sometimes notify the wrong office at the EC Commission, for example, a directorate general of the EC rather than the Secretary General.⁴⁶ Other times, a member state forgets to formally notify the EC of transposition.⁴⁷ Finally,

⁴² EC Commission officials, interviews by USITC staff, Brussels, Oct. 4, 1993.

⁴³ Ibid.

⁴⁴ Ibid.

⁴⁵ EC Commission officials, interview by USITC staff, Brussels, Oct. 4, 1993; and Danish Government official, interview by USITC staff, Copenhagen, Sept. 30, 1993.

⁴⁶ EC Commission officials, interview by USITC staff, Brussels, Oct. 4, 1993.

⁴⁷ *Answer to Written Question No. 1879/92*, OJ No. C 95 (Apr. 1993), p. 21.

member states sometimes claim to have implemented a directive fully, when in fact, only part of the directive was implemented.⁴⁸ Any conflicts in information supplied by responsible sources are reported in the subject-area sections of chapter 3. However, the statistical information in the appendix, on which the implementation rates are based, relies exclusively on Info92, the *Tenth Report*, and Celex—all official EC sources—in order to preserve consistency and avoid reliance on possibly unreliable sources.

Status of Implementation

According to the EC Commission, as of September 10, 1993, the EC Council had adopted approximately 94 percent, or 264 of the 282 White Paper measures originally set out as defining the single-market program.⁴⁹ Of the 262 single-market measures already in force, 219 required national implementing measures and 106 had been transposed by all member states. The EC Commission calculated that 84 percent of the required transposition measures had been taken.⁵⁰ The EC Commission recognized that member-state governments had expended considerable effort, with implementation in several sectors, such as financial services, telecommunications, and transport, requiring major structural changes.⁵¹ It identified the White Paper problem areas for implementation as public procurement, veterinary measures, company law, and intellectual property rights.⁵²

⁴⁸ EC Commission officials, interview by USITC staff, Brussels, Oct. 4, 1993.

⁴⁹ EC Commission, DG XV, *Internal Market Brief*, Sept. 10, 1993.

⁵⁰ In the October monthly report (EC Commission, DG XV, *Internal Market Brief*, Oct. 29, 1993), this statistic increased to 86 percent, based on the transposition of 110 measures by all 12 member states.

⁵¹ Working Document, p. 10.

⁵² Officials of the EC Commission, DG III, interview by USITC staff, Brussels, Oct. 4, 1993.

Whereas, according to the White Paper as updated, 282 official measures compose the EC 1992 program, this USITC study considers over 600 enacted measures to be part of the EC single-market program, of which over 500 have passed their implementation deadlines (table 1-1).⁵³

Implementation of the EC 1992 program based on these 521 measures would require at the maximum 6,252 (521 X 12) individual member-state "implementations." However, an EC directive and its implementation deadline may not always apply to all 12 member states or may involve exceptions, such as derogations that permit certain member states to postpone implementation of Communitywide legislation until a date later than what applies to other EC members.⁵⁴ In this study, the effective number of 6,164 required implementations was less than the maximum number possible because of 88 instances in which (1) outstanding derogations allowed certain member states to wait until after September 1, 1993—the cut-off date of the study—before implementing certain internal market measures, or (2) besides formal derogations, some measures were not applicable to all member states.⁵⁵

Of the 6,164 implementations necessary to complete the 521 measures covered in this study, the USITC examination shows that implemented legislation had reached 5,001 implementations, or over 81 percent, by September 1, 1993.

⁵³ For an explanation, see the methodology section earlier in this chapter.

⁵⁴ Certain internal market measures are only applicable to selected member states, while others may be specifically directed to one individual member state.

⁵⁵ For example, Decision 86/649, a measure in the area of farm-based agriculture, addresses African swine fever in Portugal and is applicable only to that country.

Table 1-1
Percent of EC 1992 legislation implemented by member states

Measures applicable	Number of derogations outstanding ¹	Required Implementations ²	Actual number of implementations by EC member states	Percent implemented ³
521 (A)	88 (B)	6164 (C)	5001 (D)	81.1 (E)

¹ Total of derogations in force as of 9/1/93 plus measures not applicable to a particular member state.

² C = [A x 12] - B

³ E = D/C x 100

Source: Compiled by USITC from official sources issued by the Commission of the European Communities.

Role of EC Institutions

Monitoring

Pursuant to its responsibility under article 155 of the Treaty of Rome, the EC Commission monitors how well member states comply with EC legislation.⁵⁶ This task includes oversight both of member-state transposition of EC directives and of member-state administration of EC legislation. The EC Commission seeks to ensure both full transposition of all EC integration measures and transparency of the implementing legislation.⁵⁷

Within the EC Commission, DG III was until recently the directorate general principally concerned with the functioning of the internal market. Because of a restructuring in early 1993, however, DG XV has now assumed primary responsibility for the internal market, with DG III now focusing exclusively on industrial affairs.⁵⁸ Other directorate general offices monitor implementation within their particular areas of competence, and an interservice working group seeks to improve coordination between those services with respect to single-market activities.⁵⁹

The EC Commission carries out its monitoring role in a number of ways. Its officials review national implementing measures notified to the EC Commission to verify that the measures do not violate EC law. It holds bilateral discussions with member states that have a poor implementation rate, and holds regular meetings with the senior internal market coordinators for the member states.⁶⁰ With respect to certain directives, such as the new approach standards measures, the EC Commission is preparing handbooks that will provide guidance on implementation and application.⁶¹ On occasion, the EC Commission assists a member state in drafting national implementation measures.⁶² In certain areas such as public health, moreover, EC Commission personnel carry out inspections of member-state facilities.⁶³

According to the EC Commission, monitoring implementation is hampered by the complexity of transposition procedures and the lack of consolidation of transposition legislation. The EC Commission must

not only compare a national transposition measure to the corresponding EC directive, but must also consider whether implementation has been properly effected within the context of the member state's overall legal system.⁶⁴ The EC Commission tries to verify that an implementing measure conforms to the directive, but finds it difficult to declare that a measure fully conforms. Similarly, the ECJ in practice does not declare conformity but merely determines that no violation has occurred.⁶⁵

As part of its monitoring role, the EC Commission receives complaints from individuals and companies about member-state noncompliance with EC law. The EC Commission reports that the number of complaints, which mostly concern the free movement of goods but which also increasingly deal with public procurement, is rising as implementation progresses and firms become more aware of the effect of the internal market on their operations.⁶⁶ Faced with increasing numbers of complaints and difficulties in investigating them, the EC Commission has been advising complainants to raise the matter initially with member-state authorities. Nevertheless, the EC Commission continues to be responsive to complaints, which are the main source for the detection of member-state violations of EC law.⁶⁷ The EC Commission promptly acknowledges such complaints and tries to keep complainants informed of the actions taken in response, including representations made to national authorities or undertakings and infringement proceedings initiated.⁶⁸

Infringement Proceedings

The main instrument available to the EC Commission for ensuring that the member states fully implement the 1992 integration measures is the infringement proceeding provided under article 169 of the Treaty of Rome.⁶⁹ Proceedings under article 169 involve several steps. The EC Commission first issues to the member state an "article 169 letter" describing its alleged acts or omissions. The EC Commission generally also holds discussions with the member state for the purpose of either resolving problems informally or ascertaining additional relevant facts. If it finds the member state guilty of a violation, the EC Commission will issue a "reasoned opinion," specifying the obligations breached, providing reasons for its conclusions, and finally, giving the member state a

⁵⁶ Working Document, p. 13.

⁵⁷ Working Document, pp. 10, 14.

⁵⁸ *European Report*, No. 1857 (May 8, 1993), Institutions and Policy Coordination, p. 3.

⁵⁹ Working Document, p. 32.

⁶⁰ *Ibid.*, p. 15.

⁶¹ Officials of the EC Commission, DG III, interview by USITC staff, Brussels, Oct. 4, 1993.

⁶² EC Commission, *Tenth Annual Report*, p. 9.

⁶³ Working Document, pp. 13-14.

⁶⁴ Working Document, pp. 10-11.

⁶⁵ Official of the EC Commission, DG XV, interview by USITC staff, Brussels, Jan. 21, 1991.

⁶⁶ Working Document, p. 14.

⁶⁷ EC Commission, *Tenth Annual Report*, p. 6.

⁶⁸ *Answer to Written Question No. 2768/91*, OJ No. C 141/3, May 19, 1993.

⁶⁹ EC Commission, *Tenth Annual Report*, p. 6.

time period within which to comply with its obligations.⁷⁰

If the member state fails to comply within the designated time period, the EC Commission may bring suit in the ECJ. Most infringement cases before the Court are in the area of public procurement; other frequent subjects are foodstuffs and labeling.⁷¹ The EC Commission seeks to minimize confrontation with the member states and prefers to work with the member state concerned to reach a solution informally, if possible, prior to resorting to the Court. EC Commission officials maintain close contacts with member-state authorities and can thereby discuss and resolve disputes even before the issuance of the initial article 169 letter.⁷² There are so many stages before an actual case is filed at the ECJ that normally a member state has come into compliance before the case reaches the Court. In 1992, the EC Commission commenced 1,210 infringement proceedings, sent 248 reasoned opinions, and referred 64 cases to the ECJ.⁷³ The EC Commission attempts to complete infringement proceedings within 1 year, but many cases are too complex to finish in that time.⁷⁴

Most often, the EC Commission commences a proceeding for "non-communication" of transposition measures, i.e., because a member state has simply failed to notify the EC Commission that a directive has been implemented by the applicable deadline.⁷⁵ Once such a deadline has passed without notification, the EC Commission will send an article 169 letter virtually automatically.⁷⁶ "Improper implementation," such as transposition of only a part of a directive, can also constitute grounds for an action.⁷⁷ Other situations can

give rise to an action as well, such as the passage of member-state legislation that is inconsistent with a directive.⁷⁸ "Improper application" also can be actionable where implementation legislation is not being administered or enforced properly.⁷⁹

In litigation with the EC Commission concerning failure to comply with a directive, member states have raised various defenses. A common one has been that there was insufficient time to pass the necessary legislation. The Court has rejected such arguments, noting that member states' representatives participate in the directive-drafting process and therefore have considerable notice of EC actions.⁸⁰ A member state may plead force majeure as a defense, i.e., that failure to implement the directive was due to factors beyond the member state's control, but reasonable efforts to overcome the obstacle must be shown.⁸¹

The Court has no power to void a national rule that violates a directive or to impose sanctions against a member state for such a violation.⁸² Instead, member

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(Member state must implement directive in every respect, even if the member state considers the unimplemented aspect of little importance). Administrative practices, as opposed to formal legislation, are generally unacceptable forms of implementation, because they can be changed at the whim of the member-state government, and they often lack sufficient publicity. *Commission of the European Communities v. Italian Republic*, case No. 145/82, [1981-1983 Transfer Binder] *Common Market Reporter* (CCH) ¶ 8923 (1983).

⁷⁸ See, e.g., *Commission of the European Communities v. United Kingdom of Great Britain and Northern Ireland*, case No. 60/86, [1987-1988 Transfer Binder] *Common Market Reporter* (CCH) ¶ 14,508 (1988) (British requirement that motor vehicles carry dim-dip lighting devices was improperly stricter than EC directive standard, because it interfered with free movement within the EC).

⁷⁹ Official of the EC Commission, Legal Service, interview by USITC staff, Brussels, Oct. 6, 1993.

⁸⁰ For example, *Commission of the European Communities v. Grand Duchy of Luxembourg*, case No. 58/81, [1981-1983 Transfer Binder], *Common Market Reporter* (CCH) ¶ 8860 (1982); *Commission of the European Communities v. Kingdom of Belgium*, case No. 148/81, [1981-1983 Transfer Binder] *Common Market Reporter* (CCH) ¶ 8918 (1982).

⁸¹ *Commission of the European Communities v. Italian Republic*, case No. 101/84, [1985-1986 Transfer Binder] *Common Market Reporter* (CCH) ¶ 14,228 (1985) (Bomb attack on Government records may have constituted force majeure, but it cannot be blamed for continued lack of effort to replace records).

⁸² However, the EC Commission has some power to apply financial pressure on member states for nonimplementation in the areas of public procurement and the Common Agricultural Policy. If a member state does not apply EC procurement rules correctly, the EC Commission can suspend payments or order past payments returned. Further, the EC Commission can refuse to reimburse a member state for agricultural subsidies if EC rules are not followed. Official of the EC Commission, Legal Service, interview by USITC staff, Brussels, Oct. 4, 1993.

⁷⁰ *Ibid.*, p. 8.

⁷¹ Official of the EC Commission, Legal Service, interview by USITC staff, Brussels, Oct. 6, 1993.

⁷² ECJ official, interview by USITC staff, Luxembourg, Sept. 14, 1993; official of the EC Commission, Legal Service, interview by USITC staff, Brussels, Oct. 6, 1993.

⁷³ Official of the EC Commission, DG III, interview by USITC staff, Brussels, Jan. 12, 1993; EC Commission, *Tenth Annual Report*, p. 7. To date, no EC 1992 measures have been brought before the ECJ because of the length of time involved in infringement proceedings. Official of the ECJ, interview by USITC staff, Luxembourg, Sept. 14, 1993.

⁷⁴ EC Commission, *Tenth Annual Report*, p. 7.

⁷⁵ See, for example, *Commission of the European Communities v. French Republic*, case No. 312/86, Oct. 25, 1988; *Commission of the European Communities v. Kingdom of Belgium*, case No. 283/86, June 21, 1988; *Commission of the European Communities v. Denmark*, case No. 278/85, Oct. 14, 1987.

⁷⁶ Official of the EC Commission, Legal Service, interview by USITC staff, Brussels, Oct. 6, 1993.

⁷⁷ *Commission of the European Communities v. Kingdom of Belgium*, case No. 215/83, [1983-1985 Transfer Binder] *Common Market Reporter* (CCH) ¶ 14,188 (1985)

states found in violation of a treaty obligation are directed by the treaty itself to "take necessary measures to comply with the judgment of the Court of Justice."⁸³ Although no time limit is set on member-state implementation of a Court judgment, the Court expects member states to take immediate steps to comply.⁸⁴ If a member state fails to take sufficient corrective measures, article 169 can be invoked in a new proceeding. On more than one occasion, the Court has ordered a member state to transpose a directive, then has had to issue a second judgment ordering the state to obey the first judgment. This suggests that a suit against a member state under article 169 is not an effective remedy. However, once a member state has been found in violation of treaty rules, the other member states bring political pressure to bear to encourage obedience to the treaty, and the noncomplying state often eventually implements the directive.⁸⁵

Further, the EC Commission anticipates that ECJ judgments will have more legal effect now that the Maastricht Treaty on European Union has entered into force, because the EC Commission will now be able to have fines or periodic penalty payments imposed on member states that fail to comply with Court judgments.⁸⁶

Other Measures to Improve Implementation

In 1992, a high-level group chaired by ex-EC Commissioner Sutherland published a report that cites lack of transposition as one of the problems concerning the internal market in practice.⁸⁷ In December 1992, the EC Commission responded to this report, indicating the intention to carry out many of its recommendations in the near future.⁸⁸

The Sutherland Report urged the EC Commission to maintain close and continual contact with member-state authorities, so that problems with

implementation could be worked out in partnership. In furtherance of the goal of partnership, the EC Commission is expanding its network of contacts with EC member-state officials to include those responsible for implementation in various areas, rather than just the traditional contacts in the ministries of foreign affairs. The EC Commission is also planning to establish an electronic data transmission network linking member-state authorities.⁸⁹

The EC Commission has proposed to put into place a strategic program for the management of the internal market to organize its partnership with member states and to mobilize firms to ensure the success of the internal market. The strategic program would include such measures as assistance for small and medium-size enterprises in adjusting to the internal market and cooperation between the EC and member states with respect to internal and external EC borders.⁹⁰

The EC Commission uses political pressure to ensure effective implementation by bringing the status of implementation to the attention of the other EC institutions and the public. The EC Commission publishes reports that list member states' implementation rates for internal market measures. When the EC Council is given the statistics on member-state noncompliance, the member-state ministers who form the Council react to their own nation's failures by putting pressure on their administrations.⁹¹ Similarly, the European Parliament maintains contacts with member-state legislatures and political parties and can thereby prompt member states to improve their rate of implementation. Members of the European Parliament (MEPs) also push for timely implementation by asking questions of the EC Commission, holding oversight hearings, conducting fieldwork, and issuing reports. MEPs have been known to dramatize the lack of member-state compliance with EC rules by refusing to present their passports to customs officials or by trying to import goods that are subject to import restraints.⁹²

The EC Commission disseminates information on implementation in several ways. It publishes extensive status reports on the implementation of EC law and the administration of the single market. The first annual report on the operation of the internal market and the state of single-market directive transposition was

⁸³ EEC Treaty, art. 171; ECJ official interview by USITC staff, Luxembourg, Sept. 14, 1993.

⁸⁴ Commission of the European Communities v. Italian Republic, case No. 131/84, [1985-1986 Transfer Binder] *Common Market Reporter* (CCH) ¶ 14,262 (1985).

⁸⁵ Thus, although the ECJ has several times had to issue a second judgment to a member state in a single case, instances of a third judgment have been very rare. Sir Gordon Slynn, Judge, ECJ, address to ABA-EC conference, "1992 in Europe," June 8, 1990.

⁸⁶ Working Document, p. 13; ECJ official, interview by USITC staff, Luxembourg, Sept. 14, 1993.

⁸⁷ *Internal Market After 1992, Meeting the Challenge*, report to the EEC Commission by the High Level Group on the Operation of the Internal Market, Oct. 1992.

⁸⁸ Official of the EC Commission, DG III, interview by USITC staff, Jan. 12, 1993; EC Commission, *The Operation of the Community's Internal Market After 1992, Follow-Up to the Sutherland Report*, Communication to the Council and to Parliament, SEC (92) 2277, Dec. 4, 1992.

⁸⁹ *European Report*, No. 1860 (June 20, 1993), Internal Market, p. 12; and No. 1858 (May 12, 1993), Internal Market, p. 5.

⁹⁰ EC Commission, *Reinforcing the Effectiveness of the Internal Market*, COM (93) 256 final, June 2, 1993, p. 3; Working Document, pp. 40-47.

⁹¹ Official of the EC Commission, DG III, interview by USITC staff, Brussels, Jan. 22, 1991.

⁹² Officials of the European Parliament, interview by USITC staff, Luxembourg, Sept. 13, 1993.

scheduled to be published in the fall of 1993, but was delayed.⁹³ The EC Commission's two computer data bases, Info92 and Celex, also play an important role. As mentioned earlier, Info92 provides information on the 1992 integration program, whereas the Celex data base contains a listing of member-state implementation measures corresponding to EC legislation in general. The EC Commission has characterized Info92 as "the basic instrument of Community information actions."⁹⁴ Info92 does not contain the actual text of national implementing legislation, although the EC Commission is exploring the possibility of making such texts available to specialists.⁹⁵

The EC Commission is seeking to improve the national administration of EC law in several ways. In the future, member states would not only be required to notify the EC Commission of basic implementing legislation, but would also have to notify it of administrative rules passed to give effect to that legislation. The EC would give financial support to national testing facilities and ensure that police, customs, and health authorities at external EC border posts are properly equipped.⁹⁶

Member states would be delegated significant responsibility for monitoring the application and enforcement of EC legislation. The EC Commission has been criticized for not playing a more active role in such activities.⁹⁷

The EC Commission promotes training and exchange programs for member-state government officials. In the MATTHEUS program, in place for several years, customs officials from one EC member state receive training in other member states. The Karolus program, begun in 1993, permits exchanges in other fields governed by EC rules.⁹⁸ The EC Commission also seeks to improve the training of judges and lawyers to ensure the proper application of EC law.⁹⁹

In some situations, the EC Commission considers the best way to obtain member-state implementation to

⁹³ Officials of the EC Commission, DG III, interview by USITC staff, Brussels, Oct. 4, 1993.

⁹⁴ Working Document, pp. 31-32.

⁹⁵ Working Document, p. 31. One plan is to include national implementing texts in the Celex data base. Official of the EC Commission, Celex, interview by USITC staff, Brussels, Oct. 4, 1993.

⁹⁶ Working Document, p. 28.

⁹⁷ BEUC official, interview by USITC staff, Brussels, Oct. 5, 1993.

⁹⁸ EC Council Decision, OJ No. L 286, Oct. 1, 1992; Working Document, pp. 29, 46.

⁹⁹ EC Commission, *Reinforcing the Effectiveness of the Internal Market*, COM (93) 256 final, June 2, 1993, p. 5; Working Document, p. 20.

be that of eliminating the need for transposition by issuing regulations instead of directives. With respect to technical requirements relating to tractors, motor vehicles, and pharmaceutical products, for example, the EC Commission suggests that several directives could be consolidated into a regulation if harmonization has been completed and member-state application is convergent.¹⁰⁰

Obstacles to Implementation

Three reasons are generally cited for failure to implement EC directives: (1) administrative and legislative delays; (2) technical difficulties; and (3) substantive political problems.¹⁰¹ According to the EC Commission and other sources, the last mentioned problems rarely occur, because failure to transpose is in general not due to a lack of political will, but rather to the lack of administrative resources and the complexity of legislative processes in many member states.¹⁰² This is echoed by the statements made by member-state governments in defending themselves before the ECJ for their failure to implement directives. Member states have cited to the Court various delays in administrative and legislative processes, and stressed the technical difficulty of transposing often complex EC directives.¹⁰³

Although the EC Commission and others principally cite administrative difficulties rather than lack of political will as the obstacle to implementation, in some instances other forces, such as domestic economic concerns in a member state, also slow the process.¹⁰⁴ When questioned concerning the role

¹⁰⁰ Working Document, p. 12.

¹⁰¹ Official of the EC Commission, Legal Service, interview by USITC staff, Brussels, Oct. 6, 1993.

¹⁰² Officials of the EC Commission, DG III, interview by USITC staff, Brussels, Oct. 5, 1993. See also, for example, U.S. Department of State telegram, message reference No. 24118, prepared by U.S. Embassy, Bonn, Sept. 3, 1993, which reports no significant German national policy problems standing in the way of implementation, but notes that the German authorities underestimated the time and staff requirements for implementation of certain measures. See also U.S. Department of State telegram, message reference No. 010578, prepared by U.S. Embassy, Athens, Oct. 1, 1993.

¹⁰³ For example, Commission of the European Communities v. Italy, Case 353/87, Feb. 2, 1989, *Common Market Reporter* (CCH) ¶ 95,124; Commission of the European Communities v. Kingdom of Belgium, Case 360/88, Nov. 16, 1989, *Common Market Reporter* (CCH), ¶ 95,467; Commission of the European Communities v. Hellenic Republic, Case 329/88, Dec. 6, 1989, *Common Market Reporter* (CCH) ¶ 95,530. As noted in those decisions, the Court has repeatedly rejected as valid defenses arguments based on a member state's difficulties with its internal governmental procedures.

¹⁰⁴ U.S. Department of State telegram, message reference No. 010578, prepared by U.S. Embassy, Athens, Oct. 1, 1993.

political concerns play in failure to implement, however, member-state governments generally are reticent on that point. Member-state governments do not want to seem intentionally obstructive to implementation, and their rate of success in this area is a politically, as well as legally, sensitive issue for them.¹⁰⁵ In principle, all political issues are to have been dealt with during the adoption stage of a directive, leaving no dispute for the implementation stage.¹⁰⁶ However, chapters 2 and 3 set out instances in which political considerations have delayed implementation.

On May 5, 1993, EC Internal Market Commissioner Vanni d'Archirafi noted that during the first 100 days of the single market there was less free movement for persons than for their belongings because member states have been slow to eliminate identity checks at borders within the EC. He recognized that circumstances have changed since the White Paper was issued in 1985 in that the EC now faces far greater immigration pressures from Eastern Europe than previously.¹⁰⁷ Another source of pressure in that area stems from the threat of job losses posed by the reduction of border controls.¹⁰⁸

Reportedly, member-state implementation has been hampered by a number of administrative difficulties. Member-state agencies have lacked the knowledge and experience to implement properly and efficiently.¹⁰⁹ In some areas, member states lacked basic legislation and had no prior experience with certain topics, especially with respect to a product that is not made or grown there.¹¹⁰ Both the EC and member-state authorities have suffered from staffing shortages and low funding.¹¹¹ Such recent entrants into the EC as Portugal and Spain have had to contend with implementing not only the 1992 integration measures but previously passed EC legislation as well.¹¹²

¹⁰⁵ U.S. Embassy officials, interview by USITC staff, Lisbon, Sept. 21, 1993.

¹⁰⁶ Officials of the EC Commission, DG III, interview by USITC staff, Brussels, Oct. 4, 1993.

¹⁰⁷ *European Report*, No. 1857 (May 8, 1993), Internal Market, p. 17.

¹⁰⁸ U.S. Department of State telegram, message reference No. 017288, prepared by U.S. Embassy, Rome, Oct. 4, 1993.

¹⁰⁹ Trade association official, interview by USITC staff, Paris, Sept. 16, 1993.

¹¹⁰ Trade association official, interview by USITC staff, Luxembourg, Sept. 14, 1993.

¹¹¹ Officials of the EC Commission, DG VI, interview by USITC staff, Brussels, Sept. 13 and 14, 1993; U.S. Department of State telegram, message reference No. 24118, prepared by U.S. Embassy, Bonn, Sept. 3, 1993; U.S. Department of State telegram, message reference Nos. 017194 and 017288, prepared by U.S. Embassy, Rome, Oct. 1 and 4, 1993.

¹¹² Spanish Government official, interview by USITC staff, Madrid, Sept. 23, 1993.

Incorrect implementation occurs most often in directives of broad scope such as measures on the liberalization of telecommunications.¹¹³ A constitutional crisis or change of government can slow implementation; this has occurred in such member states as Greece, Belgium, Italy, and, most recently, Spain.¹¹⁴

Implementation can languish also because of the decentralization of authority. This happens both at the national level when two or more ministries in a government share responsibility for the subject matter of one directive, and in states such as Germany and Belgium in which the regional or provincial governments play a significant role in implementation.¹¹⁵ Regional differences can play a part in slowing implementation, because of the need for debate and compromise to accommodate the customs, tastes, and preferences of different regions.¹¹⁶

The EC is sometimes cited as a factor in the lack of full implementation. The EC has passed so many measures so fast that some member states have reported having difficulty keeping up both because of the sheer volume of legislation and because it takes time to change entrenched habits in so many areas at once.¹¹⁷ Member states reportedly have encountered difficulties with implementation in certain areas because the EC has not provided sufficient guidance on how national legislation can meet the criteria for full implementation of a directive. Moreover, member states have been concerned that implementation of existing measures will be superseded by new measures or amendments in the future, thereby "changing the rules."¹¹⁸ Mistrust of EC intentions reportedly also

¹¹³ Trade association official, interview by USITC staff, Copenhagen, Oct. 1, 1993.

¹¹⁴ Officials of the EC Commission, DG III, interview by USITC staff, Brussels, Oct. 4, 1993; Spanish Government official, interview by USITC staff, Madrid, Sept. 23, 1993.

¹¹⁵ Officials of the EC Commission, Celex, interview by USITC staff, Brussels, Oct. 4, 1993; French Government officials, interview by USITC staff, Paris, Sept. 17, 1993; U.S. Department of State telegram, message reference No. 29046, prepared by U.S. Embassy, Bonn, Oct. 21, 1993; U.S. Department of State telegram, message reference No. 017288, prepared by U.S. Embassy, Rome, Oct. 4, 1993.

¹¹⁶ Belgian Government official, interview by USITC staff, Brussels, Sept. 13, 1993.

¹¹⁷ Trade association official, Paris, Sept. 16, 1993; French Government officials, interview by USITC staff, Paris, Sept. 17, 1993. However, according to the EC Commission, the flood of legislation from Brussels to the member states peaked in 1992 and the quantity of legislation should no longer be a problem for member states to keep up with. Officials of the EC Commission, DG III, interview by USITC staff, Brussels, Oct. 4, 1993.

¹¹⁸ Belgian Government official, interview by USITC staff, Brussels, Sept. 13, 1993.

plays a part, with member-state authorities concerned at EC control over national affairs, in spite of EC public commitment to subsidiarity.¹¹⁹ European standards bodies reportedly lack sufficient personnel to expedite the issuance of EC-wide standards.¹²⁰

Although not directly concerned with implementation, certain macroeconomic factors have been cited as slowing the pace of implementation in some member states. Such factors include economic recession and unemployment, the Danish vote against

¹¹⁹ French Government official, interview by USITC staff, Paris, Sept. 17, 1993.

¹²⁰ Trade association official, interview by USITC staff, Copenhagen, Oct. 1, 1993.

the Maastricht treaty, difficulties with the European Monetary System, German unification, new competition from Eastern Europe, increased immigration, and the failure to promptly conclude the Uruguay Round of multilateral negotiations.¹²¹ These factors may have both diverted attention away from the EC 1992 program and influenced support and enthusiasm for European integration.

¹²¹ Trade association official, interview by USITC staff, Brussels, Sept. 13, 1993; trade association official, interview by USITC staff, Copenhagen, Oct. 1, 1993; trade association official, interview by USITC staff, Amsterdam, Sept. 16, 1993; Official of the EC Commission, DG VI, interview by USITC staff, Brussels, Sept. 14, 1993; EC Commission, *Reinforcing the Effectiveness of the Internal Market*, COM (93) 256 final, June 2, 1993, p. 2.

CHAPTER 2 IMPLEMENTATION IN THE MEMBER STATES

Introduction

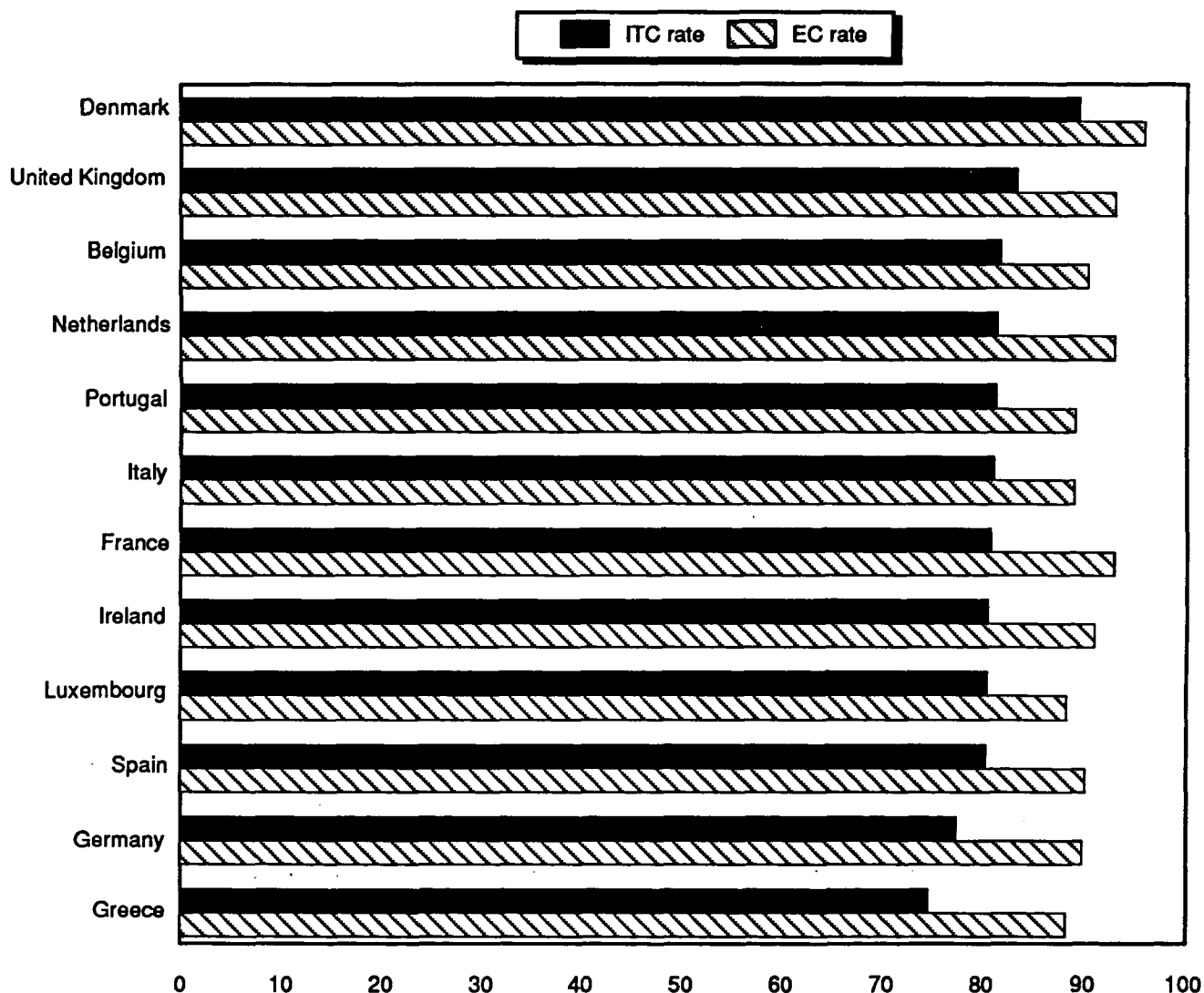
Chapter 2 examines implementation of the 1992 single market program by each member state. For each, the chapter describes the status of implementation as of September 1, 1993, the process of implementation, and the dynamics of that process,

including the factors that facilitate or delay timely implementation.

Overall Progress

Figure 2-1 and table 2-1 show that as of September 1, 1993, the individual member states had implementation rates ranging from 74.6 to 89.6 percent for the 521 measures considered by this report. The data show that Denmark had the highest implementation rate, and Greece and Germany had the lowest. The implementation rates of the remaining member states varied over a relatively small range.

Figure 2-1
Percent of EC 1992 legislation Implemented, by member state, as of September 1993



Source: Compiled by USITC from official sources issued by the Commission of the European Communities.

Table 2-1
Percent of EC 1992 legislation implemented, by member states and subject areas, as of Sept. 1, 1993

	Belgium	Denmark	France	Germany	Greece	Ireland	Italy	Luxem- bourg	Nether- lands	Portugal	Spain	United Kingdom	AVERAGE
NONSTANDARDS													
Procurement	50.0	66.7	66.7	0.0	50.0	100.0	66.7	66.7	0.0	75.0	50.0	83.3	56.3
Energy Market	100.0	100.0	66.7	66.7	66.7	100.0	66.7	66.7	100.0	66.7	0.0	100.0	75.0
Financial Services	90.9	100.0	90.9	81.8	54.5	86.4	90.9	81.8	95.5	77.3	77.3	81.8	84.1
Movement of Goods	88.2	94.1	94.1	94.1	91.2	90.9	94.1	97.1	91.2	94.1	100.0	91.2	93.4
Movement of People	73.7	100.0	78.9	78.9	94.7	100.0	84.2	100.0	84.2	84.2	78.9	83.3	86.8
Social													
Dimension	33.3	83.3	58.3	16.7	18.2	75.0	16.7	16.7	33.3	25.0	25.0	91.7	41.3
Transportation	95.0	100.0	95.0	90.0	90.0	100.0	95.0	90.0	90.0	90.0	100.0	100.0	94.6
Company Law	66.7	100.0	83.3	83.3	66.7	66.7	91.7	83.3	72.7	83.3	75.0	91.7	80.4
Competition Policy	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Taxation	100.0	100.0	94.7	94.7	77.8	100.0	100.0	94.7	100.0	88.9	94.4	78.9	93.7
Quantitative													
Restrictions	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Intel. Property	33.3	100.0	66.7	33.3	100.0	66.7	100.0	33.3	33.3	33.3	66.7	66.7	61.1
STANDARDS													
Agriculture	89.3	89.8	78.3	80.2	73.8	69.4	86.0	81.0	79.3	90.4	83.9	84.3	80.2
Processed Foods	85.4	79.2	83.3	72.9	81.3	83.3	77.1	85.4	87.5	85.4	83.3	83.3	82.3
Chemicals	52.9	88.2	79.4	73.5	70.6	67.6	58.8	64.7	85.3	55.9	64.7	61.8	68.6
Pharmaceuticals	95.8	83.3	70.8	66.7	79.2	79.2	95.8	91.7	70.8	66.7	70.8	79.2	79.2
Medical Devices	0.0	100.0	0.0	0.0	0.0	0.0	100.0	100.0	0.0	100.0	0.0	100.0	41.7
Motor Vehicles	76.1	86.7	73.9	77.8	80.4	84.4	80.0	67.4	84.4	82.2	86.7	80.0	80.6
Other Machinery	94.7	97.4	94.7	97.4	78.9	94.7	86.8	92.1	97.4	89.5	97.4	97.4	93.2
Telecommun.	57.1	71.4	57.1	64.3	50.0	57.1	57.1	57.1	50.0	64.3	50.0	71.4	58.9
Environment	85.0	94.7	85.0	70.0	60.0	85.0	70.0	90.0	85.0	95.0	85.0	80.0	82.0
Miscellaneous	75.0	75.0	75.0	75.0	25.0	75.0	25.0	25.0	75.0	25.0	25.0	75.0	54.2
Generic	87.5	87.5	75.0	87.5	100.0	87.5	100.0	100.0	87.5	87.5	75.0	100.0	89.6
Total (standards)	82.2	86.8	78.6	77.2	74.0	76.4	79.2	79.2	81.4	81.6	79.9	81.4	79.8
TOTAL	81.9	89.6	80.9	77.5	74.6	80.6	81.2	80.5	81.5	81.4	80.4	83.5	81.1

Source: Compiled by USITC from official sources issued by the Commission of the European Communities.

The implementation rates in this report can be compared with those in the member states for European Community (EC) legislation overall.¹ The overall rates are slightly higher for all member states, ranging from 88.3 to 96.0 percent, but the relative rankings of the member states are similar, and the individual rates of implementation are roughly comparable in each case.

Table 2-1 shows the rates of implementation by subject matter for each member state. As described more fully in chapter 3, table 2-1 shows that member states have been having particular difficulty with public procurement, intellectual property, the social dimension, and telecommunication and miscellaneous standards.

Overall Process

Member states generally implement EC law either by enacting a law in parliament or by issuing a ministerial decree or regulation. The form of implementation generally depends on the extent of the government's executive authority, the subject matter of the EC measure that needs to be implemented, and whether the member state has existing legislation on the subject. A member state may occasionally rely on a more informal approach to implement EC law, such as an administrative circular. Also, if a member state believes that its national law already complies with the requirements of an EC measure, then it simply notifies the EC Commission of the existing law, without having to take any legal action.

Some member states require that EC law be implemented by legislation of its national parliament (for example, as in Germany or Italy). In other member states, the national government has broad executive authority to implement EC law by ministerial decree or regulation (for example, as in Ireland and the Netherlands). In addition, some member states (for example, Belgium and Germany) also have regional or state governments that play a prominent role in implementation.

Overall Dynamics

As noted in chapter 1, the ongoing recession in Europe and other broad considerations have sensitized

¹ Between 1962 and 1992, the European Community (EC) adopted about 1,090 directives that needed member-state implementation. The EC Commission reports annually on the implementation of all EC law in the individual member states, overall and by subject matter. See Commission of the European Communities, *Tenth Annual Report on the Monitoring of the Application of Community Law 1992*, COM (93) 320 final, Apr. 28, 1993, p. 7.

every member state to the loss of nontariff trade barriers under the single-market program. Other factors that seem to influence the rate of implementation in nearly all member states include the following miscellany: (1) number and complexity of directives; (2) views and interests of various domestic lobbies; (3) budgetary or competitiveness considerations; (4) extent of legal, economic or cultural change required by a directive; and (5) governmental inertia or inefficiency.

Governmental inertia or inefficiency includes a reluctance to change the way of doing things; a lack of resources or expertise; a lack of familiarity with the overall objectives and specific requirements of a directive; an inability to bring together the necessary technical, commercial, legal, and policy experts quickly and easily; the difficulty of coordinating the views and interests of various ministries when a directive touches upon matters that are within the competence of more than one ministry; and the fact that foreign economic affairs may have a low priority in a national parliament or in certain ministries when compared with domestic economic affairs.

Although many factors can delay implementation, only two factors in particular seem to facilitate the timely national implementation of EC law. One is the early and full participation in the EC legislative process in Brussels by the relevant parliamentary committees and by the technical and legal experts from the specific ministries that will later be responsible for the actual implementation of the EC measure (as seen, for example, in Denmark and the United Kingdom). This experience ensures that the people who later implement the measure will understand its broad goals and specific requirements, will identify any potential problems early, and will know how to effect a national consensus about the measure.

The second factor is the extent of authority that the national government has to implement an EC law by ministerial decree or regulation, without having to get the approval of a parliament. (For example, Denmark and the Netherlands have enough authority). Implementation is slower where a parliament must adopt special legislation to implement the EC measure (as, for example, in Germany and Italy).

Belgium

Progress

Despite past difficulties, Belgium has established a good record of implementing EC law. As shown in figure 2-1, Belgium has implemented 81.9 percent of the single-market measures covered by this report. Table 2-1 shows that, compared to the average, Belgium has had difficulty implementing directives on

company law, intellectual property, and social dimension, despite its good record overall.

Process

The federal system of government in Belgium is decentralized; each of the regions of Flanders, Wallonia, and Brussels, has considerable independence and authority. Belgium also has three separate linguistic "communities": Flemish-, French-, and German-speaking. Depending on the subject matter, EC directives may be implemented by the Federal Government (for example, those concerned with public procurement, telecommunications, railways, and airports), by the regional governments (for example, other transport and environmental protection), or by the individual "communities" (for example, such cultural issues as broadcasting).

At the federal level, royal decrees usually implement directives, following consultation with various commissions, approval by the Council of Ministers, advice from the Council of State, and approval by the National Parliament. If an EC directive needs to be implemented by the region, then each region must pass a separate law to implement it.

Dynamics

Belgium has had some difficulty implementing EC law on a timely basis because of its lengthy codification procedures and its decentralized form of federal government.² Also, a change in elected government during the past year turned attention inwards onto domestic politics.³

The independent role of the regions and the communities has delayed implementation of EC directives.⁴ Because the National Government generally represents Belgium during the legislative process at the European Community, the regional governments that were not present usually need more time to fully understand the specific requirements of a directive.⁵ Also, for EC directives implemented at the subfederal level, one autonomous region or community may implement a directive and another may fail to do

² U.S. Mission to the EC, interview by USITC staff, Brussels, Oct. 1991.

³ Belgian Government officials, meeting with USITC staff, Brussels, Oct. 5, 1993.

⁴ U.S. Mission to the EC, interview by USITC staff, Brussels, Oct. 1991.

⁵ EC Commission, *Answer to Written Question No. 129/90, Official Journal of the European Communities* No. C 125 (May 21, 1990), p. 53.

so.⁶ Even directives that are implemented at the federal level may need to be administered at the regional and local level.⁷ The European Parliament has expressed concern about the effects of such autonomy causing delays, and the EC Commission has brought a number of infringement actions against Belgium in the European Court of Justice (ECJ) in cases where one or more regions has failed to implement a directive.⁸

In implementing EC law, Belgium does not usually implement an EC directive word for word. Instead, it seeks to reconcile the new EC law with existing Belgian law and practice in a comprehensive new national law that covers all of the issues raised directly or indirectly by a directive.⁹ For example, the EC public procurement directives apply to contracts above a certain threshold, but Belgium also sought to cover contracts below the threshold in its national implementation law.¹⁰ This comprehensive approach encourages delays as the Government attempts to codify all Belgian procurement laws into one law.¹¹

Denmark

Progress

Denmark has the best record of implementing EC law. As shown in figure 2-1, Denmark has implemented 89.6 percent of the single-market measures covered by this report. Recently, however, Danish application of one public procurement directive was successfully challenged.¹²

Process

EC law may be implemented in Denmark by legislation, by Executive order, or by notifying the EC Commission that Danish law already complies.¹³ If legislation is necessary, the relevant ministry usually prepares a draft bill for Cabinet of Ministers approval before its submission to Parliament (the "Folketing"). But legislation is not always necessary because the Danish Government has broad authority to implement certain kinds of EC directives by Executive order or ministerial decree.¹⁴

⁶ EC Commission official, DG III, interview by USITC staff, Brussels, Jan. 22, 1991; and EC Commission official, interview by USITC staff, Brussels, Jan. 10, 1990.

⁷ Belgian Government officials, interview by USITC staff, Brussels, Jan. 13, 1993.

⁸ U.S. Mission to the EC, interview by USITC staff, Brussels, Oct. 1991.

⁹ Belgian Government officials, meeting with USITC staff, Brussels, Oct. 5, 1993.

¹⁰ Ibid.

¹¹ Ibid.

¹² See chapter 3 of this report.

¹³ Danish Government officials, meeting with USITC staff, Copenhagen, Sept. 29, 1993.

¹⁴ See memorandum prepared by the U.S. Embassy, Copenhagen, Sept. 28, 1993.

The Danish Cabinet has a committee for EC affairs.¹⁵ Also, many interministerial committees on EC affairs are staffed by civil servants,¹⁶ who coordinate the views of various ministries and consult the private sector regarding development and implementation of EC law.¹⁷

The Danish Parliament has a special committee to consider EC legislation currently proposed in Brussels.¹⁸ This committee monitors legislative developments in Brussels closely, and carefully considers the regulatory, legal, and commercial changes that a proposed EC law would require in Denmark if it were adopted by the Community.¹⁹ The Danish Parliament can make its views known early in the legislative process, thereby facilitating Danish implementation later.²⁰

Dynamics

The early cooperative involvement of the Danish Government and Parliament during the legislative process in Brussels accounts for Denmark's consistently high implementation rate.²¹ The involvement helps to develop a broad Danish consensus about implementation.²² Moreover, the same Danish civil servants who negotiate the directives in Brussels are responsible for implementing the directives once they have been adopted.²³ This ensures that the overall objectives and technical requirements of the EC directives are fully understood.²⁴

Timely Danish implementation also occurs because Denmark has in part based its high social, safety, and environmental standards on the standards in Germany.²⁵ Some of these same German standards were the originals incorporated into many

single-market directives, so that Denmark has had a head-start and a relatively easy time conforming.²⁶

France

Progress

Despite having had a good general record of implementing EC law on a timely basis, France has slipped somewhat lately. As shown in figure 2-1, France has implemented 80.9 percent of the single-market measures covered by this report. Compared to the average for all member states, no sectors are presenting particular implementation problems for France.

Process

An EC directive may be implemented in France by statute, by ministerial decree, or by an administrative circular (i.e., "arrêté"). Draft laws or decrees must be approved by the Council of State prior to being submitted to Parliament or adopted by the Prime Minister. An administrative circular does not need to be reviewed by the Council of State. Each French Government ministry is responsible for the implementation of EC directives within its area of competence. Each ministry determines the appropriate legal approach to implement a directive, depending on the subject matter of the directive and the requirements of the French Constitution.²⁷

In general, if an EC directive changes existing French law significantly, then a statute is required. On the other hand, if the directive modifies an existing French law, then a ministerial decree or an administrative circular may suffice. A decree is used when a broad category of persons is affected by the implementation of a directive; an administrative circular is used when only one ministry is involved and the directive affects only one category of persons involving specific or technical regulations.²⁸

Implementation is overseen by the Prime Minister with the assistance of the SGCI,²⁹ which monitors and coordinates all implementation and ensures that EC directives are fully implemented on a timely basis.³⁰ The SGCI seeks to initiate the implementation process in France at the time that the EC begins to consider the

¹⁵ C.P.F. Vergauwen, "The Legal System of the Kingdom of Denmark," in K.R. Redden, *Modern Legal Systems Cyclopedia* (Buffalo: William S. Hein & Co., 1990).

¹⁶ Representatives of the Danish business community, meeting with USITC staff, Copenhagen, Oct. 1, 1993.

¹⁷ Ibid.

¹⁸ Memorandum prepared by the U.S. Embassy in Copenhagen, Sept. 28, 1993; representative of the Danish business community, interview by USITC staff, Copenhagen, Sept. 29, 1993; and Danish Government officials, meeting with USITC staff, Copenhagen, Sept. 29, 1993.

¹⁹ Ibid.

²⁰ Ibid.

²¹ Ibid.

²² Ibid.

²³ Danish Government official, interview by USITC staff, Copenhagen, Sept. 30, 1993.

²⁴ Ibid.

²⁵ See memorandum prepared by the U.S. Embassy, Copenhagen, Sept. 28, 1993.

²⁶ Ibid.

²⁷ French Government officials, meeting with USITC staff, Paris, Sept. 29, 1993.

²⁸ Ibid.

²⁹ Secrétariat Général de la Comité Interministériel pour les Questions de Coopération Economique Européenne.

³⁰ SGCI official, interview with USITC staff, Paris, Feb. 1, 1991.

adoption of a directive, by bringing together relevant ministry officials and consulting with the private sector. Also, the French Parliament is consulted early in the process.

Dynamics

The French Government often implements EC directives by ministerial decree because the legislative process can be so cumbersome.³¹ However, the ministerial decree also involves a lengthy approval process.³² The SGCI plays an effective role in coordinating implementation in France.³³

To speed up the legislative process, a constitutional amendment was adopted in July 1992 to ensure that the French Parliament would be informed when the EC Commission proposes a directive that may eventually require French legislation for French implementation.³⁴ Early notification allows the French Parliament to have its views considered in Brussels.³⁵ Also, the French Government has sought to raise the prestige of foreign affairs, and Government ministries have set up new offices to deal with European and EC affairs.

The EC Commission has in the past urged the French Government to rely on ministerial decrees rather than administrative circulars when implementing EC law, because the circulars have in the past lacked clarity and certainty. France has thus undertaken to replace administrative circulars with ministerial decrees. Also, according to the French Council of State, France has not always succeeded in administering and enforcing EC law, even when a directive has been implemented.³⁶ It recommended that French civil servants get better training in the requirements of EC law.³⁷ The Council of State also ruled that EC law is always superior to French law.³⁸ Accordingly, all French high courts must ensure the

³¹ French Government officials, meeting with USITC staff, Paris, Jan. 8, 1993.

³² Official of French Secretariat of State for the Environment, interview by USITC staff, Neuilly-sur-Seine, June 8, 1990.

³³ EC official, DG III, interview by USITC staff, Brussels, Jan. 22, 1991.

³⁴ French Government officials, meeting with USITC staff, Paris, Jan. 8, 1993.

³⁵ Ibid.

³⁶ Bureau of National Affairs, Inc., *1992-The External Impact of European Unification*, vol. 2, No. 8 (July 13, 1990), p. 4.

³⁷ Ibid.

³⁸ Official of the SGCI, meeting with USITC staff, Paris, Feb. 1, 1991.

direct effect of EC law in France, a development that may improve the French implementation record.³⁹

Germany

Progress

The record of Germany in implementing EC law on a timely basis has slipped lately. As shown in figure 2-1, Germany has implemented 77.5 percent of the single-market measures covered by this report, putting it 11th in terms of rate of implementation. As shown in table 2-1, Germany has had particular difficulty with EC directives on public procurement, intellectual property, and the social dimension, even though it has actively supported the adoption of social dimension legislation in Brussels.⁴⁰

Process

EC law must be implemented in Germany by the National Parliament in accordance with the same legislative process that applies to any other domestic legislation. The German Government does not, itself, have any general authority to implement EC directives by Executive decree or regulation.⁴¹

The Economics Ministry is responsible for monitoring overall implementation, but actual implementation is often the responsibility of various ministries and, in certain cases, the state (the "Länder") governments. Generally, the responsible ministry prepares a draft bill that the Cabinet presents to the German Parliament. The legislation may implement a directive directly, or it may authorize the National Government, a ministry, or the state governments to issue implementing regulations. The German Länder have considerable lawmaking authority in the areas of environmental protection, education, cultural affairs, and police matters. In such areas, the National Parliament must approve the implementation of a directive, and each of the state governments must implement separately.

Dynamics

The implementation backlog in Germany has grown because of the preeminent role of the National Parliament, the complex legislative process, and the economic stress caused by German reunification and the recession in Europe.⁴²

³⁹ EC Commission, *Fifth Report of the Commission to the Council and the European Parliament concerning the Implementation of the White Paper on the Completion of the Internal Market*, COM (90) 90, Mar. 28, 1990, p. 4.

⁴⁰ U.S. Department of State telegram, "German Implementation of EC Directives," message reference No. 29046, prepared by the U.S. Embassy, Bonn, Oct. 21, 1993.

⁴¹ Ibid.

⁴² Ibid.

Directives that require amending existing German law, adopting entirely new legislation, or setting up new government agencies may see their implementation delayed because of the lengthy legislative process, and because the Länder must oftentimes be consulted. To speed up the process, the Federal Government consults industry and labor groups early during the legislative process in Brussels. The German states are also playing an increasingly active role in Brussels.

Greece

Progress

Greece has the worst record of implementing EC directives on a timely basis. As shown in figure 2-1, Greece has implemented only 74.6 percent of the single-market measures covered by this report. Table 2-1 shows that Greece has had particular difficulty with EC directives on financial services, company law, taxation, the social dimension, and standards.

Process

Under Greek law, EC directives may be implemented by statute, Presidential decree, or ministerial decision.⁴³ Most EC directives are implemented by Presidential decree because the National Government is authorized to implement EC directives even when existing Greek legislation needs to be amended.⁴⁴ The Greek Ministry of National Economy is responsible for overseeing the implementation of all EC directives.⁴⁵

Dynamics

Delays in implementation are generally attributed to the inefficiency of the public administration, rather than a lack of political will.⁴⁶ Also, a degree of political instability in Greece tends to focus the National Government, bureaucracy, and Parliament on the domestic economy and politics, rather than on EC affairs and obligations.⁴⁷ Domestic economic

⁴³ Law 1338/83, as amended. U.S. Department of State telegram, "USITC Section 332 study on EC Member State Implementation of 1992 Directives—Greece," message reference No. 010578, prepared by U.S. Embassy, Athens, Oct. 1, 1993.

⁴⁴ Greek Government officials, meeting with USITC staff, Athens, Jan. 16, 1990.

⁴⁵ U.S. Department of State telegram, "USITC Section 332 study on EC Member State Implementation of 1992 Directives—Greece," message reference No. 010578, prepared by U.S. Embassy, Athens, Oct. 1, 1993.

⁴⁶ Ibid.

⁴⁷ Representative of EC Commission, meeting with USITC staff, Brussels, Oct. 4, 1993.

and special interest groups share in causing delayed implementation in many cases.

Ireland

Progress

As shown in figure 2-1, Ireland has implemented 80.6 percent of the single-market measures covered by this report. Table 2-1 shows that Irish implementation of company law directives has lagged.

Process

The Irish Cabinet has considerable executive power, and the governing party effectively dominates the legislative process.⁴⁸ The implementation of EC directives in Ireland is governed by the European Communities Act of 1972, as amended (the "1972 act").⁴⁹ The 1972 act gives the Irish Government the authority to implement EC law by ministerial regulation, subject to annulment by the Parliament. The Joint Committee on the Secondary Legislation of the European Communities, composed of members of both Houses of Parliament, monitors the Irish implementation of EC law. The 1972 act requires the Irish Government to report to the Parliament twice a year on developments in the European Community. Nearly all directives are implemented by ministerial regulation,⁵⁰ and the full text of EC directives is usually incorporated in Irish law.

Recently, an Irish citizen challenged the validity of ministerial regulations, issued under the 1972 act, that amend or repeal existing Irish statutory law. The ECJ found that such regulations were invalid because the delegation of authority under the 1972 act was unconstitutional.⁵¹ The so-called Johnson judgment is currently on appeal to the Supreme Court. Some ministries are holding up implementing regulations, awaiting the outcome of the appeal. In the meantime, however, the Irish Parliament passed legislation that effectively adopted or ratified all ministerial regulations pursuant to the 1972 act.⁵²

Despite the uncertainty raised by the court ruling, the Irish Parliament and the Irish Government have taken steps recently to facilitate the implementation of

⁴⁸ L.A. Furey, "The Legal System of Ireland," in Redden, *Modern Legal Systems Cyclopaedia*.

⁴⁹ B. McMahon and F. Murphy, *European Community Law in Ireland* (Butterworths, 1989), p. 272.

⁵⁰ Irish Government representatives, meeting with USITC staff, Dublin, Sept. 20, 1993.

⁵¹ Justice Johnson, *John Meagher vs. The Minister for Agriculture and Food and the Attorney General*, Apr. 1, 1993.

⁵² See European Communities (Amendment) Act of 1993.

EC directives. The European Communities (Amendment) Act of 1993 created a new Joint Committee on Foreign Affairs to replace the Joint Committee on the Secondary Legislation of the European Communities. The new parliamentary committee will focus on the development of EC law in Brussels, as well as the implementation of EC law in Ireland.⁵³ In addition, every minister has a "program manager" for the internal market, and there is an interagency committee that meets weekly to keep up with internal market issues.⁵⁴ Also, because so many of the internal market directives deal with agricultural standards, the Ministry of Agriculture is devoting more resources to the implementation process.⁵⁵

Dynamics

According to the Irish Government, the factors that have delayed implementation of EC directives in Ireland include the following: (1) the uncertainty raised by the Johnson judgment, (2) the slow pace of the EC Commission in issuing necessary further guidance on how to implement certain directives, and (3) the requirement that the attorney general review most ministerial regulations coming from ministries that have few legal staff.⁵⁶

In addition, the formation of a new coalition government in January 1993 delayed implementation of EC directives for several months.⁵⁷ Also, because Irish trade is particularly dependent on the British market, Irish companies, especially small and medium-size enterprises (SMEs), were hurt badly when the British pound sterling pulled out of the European Monetary System during the currency crisis.⁵⁸ Currency fluctuations and the recession are factors that influence Irish implementation of EC directives and whether business people in Ireland, and SMEs in particular, will continue to support the single-market exercise.⁵⁹ The erosion of support in the business community would make implementation more difficult for the Irish Government.⁶⁰

⁵³ Irish Government representatives, meeting with USITC staff, Dublin, Sept. 20, 1993.

⁵⁴ Ibid.

⁵⁵ Ibid.

⁵⁶ Ibid.

⁵⁷ Representative of the Irish Chamber of Commerce, meeting with USITC staff, Dublin, Sept. 21, 1993.

⁵⁸ Ibid.

⁵⁹ Representatives of Irish business, meeting with USITC staff, Dublin, Sept. 21, 1993.

⁶⁰ Ibid.

Italy

Progress

Italy has taken steps in recent years to improve its record of implementing EC law on a timely basis. As shown in figure 2-1, Italy has implemented 81.2 percent of the single-market measures covered by this report. As shown in table 2-1, Italy has had particular difficulty implementing directives on the social dimension.

Process

The implementation of EC directives in Italy is governed by the so-called "La Pergola" law.⁶¹ Adopted in 1989, it established a process for implementing EC law in annual omnibus legislation.⁶² Under this law, the Italian Government presents Parliament with a draft bill and a list of directives that need to be implemented.⁶³ The omnibus bill provides for the implementation of EC directives by direct enactment, by legislative decree, or by administrative act.

Direct enactment is achieved by the omnibus bill itself in cases where existing Italian legislation already conforms to the EC directive.⁶⁴ If Italian law must be amended in order to implement an EC directive, then the omnibus bill gives the National Government the authority to issue implementing decrees and regulations, subject to final approval by Parliament.⁶⁵ The omnibus bill also gives the Government the authority to implement EC directives directly by issuing ministerial regulations for relatively minor matters where legislative action is not required.⁶⁶ Implementation of Community law in Italy is overseen by the Department for the Coordination of EC Policy within the Prime Minister's Office.⁶⁷

Dynamics

Delayed implementation stems principally from governmental inertia and inefficiency, although resistant domestic lobbies and budgetary and competitiveness considerations can also play a role.⁶⁸

⁶¹ Law No. 86 of Mar. 9, 1989, *Official Gazette* No. 58 of Mar. 10, 1989. U.S. Department of State telegram, message reference No. 017194, prepared by the U.S. Embassy, Rome, Oct. 1, 1993.

⁶² Ibid.

⁶³ Ibid.

⁶⁴ Ibid.

⁶⁵ Ibid.

⁶⁶ Ibid.

⁶⁷ Ibid.

⁶⁸ Ibid.

A key factor that has contributed to the delay in Italy is the preeminent role of Parliament. The legislative process is complex, lengthy, and inefficient, but the Italian Parliament has been reluctant to relinquish broad authority for implementing EC law to the Italian Government.

Although the "La Pergola" law improved the situation considerably,⁶⁹ the process is still cumbersome. Political and special interest groups still seek to postpone implementation of EC directives.⁷⁰ To address these continuing problems, the Italian Parliament adopted a bill in 1992 that, in effect, provided for the direct implementation of 33 EC directives. The bill delegated immediate authority to the appropriate parliamentary committees and government ministries to implement those 33 directives within 20 days, without having to obtain any further Parliamentary approval.

Luxembourg

Progress

As shown in figure 2-1, Luxembourg has implemented 80.5 percent of the single-market measures covered by this report. Table 2-1 shows that Luxembourg has had difficulty implementing directives on intellectual property and the social dimension.

Process

In Luxembourg, the Grand Duke exercises executive power along with a Cabinet of Ministers.⁷¹ The House of Deputies, a unicameral Parliament, enacts legislation, that must be submitted to the Council of State for an opinion. EC directives are implemented in Luxembourg in one of two ways: (1) Parliament enacts a law that is then sanctioned by the Grand Duke, or (2) the Government (i.e., the Grand Duke and the Cabinet of Ministers acting in concert) issues a grand-ducal regulation, after obtaining the advice of the Council of State and consulting a

⁶⁹ U.S. Department of State telegram, "Italy: Request for Assistance in Connection with USITC Section 332 Study on EC Member State Implementation of 1992 Directives," message reference No. 017194, prepared by the U.S. Embassy, Rome, Oct. 4, 1993.

⁷⁰ U.S. Department of State telegram, message reference No. 01041, prepared by the U.S. Embassy, Rome, Jan. 16, 1991.

⁷¹ T.H. Reynolds and A.A. Flores, *Foreign Law: Current Sources of Codes and Basic Legislation in Jurisdictions of the World* (Littleton: Fred B. Rothman & Co., 1991), and V. Knapp, *International Encyclopedia of Comparative Law* (Tübingen: J.C.B. Mohr).

committee of the Parliament.⁷² The approach used depends generally on whether a law exists in Luxembourg on the topic covered by the EC directive. If there is no law, then Parliament must enact one, and if there is a law, then the Government may implement the EC directive by grand-ducal regulation.

Certain organizations, established by statute and known as Professional Chambers, act as official representatives of the various interest groups, such as agriculture, craftsmen, industrial companies, workers, and public employees. These organizations have a formal consultative role in the political and legislative process, and may give an opinion on how to implement EC measures.

Dynamics

Delayed implementation in Luxembourg occurs for two general reasons: that Luxembourg has no interest in some directives because it has no corresponding industry; and that domestic priorities may occasionally supersede EC obligations.⁷³

Luxembourg tends towards deliberate and thorough implementation, even if doing so causes delays.⁷⁴ One minister had wanted to adopt 15 EC directives in 1 package, but the Council of State vetoed the proposal.⁷⁵ Social dimension directives for the most part are wholly consistent with existing law in Luxembourg, but their implementation has been delayed as the Government carefully considers what laws should be amended, and which ministry should be responsible for enforcing working conditions.⁷⁶ Also, delays have arisen in cases where a directive gives the Government of Luxembourg some flexibility to adopt strict or less strict standards, such as directives on environment and the social dimension.⁷⁷

Commercial considerations may occasionally delay implementation in Luxembourg, as when the Government, industry, and other interest groups try to compromise with each other, as,⁷⁸ for example, in public procurement. Implementation was challenged here, even though the public procurement market in Luxembourg has tended to be open because the smallness of Luxembourg made it necessary to look to

⁷² Luxembourg Government officials, meeting with USITC staff, Luxembourg, Sept. 14, 1993.

⁷³ Ibid.

⁷⁴ Ibid.

⁷⁵ Ibid.

⁷⁶ Ibid.

⁷⁷ Representatives of the Luxembourg business community, meeting with USITC staff, Luxembourg, Sept. 15, 1993.

⁷⁸ Luxembourg private-sector representatives, meeting with USITC staff, Luxembourg, Sept. 14, 1993.

foreign suppliers.⁷⁹ Despite improved market access in other EC construction markets, various local interests feared that, as a small country, Luxembourg might not be able to compete effectively in the larger foreign markets.⁸⁰ On the other hand, commercial considerations may facilitate implementation. In the case of the Mutual Funds Directive, where there was broad commercial support for timely implementation, Luxembourg was the first member state to implement, doing so well before the date required.⁸¹

Luxembourg's historical ties with Belgium, Germany, and France also influence the implementation of EC directives.⁸² As a small country, Luxembourg sometimes looks to see how other, larger member states have implemented a directive.⁸³ In the environmental area, Luxembourg tends to look to Germany and to adopt high standards.⁸⁴ The civil law of Luxembourg is based on French law and the commercial (i.e. company) law is based on Belgian law, so Luxembourg tends to look to those countries as well when implementing EC directives.⁸⁵

The Netherlands

Progress

The Netherlands has a good record of implementing EC law on a timely basis. As shown in figure 2-1, the Netherlands has implemented 81.5 percent of the single-market measures covered by this report. Despite its good record overall, the Netherlands has had difficulty implementing directives on public procurement, intellectual property, and the social dimension, as shown in table 2-1.

Process

In the Netherlands, EC law is implemented in one of three ways: an act of Parliament, secondary legislation, or a royal decree.⁸⁶ Most EC directives are

⁷⁹ Representatives of the Luxembourg Chamber of Craftsmen, meeting with USITC staff, Luxembourg, Sept. 14, 1993.

⁸⁰ Ibid.

⁸¹ Luxembourg Government official, interview by USITC staff, Luxembourg, Sept. 14, 1993.

⁸² Representatives of the Luxembourg business community, meeting with USITC staff, Luxembourg, Sept. 15, 1993.

⁸³ Ibid.

⁸⁴ Ibid.

⁸⁵ Ibid.

⁸⁶ In Dutch, royal decrees are known as "algemene maatregel van bestuur" (Amvb), or general administrative measures.

implemented by royal decree because the Government has the authority to do so. The Government seeks to achieve broad consensus with various interest groups and engages in considerable formal and informal consultation with various advisory bodies, such as the Council of State, permanent and ad hoc committees of Parliament, and the Social and Economic Council, which represents employees and employers.

Legislation must be submitted to the Council of State for an advisory opinion, must be approved by both Chambers of Parliament, and must receive royal assent before becoming effective.⁸⁷ The Council of State must also give its views on royal decrees. The National Government generally initiates legislation and submits it to Parliament, although the Second Chamber has the power to propose legislation and to amend legislation proposed by the Government.

The Netherlands has established a new process to facilitate the timely and effective implementation of EC directives.⁸⁸ In the past, the Dutch negotiators in Brussels were not responsible for implementing and administering EC directives in the Netherlands. Under the new process, the Economics and Foreign Ministries have established an interministerial committee to screen new legislative proposals as they appear in Brussels. Technical experts from the ministry with competence in the relevant area are brought in during the drafting and negotiating process in Brussels. Also, a new ad hoc committee in Parliament focuses on the internal market as well. The interministerial committee sends a status report on implementation to the parliamentary committee every 3 months.

Dynamics

According to the Dutch Government, its rate of implementation has been affected by the recession in Europe and turmoil in the European Monetary System, each of which influences domestic political priorities and makes the implementation of single-market directives that could cost jobs more difficult.⁸⁹

In the Netherlands, various pressure groups (employers, workers, public-sector employees, and special interest groups) seek to influence the implementation process. For example, the Government may seek to adopt strict environmental standards with the support of the environmental community, while the business community may argue for the more flexible (i.e., lesser) standards

⁸⁷ D.C. Fokkema, *Introduction to Dutch Law for Foreign Lawyers* (Kluwer-Deventer, 1978).

⁸⁸ Dutch Government representatives, meeting with USITC staff, The Hague, Sept. 16, 1993.

⁸⁹ Ibid.

permitted by a directive. In the social dimension, the EC directives set forth lesser standards than currently exist in the Netherlands. Labor groups and political parties affiliated with workers are resisting the relaxation of such standards, whereas the employer groups support the adoption of the lesser EC standards in order to make the Dutch economy more competitive globally. As a result, implementation gets delayed as the Government seeks to achieve a consensus.

Implementation is also affected by the widely held view that, if the Netherlands implements a directive, then it will administer and enforce it fully and fairly, whereas other member states may implement a directive in law, but not in fact.⁹⁰ Private-sector groups take into account the market access that they have in other member states, in formulating a view on implementation in the Netherlands.⁹¹ For example, as noted above, public procurement is an EC directive area that has been difficult to implement in the Netherlands. These difficulties result from concerns about the extent of meaningful market access in other member states, sensitivity to potential job loss due to the recession, as well as the fact that all levels of government are affected by the directive.⁹²

Competition policy is an area that the Netherlands has had difficulty administering and enforcing.⁹³ This is because, in the past, Dutch law permitted cartels to be established, as long as the details were in writing and publicly available. In construction, for example, collusion is generally permitted although contrary to the law and practice in other member states and contrary to the single-market directives. For this reason, the EC Commission has reportedly had to look carefully at Dutch enforcement of competition policy.

Portugal

Progress

As shown in figure 2-1, Portugal has implemented 81.4 percent of the single-market measures covered by this report. Table 2-1 shows that Portugal has had difficulty with directives on the social dimension and intellectual property.

⁹⁰ Various representatives of Dutch private-sector business organizations, meeting with USITC staff, the Netherlands, Sept. 16-17, 1993.

⁹¹ Ibid.

⁹² Dutch Government representatives, meeting with USITC staff, The Hague, Sept. 16, 1993.

⁹³ Representatives of the Dutch business community, meeting with USITC staff, The Hague, Sept. 16, 1993.

Process

Each Portuguese Government ministry has an office that monitors the legislative process in Brussels. The ministry decides whether to implement an EC directive by statute (i.e., "decreto-lei") or by ministerial decree (i.e., "portaria").⁹⁴ Technical and legal staffs draft a measure that would implement EC directives that are within a ministry's area of competence. The Ministry of Foreign Affairs coordinates the overall implementation of Community law in Portugal.⁹⁵ It reviews all draft implementation measures, and it holds weekly interministerial meetings to monitor progress and to urge each ministry to comply with implementation deadlines.

A portaria is similar to a U.S. regulation and does not need to be passed by Parliament. A decreto-lei is analogous to a U.S. law passed by Congress; it must be approved by the Council of Ministers, signed by the President of the Republic, and passed by Parliament. Certain subjects, such as fiscal matters, require passage by Parliament. However, when the subject matter of an EC directive is already covered by existing Portuguese legislation, a new law is not required and a portaria will suffice. In some cases, an EC directive may be implemented by both a portaria and a decreto-lei.

All EC legislation is implemented at the national, not the regional, level. There is a small exception for the Autonomous Regions (for example, the Azores and the Madeira Islands). If a directive applies only to such a region, then the local government may have responsibility for implementation. Thus far, no EC directives have affected them solely.

Dynamics

Most implementation delays are attributable to general administrative problems, such as the large number of directives for a particular ministry (for example, agriculture) or when a directive requires a change in the administration of a ministry (for example, a grant of new powers).⁹⁶ Occasional delays occur where the Government prolongs implementation

⁹⁴ Official of the Directorate of Judicial Affairs, Directorate General of European Communities, Ministry of Foreign Affairs, interview by USITC staff, Lisbon, Sept. 21, 1993.

⁹⁵ Official, Internal Markets Division, Directorate General of European Communities, Ministry of Foreign Affairs, interview by USITC staff, Lisbon, Portugal, Sept. 21, 1993.

⁹⁶ Ibid.

as long as possible because it is not in favor of a particular directive. This was the case with regard to directives relating to the value-added tax.⁹⁷

Spain

Progress

Spain has implemented 80.4 percent of the single-market measures covered by this report, as shown in figure 2-1. Table 2-1 shows that Spain has had difficulties implementing measures in the areas of energy and the social dimension.

Process

The Spanish Ministry of Foreign Affairs decides which Spanish ministry or ministries should be responsible for implementation of each directive. Often more than one ministry is affected. Each ministry has a Technical Secretary General that prepares the draft implementing legislation. The draft implementing legislation is sent to consumer associations and affected sectors for their comments, but the ministry does not publish the draft for general public comment. Next, the ministry sends the draft to an interagency secretariat, the General Commission of State Secretaries. Once the General Commission approves the draft, it can proceed to Parliament if necessary.⁹⁸

There are three means of implementing an EC directive: royal decree (about 80 percent of all directives require only a royal decree); law passed by Parliament (about 15 percent of directives require this method); and ministerial orders (only about 5 percent are implemented in this manner). A ministerial order is for directives of lesser importance and is the simplest method of implementation. The method used depends on the subject matter and whether there is already existing Spanish legislation or a constitutional provision that covers the subject area. Certain topics require legislative action by Parliament (for example, matters concerning human rights).⁹⁹

In 1992, the Subdirector General for Legal Affairs of the EC State Secretariat initiated a plan of action to accelerate implementation of EC directives.

⁹⁷ Official, Internal Markets Division, Directorate General of European Communities, Ministry of Foreign Affairs, Lisbon, telephone interview with USITC staff, Nov. 16, 1993.

⁹⁸ Officials of the Subdirector General for Legal Affairs, EC State Secretariat, Ministry of Foreign Affairs, meeting with USITC staff, Madrid, Sept. 23, 1993.

⁹⁹ Ibid.

Another plan of action was initiated in September 1993, under which officials from the Ministry of Foreign Affairs would meet with officials of each ministry and the Congress of Deputies to educate them on the importance of implementing EC directives on time.

The 17 Spanish regions (autonomous communities), which are comparable to U.S. States, have competence only with regard to application of EC directives; for the most part they do not have any responsibility for the transposition of directives. The official bulletins of the autonomous communities publish all royal decrees, laws, and ministerial orders. Since 1978, Spain has become more centralized, and no problems have been reported regarding different applications by the regions of EC implementing legislation.¹⁰⁰

Dynamics

The process of implementing EC directives stalled in April 1993, when general elections were called, and legislative activities were suspended while new members of Parliament were elected.

Spanish officials assert that implementation rankings can be misleading because certain member states may implement EC directives in law, but not in fact. Spain, on the other hand, carefully transposes each directive through an elaborate legislative or ministerial process.¹⁰¹

Another reason Spain is behind in implementation is that it became a member of the EC only in 1986, so it has had to catch up and implement all of the previously adopted directives as well as the new and current single-market ones. Most of the nonimplemented directives are those assigned to the Ministries of Health and Agriculture, which have a disproportionate number of directives to implement, and whose directives are the most technically difficult to transpose, requiring substantial change in current practice and laws. Similarly, another reported area of technical difficulty is company law. The only subject area that appears to be experiencing delays in implementation due to political sensitivity is in the telecommunications sector. Most late EC directives, however, are currently in the process of being implemented.¹⁰²

¹⁰⁰ Ibid.

¹⁰¹ Ibid.; see also U.S. Department of State telegram, "Spanish Compliance with European Community Directives," message reference No. 8326, prepared by U.S. Embassy, Madrid, July 20, 1993.

¹⁰² Officials of the Subdirector General for Legal Affairs, EC State Secretariat, Ministry of Foreign Affairs, meeting with USITC staff, Madrid, Sept. 23, 1993.

United Kingdom

Progress

The United Kingdom has the second-best record of implementing Community law. As shown in figure 2-1, the United Kingdom has implemented 83.5 percent of the single-market measures covered by this report. Taxation is one area that has been difficult for the United Kingdom.

Process

Under the European Communities Act of 1972, the United Kingdom implements EC directives by statute or by statutory instrument. A statutory instrument is like a ministerial decree or regulation. The legislative process is used when an EC directive requires extensive revision to existing British law. Each ministry is responsible for the implementation of directives that address matters within its area of competence.¹⁰³ The relevant ministry drafts implementing legislation and presents it to the British Parliament.¹⁰⁴ If the necessary changes to British law are less extensive, then the British Government can implement an EC directive by statutory instrument, and the implementation process will be generally swifter. The Cabinet Office coordinates overall implementation in the United Kingdom, and the Department of Trade and Industry monitors the status of implementation for each EC directive.

Dynamics

Delays in implementation occur because the legislative process itself generally tends to be slow and

elaborate, and Parliament schedules may be crowded.¹⁰⁵ Occasionally, commercial pressure from an affected industry causes a delay, or additional clarifying information from the EC Commission is needed before a directive can be implemented.

The authority to implement EC directives by statutory instrument, without having to resort to a cumbersome legislative process, is one reason why the United Kingdom has a high rate of implementation. Another key reason for the high rate of implementation in the United Kingdom is that the British Government carefully considers the issue of national implementation when a directive is being developed and debated by the European Community. It sends the experts from the relevant Government ministry that will ultimately be responsible for implementing a directive to participate in the legislative process in Brussels and to negotiate the specific details of a directive.

This enables the British Government to influence the drafting and regulatory approach of a directive because the British negotiators have specific knowledge of the technical details, commercial interests and regulatory requirements for the affected industry in the United Kingdom. It also ensures that, once a directive is adopted by the Community, then the bureaucracy in the relevant British ministry will be fully familiar with the broad objectives and specific requirements of the directive, thereby facilitating timely implementation. British industry, too, tends to follow the legislative process in Brussels closely, and is thereby able to anticipate what changes in British law and regulations will be required by an EC directive.

¹⁰³ Public analyst at Lyne, Martin & Radford, interview by USITC staff, London, June 5, 1990.

¹⁰⁴ Ibid.

¹⁰⁵ U.S. Department of State telegram, "ITC Study of EC Member State Implementation of 1992 Directives; British Implementation," message reference No. 18078, prepared by the U.S. Embassy, London, Oct. 5, 1993.

CHAPTER 3

IMPLEMENTATION BY SUBJECT AREA

Introduction

Chapter 3 examines the status of European Community (EC) member-state implementation of EC 1992 legislation by subject area.¹ Implementation rates were calculated for each subject area except for quantitative restrictions.² A list of the measures constituting the EC 1992 program and included in the implementation-rate calculation is given for each subject area. (Appendix C gives a longer list because it includes nonbinding measures as well as adopted measures whose implementation deadlines are after September 1, 1993.)

Table 3-1 summarizes the status of member-state implementation in each subject area. For each subject area, the conclusions as to the level of progress were drawn from an examination of the implementation rate coupled with an informal weighting of the relative importance of the implemented measures against those that were not implemented on time. Sometimes account was taken of conflicting information from member states and from other usually reliable sources on the status of implementation. Table 3-1 shows that implementation has progressed furthest in the areas of movement of goods, transport, competition policy, and tax. Areas where implementation is slowest are the social dimension, public procurement, and intellectual property.

Each section describes, to the extent possible, the specific factors that have delayed implementation beyond the scheduled deadline. As noted in chapter 1, these factors have fallen into three categories: (1) administrative; (2) technical; and (3) political. The majority of cited reasons fell into the first category, as described more fully in chapter 2. Technical problems played a role most frequently in the transposition of standards directives. Implementation delays were rarely attributed to political problems. Member-state officials generally claimed that political problems were resolved before measures were adopted by the EC Council. Also, they emphasized that implementation

¹ For a detailed discussion of the EC 1992 program in each subject area, including the implications for the United States, see United States International Trade Commission (USITC), *The Effects of Greater Economic Integration Within the European Community on the United States: Fifth Followup Report* (investigation 332-267) [hereafter, in series *EC Integration: Fifth Followup*], USITC publication 2628, Apr. 1993.

² See the section on quantitative restrictions in this chapter for an explanation.

was a legal obligation to which they were fully committed. Whereas chapter 1 describes the general factors that have delayed implementation, and chapter 2 describes member-state implementation procedures, which are often cited as the problem, each section of this chapter reports only those factors unique to the subject area under discussion.

Public Procurement

The goal of the EC 1992 program in public procurement is to create greater openness, transparency, and nondiscrimination in public purchasing. The EC Council has adopted all of the seven directives that make up this program. All of this legislation has entered into effect in member states except for the final Directive on Procurement of Services in the Utilities Sectors (93/38) and two other directives on utilities (90/531 and 92/13), in Greece, Portugal, and Spain, which have outstanding derogations. As shown in tables 3-2 and 3-3, of those six public procurement directives for which the implementation deadline has passed, member states had implemented 56 percent as of September 1, 1993. Based on this information, member-state implementation of EC public procurement legislation is only partially complete. However, the deadline for implementation of the Public Services Directive (92/50) occurred only recently—on July 1, 1993. As shown in appendix C, only one member state has implemented this directive. Should this directive not be included in the calculations, the percent of EC public procurement legislation implemented by member states rises to 67 percent.

In general, several member states noted that implementation of procurement directives is slow because of their sensitive nature; for example, the procurement directives could potentially cost domestic jobs.³ Member states also noted that implementation of the procurement laws is difficult because so many levels of government have competence in this area.⁴ However, the EC Commission stated that because procurement directives are fairly new and complex, any delays in implementation could be attributed to technical problems rather than a lack of political will.⁵

As shown in appendix C, Ireland is the only member state to have implemented all six of the Public Procurement Directives, and the Netherlands and Germany are the only member states to have implemented none of them. However, the Dutch

³ American Chamber of Commerce officials, interview by USITC staff, The Hague, Sept. 16, 1993.

⁴ Dutch Government officials, interview by USITC staff, The Hague, Sept. 16, 1993.

⁵ EC Commission, DG III, meeting with USITC staff, Brussels, Oct. 4, 1993.

Table 3-1
Summary of progress of member-state Implementation of EC 1992 legislation, by subject area

(A = Virtually complete; B = Substantially complete; C = Partially complete; D = Substantially incomplete)

Subject area	Implementation status	Comments
Standards	B	Progress has generally been steady, but some areas lag, notably dangerous substances and preparations, veterinary controls, medical devices, food additives, and genetically modified organisms. Difficulty putting in place the structures needed to apply "new approach" directives is also evident in areas such as telecommunications terminal equipment, construction products, and machinery safety.
Public procurement	C	Implementation is lagging primarily because of the recent implementation deadline (7/1/93) for 1 of the 6 directives. In addition, Germany has not implemented any of the procurement directives.
Internal energy market	B	Although implementation of the internal energy market (IEM) is substantially complete, the EC has yet to adopt the second and third stages in the IEM.
Finance	B	Although overall implementation can be considered substantially complete in the banking, securities, and insurance fields, some member-state markets will not be significantly liberalized until several key securities and insurance directives, whose implementation dates fall in mid-1994 and end-1995, come into effect.
Movement of goods	A	Implementation is virtually complete because the vast majority of measures are regulations, which are directly applicable and thus require no member-state transposition. Delays in implementation of directives can be attributed primarily to the late adoption of the Community Customs Code and slow national procedures.
Movement of persons	B	Implementation delays can be attributed primarily to technical problems, such as multilayered jurisdictions of both public and private bodies in this area.
Transport	A	Implementation is virtually complete because the vast majority of measures are regulations, which are directly applicable and thus require no member-state transposition.
Competition policy	A	Both measures in this field are regulations, which are directly applicable and thus do not require member-state transposition.
Company law	B	Implementation of company law directives is substantially complete, although a number of measures have not yet been adopted by the EC Council. For those directives that have been adopted and whose implementation deadlines have passed, delays in implementation can be attributed to such things as their technical complexity and recent implementation deadlines (1/1/93). Most member states, however, are in the process of implementing these measures.
Taxation	A	Implementation of tax measures is virtually complete, particularly for indirect tax directives where member states were under strong pressure to implement these measures by yearend 1992 to avoid economic distortions that might otherwise have resulted when border controls were removed on January 1, 1993.

Table 3-1—Continued
Summary of progress of member-state implementation of EC 1992 legislation, by subject area

(A = Virtually complete; B = Substantially complete; C = Partially complete; D = Substantially incomplete)

Subject area	Implementation status	Comments
Intellectual property	C	More than half of the program on intellectual property rights has not been adopted by the EC Council. Implementation of the 3 directives adopted by the EC and whose implementation deadlines have passed is only partially complete for a variety of technical and administrative reasons.
Social dimension	D	Poor implementation of social dimension measures stems from a variety of reasons such as fairly recent implementation deadlines (most 12/31/92); some differences among labor, employer, and public-interest groups over appropriate transposition; as well as the same legislative and administrative reasons common to transposal of EC directives generally. The majority of social dimension measures have either not been adopted by the EC or have not passed their implementation deadlines.
Residual quantitative restrictions	Not applicable	Most national quantitative restrictions (QRs) have been abolished. Some have been replaced by EC-wide QR regimes, achieved through EC agreements with third countries and, to a lesser extent, EC regulations. Implementation of such regimes depends more on the Community carrying out EC-wide measures than on individual member-state implementation of such measures.

Source: Compiled by USITC from official sources issued by the Commission of the European Communities.

Table 3-2
Public procurement: List of measures with Implementation dates before Sept. 1, 1993

Measure	Title
88/295-Dir.	Award of public-supply contracts
89/440-Dir.	Award of public-works contracts
89/665-Dir.	Review of public-supply & -works contracts (remedies)
90/531-Dir.	Procurement procedures of entities in water, energy, transport, and telecommunications (excluded sectors)
92/13-Dir.	Remedies in the utilities sector
92/50-Dir.	Procedures for the award of public service contracts

Source: Compiled by USITC from official sources issued by the Commission of the European Communities.

Table 3-3
Public procurement: Percent of EC 92 legislation Implemented

	Measures applicable	Number of derogations outstanding	Actual implementations by EC member states	Percent Implemented
Public procurement	6	6	37	56.06

Source: Compiled by USITC from official sources issued by the Commission of the European Communities.

Government indicated that the Netherlands transposed both directives 90/531 and 92/13 in 1993, and is in the process of transposing directive 92/50 into an Executive order.⁶ Another source indicates that the Netherlands notified implementing measures for directives 88/295, 89/440, and 89/665, although an infringement case for improper application of directive 88/295 is pending.⁷ According to these sources, the Netherlands has implemented all of the Public Procurement Directives except the most recent one.

Reportedly, Germany has transposed the Supplies Directive (88/295), the Works Directive (89/440) (by transposing a newer directive that consolidates all previous legislation on works procurement (93/37)), and the Utilities Directive (90/531).⁸ The German Government anticipates transposing both Directives on Appeals Procedures (89/665 and 92/13) by the end of 1993⁹ and the Public Services Directive (92/50) in 1994.¹⁰ However, the EC Commission claims that Germany's national measures do not properly

implement directives 88/295, 89/440, and 90/531. The EC Commission claims that the German measures are "incompatible with the Community legislation, particularly since they establish no rights for individuals." The EC Commission believes that the form of implementation chosen by Germany does not create "legally binding rules which individuals could invoke" before the national courts, if necessary.¹¹ Implementation of procurement directives by Germany will be held up until this problem has been resolved.¹²

Although EC statistics presented in appendix C show that Denmark has not implemented directives 92/13 and 92/50, the Danish Government said that it recently transposed both directives.¹³ Based on this information, Denmark has implemented all six procurement directives.

⁶ Government of the Netherlands, *Report to Parliament on Implementation of Directives, as of June 30, 1993*.

⁷ EC Commission, *Tenth Annual Report on the Monitoring of the Application of Community Law, 1992*, COM (93) 320 final, Apr. 28, 1993.

⁸ U.S. Department of State telegram, "German Implementation of EC Directives," message reference No. 029046, prepared by U.S. Embassy, Bonn, Oct. 21, 1993.

⁹ Ibid.

¹⁰ U.S. Department of State telegram, "Response to Request for Information on Public Works Procurement Systems—Germany," message reference No. 21599, prepared by U.S. Embassy, Bonn, Aug. 11, 1993.

¹¹ Answer to Written Question No. 3164/91, OJ No. C 209 (Jan. 24, 1992), p. 71. In a separate communication, apparently Germany's public procurement guidelines, VOL (Verdingungsordnung fuer Leistungen) and VOB (Verdingungsordnung fuer Bauleistungen)—which implement directives 88/295, 89/440, and 90/531—are referred to as "internal working guidelines" and do not have the status of laws. When Germany implements the Remedies Directive and incorporates VOL and VOB into the Federal Budget Principles Law, VOL and VOB should have the binding nature of laws. U.S. Department of State telegram, "Implementation of EC Utilities and Supervision Measures Directives," message reference No. 24143, prepared by U.S. Embassy, Bonn, Sept. 9, 1992.

¹² EC Commission officials, interview by USITC staff, Brussels, Oct. 6, 1993.

¹³ Government of Denmark, *Implementation Register*, Apr. 1993; and Danish officials, interview by USITC staff, Copenhagen, Sept. 30, 1993.

The status of implementation of the Remedies Directive (89/665) by Belgium is unclear. Although appendix C shows that Belgium has not transposed the directive, another source indicates that it has.¹⁴ Furthermore, the Government of Belgium said that it notified the EC that the directive already existed in Belgian law.¹⁵ Belgian officials indicated that prior to the EC directives covering appeals procedures for procurement contracts (directives 89/665 and 92/13), Belgium had the most advanced system among the member states. Apparently, current national law on appeals procedures also covers 90-95 percent of the contracts in the excluded sectors; thus, much of directive 92/13 is already in force, although Belgium still must set up an "attestation" procedure, as required under the directive. Transposition of directive 92/50 is in progress. In general, Belgian officials noted that Belgian transposition of procurement legislation is relatively slow, as in other fields, because of the Belgian desire to implement a "comprehensive package." For example, although EC procurement directives affect contracts above a certain threshold value, the Belgian laws transposing these directives incorporate further domestic rules for contracts below the EC threshold levels.¹⁶

Although Italy has not yet implemented directive 90/531, according to the EC Commission, Italy has taken measures to ensure that entities are aware that they are "legally liable" to apply the rules.¹⁷ Nonetheless, the EC has commenced an infringement proceeding against Italy for noncommunication.

Perhaps the most widely known implementation issue related to procurement is German nonimplementation of an EC preference clause in the Utilities Directive. Based on this part of the directive, the United States retaliated against the EC in May 1993. In June, the EC counterretaliated. Because Germany did not implement the offending article, the United States exempted Germany from U.S. sanctions, and Germany did not participate in the EC counterretaliation. Reportedly, the EC Commission has not yet initiated an infringement proceeding against Germany for improper implementation of the directive.¹⁸

¹⁴ EC Commission, *Tenth Annual Report*.

¹⁵ Belgian Government officials, interview by USITC staff, Brussels, Oct. 5, 1993.

¹⁶ Ibid.

¹⁷ U.S. Department of State telegram, "EC Official on Public Procurement Issues," message reference No. 7457, prepared by U.S. Mission to the EC, Brussels, June 22, 1993.

¹⁸ EC Commission official, telephone conversation with USITC staff, Nov. 4, 1993.

Public procurement is typically cited as one of the most problematic areas in terms of compliance.¹⁹ The EC Commission highlighted public procurement as a problem area when it stated that the large and increasing number of complaints it has been receiving "mainly concern the free movement of goods, but those relating to public procurement are now on the increase."²⁰ Indeed, two cases stand out. During 1989, the EC Commission set an important precedent for enforcing legislation under the 1992 program as a whole by opening proceedings in the European Court of Justice (ECJ) against Denmark for violating the Works Directive in the award of a contract for the construction of the Storbaelt bridge.²¹ The ECJ ruled the tender was illegal, and currently unsuccessful bidders are filing claims for compensation before the national court.²² More recently, the Irish Department of Education reached an out-of-court settlement in the first known case brought before a national court under the terms of the Remedies Directive (89/665).²³

Usually, improper application of the procurement directives takes place at the regional and local levels, rather than at the national level of government.²⁴ Sometimes lack of compliance stems from unlikely problems, such as the lack of a fax machine to communicate tender notices to the EC Commission for publication.²⁵ Also, the sensitive nature of these directives allows pockets of resistance to remain. Italy and the Länder (regional state) governments in Germany have been cited in particular as having enforcement problems, especially with utilities.²⁶ Nonetheless, sources suggested that the procurement market is opening, though slowly. For example, Danish officials said the Danish furniture industry recently won the largest outside contract for furniture in its history from a Dutch public authority.²⁷

¹⁹ Danish Government official, interview by USITC staff, Copenhagen, Sept. 30, 1993.

²⁰ EC Commission, *Reinforcing the Effectiveness of the Internal Market, Working Document of the Commission on a Strategic Programme on the Internal Market*, COM (93) 256 final, June 2, 1993, p. 14.

²¹ *Common Market Reporter* (Commerce Clearing House (CCH)), Aug. 24, 1989, p. 7.

²² Danish Government official, interview by USITC staff, Copenhagen, Sept. 30, 1993.

²³ *Common Market Reporter, New Developments, Transfer Binder, New Developments Reported January 1991-August 1993*, (CCH Europe), p. 53,169.

²⁴ EC Committee of the American Chamber of Commerce, meeting with USITC staff, Brussels, Oct. 5, 1993.

²⁵ EC Commission officials, interview by USITC staff, Brussels, Oct. 4, 1993.

²⁶ The Economist Intelligence Unit, *European Trends*, 3d quarter 1993, p. 56.

²⁷ Danish Confederation of Industries, meeting with USITC staff, Oct. 1, 1993.

Internal Energy Market

Although the EC Commission's 1985 White Paper did not explicitly address the energy sector, the goal to complete the internal energy market (IEM) by January 1, 1993, was considered an integral part of the EC broader single-market program. The EC Commission set up a three-part process to complete the IEM. As of September 1, 1993, only the three directives relating to price transparency and cross-boarder transit of gas and electricity, which constitute the first of the three stages, had been adopted by the EC Council (see table 3-4). Because the EC has not approved the final two stages, the IEM program remains largely incomplete.

The three directives that make up the first phase have entered into effect. As shown in table 3-5, member states had transposed 75 percent of these directives into national laws as of September 1, 1993. In addition, EC officials report that their updated records show that two member states have done so that had previously been shown not to have implemented directives.²⁸ If these changes are taken into account, member states have transposed 81 percent of these directives. Based on this information, member-state transposition of EC energy legislation is substantially complete.

Spain is the only member state that had not transposed Directive 90/377 on Price Transparency into national law as of September 1, 1993. Spanish delay in implementing the directive is reportedly due to that country's inexperience in the natural gas sector; natural gas was not introduced into Spain until November 1992.²⁹ Spanish Government officials

²⁸ EC official, telephone interview by USITC staff, Oct. 25, 1993.

²⁹ Ibid.

reported on September 23, 1993, that the directive will be implemented by royal decree.³⁰ They indicated that the directive was at the country's Council of Ministers level, which approves all royal decrees, and was awaiting a Council report. The EC is in the process of updating its records to show that Greece effectively transposed the directive in 1991, when it adopted implementing legislation related to electricity pricing.³¹ Since Greece has no natural gas energy, it is not being required to establish pricing procedures with regard to gas.³²

EC officials report that all member states have transposed Directive 90/547 on Electricity Transit. The EC Commission is in the process of updating its records to show that Spain, the last country to implement the directive, transposed the directive in March 1993.³³ Spanish Government officials confirmed that the directive was implemented by royal decree in that month.³⁴ However, EC officials indicate implementation by Spain was not properly communicated and recorded within the EC Commission until October 1993.³⁵

³⁰ Spanish Government officials, interview by USITC staff, Madrid, Sept. 23, 1993.

³¹ EC official, telephone interview by USITC staff, Oct. 25, 1993.

³² The deadline for implementation of the directive for countries where no natural gas is available on the national market is 5 years after the introduction of natural gas on the market. *Official Journal of the European Communities (OJ)* No. 185 (July 17, 1990); EC official, interview by USITC staff, Brussels, Oct. 4, 1993; and EC official, telephone interview by USITC staff, Oct. 25, 1993.

³³ EC official, telephone interview by USITC staff, Oct. 25, 1993.

³⁴ Spanish Government officials, interview by USITC staff, Madrid, Sept. 23, 1993.

³⁵ EC official, telephone interview by USITC staff, Oct. 25, 1993.

Table 3-4
Internal energy market: List of measures with implementation dates before Sept. 1, 1993

Measure	Title
90/377-Dir.	Transparency of gas and electricity prices
90/547-Dir.	Transit of electricity through transmission grids
91/296-Dir.	Transit of natural gas through the major systems

Source: Compiled by USITC from official sources issued by the Commission of the European Communities.

Table 3-5
Internal energy market: Percent of EC 92 legislation implemented

	Measures applicable	Number of derogations outstanding	Actual implementations by EC member states	Percent implemented
Internal energy market	3	0	27	75.00

Source: Compiled by USITC from official sources issued by the Commission of the European Communities.

Six countries had still not transposed Directive 91/296 on Gas Transit into national law as of September 1, 1993. Although the Spanish legislature proposed implementing legislation in September 1992, the transposing legislation had still not been enacted in Spain as of October 1993.³⁶ An EC official indicated that because Spain became connected to natural gas only on November 1, 1992, the directive had little practical effect for the Spanish economy, and thus may have had less priority in the Spanish legislative process until recently.³⁷ Spanish Government officials state that both the Gas Transit and the Price Transparency Directives will be transposed by the same royal decree.³⁸

Portugal still has no natural gas industry, and so the Gas Transit Directive continues to have lower priority in the Portuguese legislative process, according to a Portuguese Government official.³⁹ Nevertheless, EC officials report that Portugal is still required to implement this directive and was sent an infringement letter in 1992.⁴⁰ Infringement procedures were also instituted against Luxembourg and Italy in 1992 for not having transposed the directive; however, there was still no indication of progress toward transposition in either of those countries as of October 1993.⁴¹

Germany has indicated to EC officials that it will transpose the Gas Transit Directive after proposed changes in the directive annex are made to take into account German reunification and the new German Länder.⁴² In March 1993, France reported to EC officials that it would enact appropriate measures to implement the directive.⁴³ However, EC officials indicate they are still uncertain of the status of France on transposition of the directive. Some industry officials suggest that the natural gas monopoly and dominant position of France in the gas sector may be responsible for its slowness in transposing the directive, which represents the first stage in liberalization of the natural gas market.⁴⁴

³⁶ Ibid.

³⁷ Ibid.

³⁸ Spanish Government officials, interview by USITC staff, Madrid, Sept. 23, 1993.

³⁹ Portuguese Government official, interview by USITC staff, Lisbon, September 21, 1993.

⁴⁰ EC official, telephone interview by USITC staff, Oct. 25, 1993.

⁴¹ Ibid.

⁴² Ibid.

⁴³ EC officials, telephone interviews by USITC staff, Oct. 18 and Oct. 25, 1993.

⁴⁴ European natural gas industry representative, telephone interviews by USITC staff, Oct. 19 and 25, 1993.

Financial Services

The EC 1992 financial services directives fall into three main categories: banking, securities, and insurance. Table 3-6 shows the directives in each category. The Capital Movements Directive (88/361) is in a separate category because it affects all three sectors. As shown in table 3-7, the overall rate of implementation for financial services is 84 percent. The securities sector leads implementation with 88 percent, followed by insurance with 81 percent, and banking with 80 percent. All member states have implemented the Capital Movements Directive. Out of a total of 22 measures, Denmark has the highest rate of implementation in financial services, with no directives awaiting implementation. Greece lags behind with 10 directives awaiting implementation.

Banking

The EC Council has adopted a majority of the directives that make up the EC 1992 program in the banking sector of financial services. Two of the eight banking directives requiring implementation by September 1, 1993, have been implemented by all member states. The remaining six directives have varying rates of implementation. One member state has failed to implement four of the directives, and one member state has failed to implement three of the directives. As shown in table 3-7, the implementation rate in the banking sector is 80 percent, and member-state transposition can be considered substantially complete.

The Money Laundering Directive (91/308) appears the most problematic. An EC official from the Banking Division, in the Directorate General for Internal Market and Financial Services (DG XV),⁴⁵ cited several reasons for the low rate of member-state implementation. He said money laundering is a multidisciplinary matter that affects securities, criminal, banking, and insurance law, causing technical problems during implementation. First, a member state may have to adopt a law that makes money laundering a criminal act, before it can implement the directive. Also, parliaments may have to debate which institutions and/or professions (beyond financial institutions) the directive should cover, such as notaries, lawyers, casinos, or real estate agencies. Finally, the directive must also take account of different member-state legal traditions, i.e., common vs. civil law.

⁴⁵ EC officials, interview by USITC staff, Brussels, Oct. 6, 1993.

Table 3-6
Financial sector: List of measures with implementation dates before Sept. 1, 1993

Measure	Title
BANKING	
86/635-Dir.	Annual accounts of banks and other financial institutions
89/117-Dir.	Annual accounting documents of credit & fin. institutions
89/299-Dir.	Own funds of credit institutions
89/646-Dir.	Business of credit institutions (Second Banking Directive)
89/647-Dir.	Solvency ratio for credit institutions
90/88-Dir.	Consumer credit
91/308-Dir.	Money laundering implementation
92/30-Dir.	Supervision of credit institutions on a consolidated basis
SECURITIES	
85/611-Dir.	Undertakings for collect. investment in securities (UCITS)
87/345-Dir.	Requirements for official stock exchange listing
88/220-Dir.	Special measures for certain investments (amends 85/611)
88/627-Dir.	Disclosure for changes in major stock holdings
89/298-Dir.	Requirements for the public-offer prospectus of securities
89/592-Dir.	Coordination of regulations on insider trading
90/211-Dir.	Mutual recognition of public-offer prospectuses
INSURANCE	
87/343-Dir.	Credit and suretyship insurance
87/344-Dir.	Legal-expenses insurance
88/357-Dir.	Non-life insurance: freedom to provide services
90/232-Dir.	Third directive on motor vehicle liability insurance
90/618-Dir.	Motor vehicle (non-life) liability insurance
90/619-Dir.	Life assurance: freedom to provide services
OTHER	
88/361-Dir.	Liberalization of all capital movements

Source: Compiled by USITC from official sources issued by the Commission of the European Communities.

Table 3-7
Financial sector: Percent of EC 92 legislation Implemented

	Measures applicable	Number of derogations outstanding	Actual Implementations by EC member states	Percent Implemented
Financial sector	22	0	221	83.71
Banking	8	0	77	80.21
Securities	7	0	74	88.10
Insurance	6	0	58	80.56
Other	1	0	12	100.00

Source: Compiled by USITC from official sources issued by the Commission of the European Communities.

At present, five member states—Belgium, Denmark, France, Italy, and Luxembourg—have notified the EC Commission of national legislation. Reportedly, the Luxembourg Parliament approved a new “Law Concerning the Financial Sector” that transposed the Money Laundering Directive into national law.⁴⁶ Denmark passed a bill on money laundering in late May 1993, after the Government confirmed that it applied to severe tax fraud and pledged that other relevant Danish legislation would be

revised to incorporate money laundering legislation into laws relating to smuggling and gambling.⁴⁷

Portugal and the United Kingdom have completed transposition, according to an official from DG XV, but have not notified the EC Commission. In Germany, legislation to make money laundering illegal was passed in 1992. The legislation for full implementation of the directive is in the parliamentary conference

⁴⁶ Government of Luxembourg, *Directives Marche Interieur Transposees*, Sept. 14, 1993; and “Luxembourg Adopts New Finance Law Enacting Second Banking Directive,” *Eurowatch*, Washington, DC (Apr. 5, 1993), p. 8.

⁴⁷ U.S. Department of State telegram, “EC Single Market Directives: Embassy involvement in review of ‘Single Market’ Directives,” prepared by U.S. Embassy in Copenhagen, Sept. 28, 1993.

committee and is expected to pass by the end of 1993.⁴⁸

Some member states, including the Netherlands, Spain, and Ireland, are still discussing the national legislation in their respective parliaments. In Greece the preliminary work has been done.⁴⁹ According to Spanish Government officials, implementation is difficult because it requires a law that amends the penal code and involves sensitive political issues. A draft law was pending in Spanish Parliament, but the government's dissolution now means that Parliament must start the process again.⁵⁰

The other problematic directive appears to be Directive 92/30 on the Supervision of Credit Institutions. According to EC statistics presented in appendix C, Germany, France, Greece, and Luxembourg have failed to implement the directive. However, another source lists only Greece and France as not implementing the directive.⁵¹ In Germany the directive reportedly will be implemented under the fifth reform of the German Banking Act. Although the draft German legislation is currently under consideration, it is unlikely that the act will pass before the end of 1993.⁵²

Only a few member states have failed to implement the remaining directives. According to appendix C, the Annual Accounts Directive (86/635) has not been implemented by Greece or Luxembourg, although the Government of Luxembourg indicates that this directive has been transposed into law.⁵³ The status of the directive in Greece is unclear; there does not appear to be much progress. The Directive on Accounting Documents of the Credit and Financial Institutions (89/117) has not been implemented by Greece, but a draft Presidential decree has been prepared.⁵⁴

⁴⁸ U.S. Department of State telegram, "USITC Section 332 Study on EC Member State Implementation of 1992 Directives - Germany," message reference No. 26298, prepared by U.S. Embassy, Bonn, Sept. 1993.

⁴⁹ U.S. Department of State telegram, "USITC Section 332 Study on EC Member State Implementation of 1992 Directives—Greece," message reference No. 10578, prepared by U.S. Embassy, Athens, Oct. 1993.

⁵⁰ Spanish Government officials, meeting with USITC staff, Madrid, Sept. 23, 1993.

⁵¹ Centre For European Policy Studies, "Towards a European Financial Area: Achievements, Implementation and Remaining Hurdles," 1993, p. 13.

⁵² U.S. Department of State telegram, "USITC Section 332 Study on EC Member State Implementation of 1992 Directives - Germany," message reference No. 26298, prepared by U.S. Embassy, Bonn, Sept. 1993.

⁵³ Government of Luxembourg, *Directives Marche Interieur Transposees*, Sept. 14, 1993.

⁵⁴ U.S. Department of State telegram, "USITC Section 332 Study on EC Member State Implementation of 1992 Directives—Greece," message reference No. 10578, prepared by U.S. Embassy, Athens, Oct. 1993.

Although EC Commission statistics presented in appendix C show that Luxembourg has not implemented the Second Banking Directive (89/646), according to other sources, Luxembourg's new Financial Services Law, which implements the Money Laundering Directive (see above) also implements the Second Banking Directive.⁵⁵

Securities

The EC Council has adopted a majority of the directives that make up the EC 1992 program in the securities sector of financial services. However, the key framework directive, the Investment Services Directive (93/22), has an implementation date of July 1, 1995. Until this directive is completely implemented, some member-state markets will not be fully liberalized despite high implementation rates of the follow-on directives examined in this section. As shown in appendix C, only 1 of the 7 directives requiring implementation by September 1, 1993, has been implemented by all 12 member states. The remaining six directives have varying rates of implementation, ranging between one and three member states failing to implement. Implementation in the securities sector can be considered substantially complete with a rate of 88 percent, as shown in table 3-7.

Appendix C shows that the Disclosures for Changes in Major Stock Holdings Directive (88/627) has not been implemented by Germany, Italy, and the United Kingdom. However, a different source says that Italy implemented the directive by legislative decree on January 27, 1992.⁵⁶ The Insider Trading Directive (89/592) has not been implemented by Germany and the United Kingdom. Reportedly, the Insider Trading Directive will require the United Kingdom to enact primary legislation that is essentially an act of Parliament involving extensive revision of existing legislation.⁵⁷ In Germany, both directives (88/627 and 89/592) will be implemented as part of the Second Financial Market Promotion Law. The law is in a preliminary drafting stage and is not expected to pass until the middle of 1994. The key issues reportedly are disagreements over creation of a Federal regulatory body, and the appropriate definition of

⁵⁵ "Luxembourg Adopts New Finance Law," p. 8; Government of Luxembourg, *Directives Marche Interieur Transposees*, Sept. 14, 1993.

⁵⁶ U.S. Department of State telegram, "USITC Section 332 Study on EC Member State Implementation of 1992 Directives—Italy," message reference No. 17194, prepared by U.S. Embassy, Rome, Oct. 1993.

⁵⁷ U.S. Department of State telegram, "USITC Section 332 Study on EC Member State Implementation of 1992 Directives—United Kingdom," message reference No. 18078, prepared by U.S. Embassy, London, Oct. 1993.

insider trading.⁵⁸ Greece has not implemented the Mutual Recognition of Public Offer Prospectus Directive (90/211). The Presidential decree for this directive is reportedly ready for approval and awaits final signatures.⁵⁹

Insurance

The EC Council has adopted a majority of the directives that make up the EC 1992 program in the insurance sector of financial services. However, two key directives, the Third Life and the Third Nonlife Directives (92/96 and 92/49) have an implementation deadline of December 31, 1993. As in the securities sector, these two directives provide the framework for insurance liberalization, and the EC program in insurance will not be fully realized until these directives are implemented. As shown in appendix C, only 2 of the 6 directives requiring implementation by September 1, 1993, have been implemented by all 12 member states. The remaining 4 directives have varying rates of implementation ranging between 11 and 7 member states with full implementation. Based on this information, the implementation rate in the insurance sector is 81 percent, and implementation can be considered substantially complete.

Greece is the only member state that has not implemented the Second Nonlife Insurance Framework Directive (88/357), but this directive has been superseded by another directive with a later implementation date. Belgium, Spain, Greece, Italy, and Portugal have not implemented the Third Motor Vehicle Liability Insurance Directive (90/232). According to Spanish officials, a draft law was pending in the Spanish Parliament, but the government's dissolution means that Parliament must start the process over again.⁶⁰ Greece reportedly has prepared a draft Presidential decree to transpose this directive.⁶¹ Italy reportedly directly enacted this directive in its 1991 omnibus bill.⁶² The Motor Vehicle (Nonlife)

Liability Insurance Directive (90/618) has not been implemented by Germany, Spain, and Greece. In Germany, directive 90/618 will be implemented as part of an amendment to the Insurance Oversight Law.⁶³ According to Spanish officials, a draft law was pending in Parliament, but because of the government's dissolution, it must start the process anew.⁶⁴ In Greece, a draft Presidential decree draft has reportedly been prepared in relation to this directive by the Greek Government.⁶⁵

Customs Controls on the Movement of Goods

In addition to the customs-related measures actually proposed in the White Paper, the EC Council has approved many others to eliminate obstacles to the movement of goods across the internal EC frontiers.⁶⁶ All but a few of these enactments took the form of regulations, directly applicable in the member states but potentially requiring adjustments in member-state laws, regulations, and procedures.⁶⁷ Apart from three decisions and recommendations issued by the EC Council, 29 regulations and 5 directives were enacted with effective dates of September 1, 1993 or earlier (table 3-8). As shown in table 3-9, the overall rate of implementation by the member states exceeded 93 percent on that date. With respect to the movement of goods among member states, implementation of the single market measures is virtually complete.

⁵⁸ U.S. Department of State telegram, "USITC Section 332 Study on EC Member State Implementation of 1992 Directives—Germany," message reference No. 26298, prepared by U.S. Embassy, Bonn, Sept. 1993.

⁵⁹ Spanish Government officials, meeting with USITC staff, Madrid, Sept. 23, 1993.

⁶⁰ U.S. Department of State telegram, "USITC Section 332 Study on EC Member State Implementation of 1992 Directives—Greece," message reference No. 10578, prepared by U.S. Embassy, Athens, Oct. 1993.

⁶¹ It has been asserted that the measures adopted to date do not in fact fully achieve the stated objectives, especially for ordinary consumer goods. See press release, "No Single Market for Europe's Consumers on 1 January 1993," Bureau European des Unions de Consommateurs (BEUC), Brussels, Dec. 17, 1993.

⁶² The EC Commission does not attempt to ensure uniformity of the wording of customs regulations but only of the results of their application. Speech by Richard Condon, Directorate General XXI (Customs and Indirect Taxation), entitled "Improvements in Customs Working Methods in the European Community," reprinted by the EC Commission, May 1993. Differing trade patterns and problems in various areas require some variation in member-state approaches, but a greater degree of coordination and information exchanges characterizes the current approach. See unclassified cables 5803 (May 1993), 6131 (May 1993), and 9165 (Aug. 1993) from U.S. Customs Attache, Brussels, regarding fraud prevention and customs enforcement.

⁵⁸ U.S. Department of State telegram, "USITC Section 332 Study on EC Member State Implementation of 1992 Directives—Germany," message reference No. 26298, prepared by U.S. Embassy, Bonn, Sept. 1993.

⁵⁹ U.S. Department of State telegram, "USITC Section 332 Study on EC Member State Implementation of 1992 Directives—Greece," message reference No. 10578, prepared by U.S. Embassy, Athens, Oct. 1993.

⁶⁰ Spanish Government officials, meeting with USITC staff, Madrid, Sept. 23, 1993.

⁶¹ U.S. Department of State telegram, "USITC Section 332 Study on EC Member State Implementation of 1992 Directives—Greece," message reference No. 10578, prepared by U.S. Embassy, Athens, Oct. 1993.

⁶² U.S. Department of State telegram, "USITC Section 332 Study on EC Member State Implementation of 1992 Directives—Italy," message reference No. 17194, prepared by U.S. Embassy, Rome, Oct. 1993.

Table 3-8
Customs controls on the movement of goods: List of measures with implementation dates before Sept. 1, 1993

Measure	Title
85/347-Dir.	Duty-free allowance for fuel in bus tanks
85/1900-Reg.	Single Administrative Document (import/export forms)
85/1901-Reg.	Single Administrative Document (external trade)
86/1797-Reg.	Abolition customs presentation charges (postal fees)
86/3690-Reg.	TIR Convention (eliminates customs formalities)
87/1674-Reg.	Transit procedure simplification (guarantee waivers)
88/4283-Reg.	Introduction of common border posts ("banalisation")
89/604-Dir.	Exemption for permanent imports of personal property
89/1292-Reg.	Movement of goods for temporary use in another state
90/474-Reg.	Abolishes lodgement of the transit advice note
90/504-Dir.	Release of goods for free circulation
90/1716-Reg.	Persons liable for payment of a customs debt
90/2561-Reg.	Customs warehouses (operation; simplified procedures)
90/2920-Reg.	Implements and simplifies EC transit procedure (combined road-rail transit)
90/3185-Reg.	Outward processing
91/342-Dir.	Inspection of goods carried between member states
91/456-Reg.	Common definition of the concept of the origin of goods
91/477-Dir.	Control of the acquisition and possession of weapons
91/664-Reg.	EEC-EFTA common transit procedure
91/717-Reg.	Single Administrative Document (internal trade)
91/718-Reg.	Movement of goods within the Community
91/720-Reg.	Customs control processing of goods
91/3648-Reg.	Introduction of common border posts
91/3717-Reg.	Goods to be processed by customs before circulation
92/1214-Reg.	Community transit procedure and certain simplifications (forms, enforcement, use of commercial docs.)
92/1823-Reg.	End of baggage control of persons in intra-EC transit
92/2453-Reg.	Single Administrative Document (forms, computer versions)
92/2560-Reg.	Community transit procedure and certain simplifications (guarantees retained; increased risk categories)
92/2674-Reg.	Info. on goods classification in customs nomenclature
92/2713-Reg.	Movement of goods btw. certain parts of the Community
92/3001-Reg.	Customs warehouses (extends 90/2561)
92/3269-Reg.	Provisions for goods export/reexport leaving the EC
92/3694-Reg.	Single Administrative Document (statistical codes)
93/339-Reg.	Conformity of non-EC imports with product safety rules

Source: Compiled by USITC from official sources issued by the Commission of the European Communities.

Table 3-9
Customs controls on the movement of goods: Percent of EC 92 legislation implemented

	Measures applicable	Number of derogations outstanding	Actual Implementations by EC member states	Percent implemented
Goods	34	0	380	93.37

Source: Compiled by USITC from official sources issued by the Commission of the European Communities.

Although the Community Customs Code is perhaps the most significant regulation adopted during the internal market program, the pertinent regulation has an application deadline of January 1, 1994. The code will supersede many customs laws of the EC, both long-standing and recent, but the EC Commission reportedly has not yet finalized draft implementing rules for the member-states customs authorities. It should be noted that directive 90/504, which is not yet fully implemented by the member states, may be

substantively subsumed by the code, and may account for incomplete transposition of the directive to date.

For the 5 directives considered alone, the rate of implementation is a much lower figure of 55 percent, despite the fact that 11 member states have transposed directive 89/604. No single member state is notably better or worse than the other 11 in implementing these 5 directives. As to directives 85/347, 89/604, 90/504, and 91/342, the lower figure is attributable in large part

to uncertainty through 1992 as to the final treatment of the subject matter in the broader Customs Code⁶⁸ and in measures dealing with excises and the value-added tax (VAT).⁶⁹ The code and tax measures were finalized during 1992, relatively late in the scheduled work program. They added to the otherwise high volume of single-market measures from that year requiring transposition. Only at that point could ministries and committees in the member states efficiently obtain necessary domestic data and draft transposing texts for review and enactment. These delays meant that detailed domestic implementing bills could not be completed or submitted until 1992 or 1993.

Information received in fieldwork and cables during September-October 1993 suggested that, as discussed below, some member states had recently transposed some of these directives into national laws, and many member states have put in place interim customs measures to implement some of the code's simplified procedures. For example, the Netherlands reported that it had transposed directive 90/504 into domestic law during 1993.⁷⁰ Also, the requirements of that directive have reportedly been made effective in all of the member states except Italy and Greece.⁷¹ The customs changes prompted by the Schengen Agreement, as discussed in the other reports in this investigation, likely encouraged these procedural revisions in the member states.

To a lesser extent, some causal factors that were reported for transposition delays in other subject areas have affected the pace of implementation of customs directives; similarly, the delays do not seem to reflect policy opposition on the part of or within member states. In themselves, border formalities, in fact, have generated no political controversy because public and private entities have seen the widely implemented onsite changes as beneficial. Instead, the delays

originate in member-state parliamentary rules, legal mechanisms for passing transposing measures, overall workloads, staffing levels, and complexities in amending existing national laws and regulations. The time and effort needed to join the many customs-related electronic networks has resulted in a longer preparation time prior to their implementation, prolonged by the need to obtain and configure necessary equipment. Differences in existing member-state statistical regimes account for more delay. Last, because of the elimination of internal customs controls, an estimated 80,000-100,000 customs jobs were lost in 1993, causing adjustment problems in some member states and delaying final implementation of remaining customs directives.⁷²

Implementation of Directive 91/477 on the Acquisition and Transport of Firearms has caused continued concern in some member states about the adequacy of controls that are imposed only at external EC frontiers. The Communitywide computerized information-sharing network that would be needed to enforce this directive is still undergoing review and modification, and member states have little experience in using such a system.⁷³ Appendix C to this report indicates that six member states have not yet implemented this directive, but two of these member states indicated separately that in fact they have done so. According to the Government of the Netherlands, the necessary domestic legislation was recently passed.⁷⁴ Greece also reported that it had recently adopted the needed domestic legislation.⁷⁵ Germany indicated that implementation problems were due apparently to differences between this directive and the Schengen Agreement, and that the directive would not be implemented until late 1993 or early 1994.⁷⁶

In general, available information (including that of recent interviews⁷⁷) indicates that most internal

⁶⁸ The measure does not require harmonization of export controls, although framework rules have been instituted, or of so-called special area regimes (those for areas of special sovereignty, such as for Greenland, St. Pierre et Miquelon, Andorra, the Isle of Man, and so forth). See *European Report*, "Customs Union: Court of Auditors Examines Special Regimes," No. 1867, Internal Market p. 7 (June 16, 1993), citing report No. 2/93 of the Court of Auditors in Luxembourg. Export rules were of particular importance given the rebates that can be collected with respect to certain agricultural exports and the VAT refunds for goods purchased for export by third-country nationals.

⁶⁹ For example, Directive 92/12, Products subject to Excise Duty and their Monitoring (implemented as of Jan. 1, 1993).

⁷⁰ Government of the Netherlands, *Report to Parliament on Implementation of Directives, as of 30 June 1993*.

⁷¹ EC Commission official, interview by USITC staff, Brussels, Oct. 5, 1993.

⁷² See, for example, U.S. Department of State telegram, message reference No. 17288, prepared by U.S. Embassy, Rome, Oct. 1993.

⁷³ Without internal border controls, incompatible member-state information-gathering systems cannot serve as interim mechanisms until EC-wide networks are fully established, and statistical data reportedly are not yet maintained at the Community level.

⁷⁴ Government of the Netherlands, *Report to Parliament on Implementation of Directives as of June 30, 1993*.

⁷⁵ U.S. Department of State telegram, message reference No. 10578, prepared by U.S. Embassy, Athens, Oct. 1993. The EC Commission has not indicated if it finds the Greek legislation satisfactory.

⁷⁶ U.S. Department of State telegram, message reference No. 29046, prepared by U.S. Embassy, Bonn, Oct. 21, 1993.

⁷⁷ For example, in an Oct. 5, 1993, interview, one official of Directorate General IX, EC Commission, indicated that most controls had been eliminated; some firms, such as Kodak and Coca-Cola, reportedly had already made progress toward rationalizing their EC operations.

customs controls have been dropped; it is reported that formality-free crossings occur at many frontier points, and that business interests have reacted positively to the changes. No member state has yet been the subject of judicial proceedings for improper application of EC measures, because the customs controls system is so new.⁷⁸ Although the EC Commission hears of many instances of alleged wrongful application of specific customs measures, infringement proceedings appear unlikely unless the practices persist.⁷⁹ However, as noted above, serious difficulties continue in implementing EC-wide statistical regimes and other information-sharing systems.

Free Movement of Persons

The Community has adopted the White Paper proposals to give freedom of movement, of residence, of employment/establishment, and of study to EC nationals.⁸⁰ The adoption represents a continuation and expansion of the commitment in the EC Treaty to give these rights to workers, which likely will continue as economic conditions and the nature and location of jobs and professions change.⁸¹ The new measures provided the above-listed rights to nonworkers—regardless of their member state of residence—to students, retired persons, the unemployed (whether or not seeking positions), and family members and servants.

As categorized in this investigation, 19 EC measures on these issues (4 of which were adopted as regulations) with application deadlines before September 1, 1993, were approved, along with 1 decision (table 3-10). As shown in table 3-11, the implementation rate for the 19 measures considered is approximately 87 percent; without considering the four regulations, the rate is about 83 percent.⁸² Denmark

⁷⁸ Ibid.

⁷⁹ EC Commission official, interview by USITC staff, Brussels, Oct. 5, 1993.

⁸⁰ One pamphlet stated that as of January 1993 it became possible for EC nationals and their families and servants to "move house" anywhere within the EC without restriction. EC Commission, "The Single Market for Goods" (Mar. 1993).

⁸¹ We note that in an Oct. 5, 1993, interview, one official of Directorate General IX, EC Commission, said that passports were still being requested, even of EC nationals, at all member-state airports except one in Denmark; and that there was some feeling among member states against taking further liberalizing actions in the short term. Thus, even among the countries that have implemented the Schengen Agreement (discussed in earlier reports in this investigation), some formalities apparently remain at internal entry points.

⁸² Derogations as to the Commercial Agents Directive (86/653) were accorded to Ireland and the United Kingdom, whose legal regimes did not accommodate the Community measure and which required transition periods.

has implemented all of these directives, whereas Belgium appears to have implemented the least. Overall, it may be said that implementation is substantially complete, although ongoing judicial proceedings regarding several member states and directives suggest some problems. Also, two important directives (92/51, on Recognition of Professional Education and Training, and 93/16, on Mutual Recognition of Diplomas for Doctors) have later implementation dates of June 18, 1994, and January 1, 1995, respectively.

Delays in transposing these EC measures occur for two main reasons (in addition to the general legal and parliamentary ones already noted): (1) the wide range of professions and vocations covered, with differing regulatory structures and bodies, training programs, responsibilities, and titles, and (2) the fact that the EC directives leave the choice of implementation forms and methods to each member state. As does the United States, the EC member states empower many private or quasi-public associations, guilds, and other entities to regulate qualifications and discipline credentials holders. The governments cannot always mandate that these entities take particular actions or follow a set schedule. Efforts have been made in the member states, despite resulting transposition delays, to avoid putting persons currently in training or probationary programs at a disadvantage with respect to those already working, or to change curricula or other requirements midway through ongoing programs. In addition, some of the smaller countries, such as Luxembourg, do not have local university or other training programs for many of the professions covered by these directives, while the largest countries have many job and license categories and supervisory bodies. The differing needs of these countries affect their approaches toward transposition of the directives: the small countries focus on regulation and discipline of those already licensed who will come within their borders to work, rather than on curriculum or job title measures, and the large countries focus on the need to assess and phase-in increased competition (possibly harming their own citizens) for a declining number of positions.

Many of the member states have multilayered institutional mechanisms for adopting regulatory and legislative changes, and some (such as Spain⁸³) reportedly have entities that must approve draft bills before parliamentary action can begin. The many languages of the EC might also discourage free

⁸³ The General Commission of State Secretaries must approve draft bills and submit them to the Parliament. Meeting with officials of Directorate General III, EC Commission (Oct. 4, 1993).

Table 3-10**Free movement of persons: List of measures with implementation dates before Sept. 1, 1993**

Measure	Title
85/348-Dir.	Exemption from turnover taxes, as amended by 88/664
85/368-Dec.	Comparability of vocational training qualifications
85/432-Dir.	Coordinates provisions in the field of pharmacy
85/433-Dir.	Mutual recognition of diplomas in pharmacy
85/584-Dir.	Mutual recognition of diplomas (training > 3 years)
86/653-Dir.	Commercial agents
88/664-Dir.	Allowances in intra-Community travel
89/48-Dir.	Mutual recognition of higher education diplomas
89/594-Dir.	Mutual recognition of diplomas in medicine
89/595-Dir.	Mutual recognition of diplomas for nurses
89/684-Dir.	Vocational training for drivers with dangerous goods
89/2332-Reg.	Social security benefits (for persons moving in EC)
89/3427-Reg.	Social security benefits (residence of families)
90/364-Dir.	Right of residence - general directive
90/365-Dir.	Right of residence - employees and retired persons
90/366-Dir.	Right of residence - students
90/658-Dir.	Mutual recognition of diplomas (training < 3 years)
90/1360-Reg.	European Training Foundation
92/2434-Reg.	Freedom of movement for workers within the Community

Source: Compiled by USITC from official sources issued by the Commission of the European Communities.

Table 3-11**Free movement of persons: Percent of EC 92 legislation Implemented**

	Measures applicable	Number of derogations outstanding	Actual implementations by EC member states	Percent Implemented
Persons	19	3	195	86.67

Source: Compiled by USITC from official sources issued by the Commission of the European Communities.

movement, in view of how hard it is to distinguish between valid qualifying standards and improper discrimination.⁸⁴ Two final problems have been the slow completion and transposition of the social dimension program, and the lack of harmonization of social benefit programs and payments.

According to appendix C, seven member states—Denmark, Spain, Greece, Italy, Ireland, Luxembourg, and Portugal—have implemented all three directives on the right of residence (90/364, 90/365, and 90/366). According to the same source, Germany, France, and the Netherlands have not implemented any of these directives. However, in a separate communication, the EC Commission shows that the Netherlands has transposed all three directives.⁸⁵

⁸⁴ See *Written Question No. 2161/92 (by Mr. Karl von Wogau) of Sept. 1, 1992, and Answer (by Mr. Bangemann for the EC Commission) of Oct. 21, 1992, OJ No. C 32 (Feb. 4, 1993), pp. 36-7*, dealing with a British secondary-school teacher attempting to obtain a post in Germany; and a similar question as to a British teacher trying to teach in France, *Written Question No. 769/92 (by Mr. Christopher Jackson) of Apr. 6, 1992, and Answer (by Mr. Bangemann for the EC Commission) of Oct. 15, 1992, OJ No. C 51 (Feb. 22, 1993), pp. 5-6.*

⁸⁵ EC Commission, *Tenth Annual Report*, pp. 367-8.

The three right-of-residence directives are currently the subject of judicial proceedings between the EC Commission and Germany, based upon Germany's claim that the principles of the directives are already reflected in existing domestic law and that no additional legislation is needed.⁸⁶ Germany reportedly asserts that the Bundestag has taken necessary action at the Federal level to implement provisions with respect to lawyers, and that the German Länder have all enacted the necessary legislation to implement the remaining provisions. The Federal Government has been directed to clarify its position in the ongoing court action by the end of November, and presumably will explain this situation of de facto implementation. Reportedly, Directive 90/366 on the Right of Residence for Students is now being renegotiated by the EC Commission.⁸⁷ Work on these directives is believed to continue in the remaining member states, with the possible renegotiation of some portions of directive 90/366 as a potential delaying factor.

⁸⁶ U.S. Department of State telegram, message reference No. 29046, prepared by U.S. Embassy, Bonn, Oct. 21, 1993.

⁸⁷ Ibid.

As to Directive 89/48 on the Mutual Recognition of Higher Education Diplomas, partial implementation and continuing work have been reported with respect to Greece⁸⁸ and France.⁸⁹ Information indicates that the Government of Portugal has adopted measures to implement both that measure and Directive 90/658 on the Mutual Recognition of Secondary Diplomas,⁹⁰ and that Spain has notified measures to implement directives 89/48 and 89/595.⁹¹ Information on other member states' efforts is not available, although some recently adopted measures have been notified to the EC Commission.

As to the draft Dublin Convention on the right of asylum, only Denmark, Greece, and the United Kingdom had ratified it at the last report; the External Frontier Convention cannot be implemented until Spain and the United Kingdom resolve questions about the control of Gibraltar.⁹² Thus, while progress continues (especially in the area of exchange, training, and employment programs discussed in prior reports in this investigation), the EC has not achieved the removal of all internal controls on the movement of EC nationals and related persons.⁹³

⁸⁸ U.S. Department of State telegram, message reference No. 10578, prepared by U.S. Embassy, Athens, Oct. 1993, citing measures on lawyers (Presidential Decree 52/93) and medical paraprofessionals (Ministerial Decision 4112/92), effective January 1, 1993.

⁸⁹ *Written Question No. 2826/92 (by Mr. Hugh McMahon) of Nov. 16, 1992, and Answer (by Mr. Bangemann for the EC Commission) of Apr. 5, 1993, OJ No. C 185 (July 7, 1993), pp. 16-17, to the effect that most measures have been passed and that the remainder must be handled by administrative authorities on a profession-by-profession basis.*

⁹⁰ Interview of official of the Directorate of Judicial Affairs, Directorate General of the European Communities, Ministry of Foreign Affairs (Sept. 21, 1993), citing Decreto-Lei No. 289/91 of Aug. 10, 1991, and Decreto-Lei No. 186/93 of May 22, 1993.

⁹¹ Royal Decree No. 166591, as published in No. 280 of the *OJ* (Nov. 22, 1991) [as to Dir. 89/48] and Royal Decree No. 127592, No. 283 of *OJ* (Nov. 25, 1992) [as to Dir. 89/595]. Work reportedly continues on adopting regulations for certain professions, such as engineering, by the ministries concerned. Meeting with officials of the Subdirectorate General for Legal Affairs, EC State Secretariat, Ministry of Foreign Affairs, Sept. 23, 1993.

⁹² *Written Question No. 1544/92 (by Mr. Sotiris Kostopoulos) of June 16, 1992, and Answer (by Mr. Bangemann for the EC Commission) of Oct. 23, 1992, OJ No. C 32 (Feb. 4, 1993), p. 14.*

⁹³ For an example of continuing problems, see *Written Question No. 616/92 (by Mr. Rinaldo Bontempi et al.) of Mar. 23, 1992, and Answer (by Mr. Bangemann for the EC Commission) of Oct. 22, 1992, OJ No. C 32 (Feb. 4, 1993), p. 6.*

Transport

The White Paper identified the major goals for the transport sector as (1) increasing competition and relaxing economic regulation of transport services, (2) creating rules of competition, and (3) eliminating frontier checks in carriage of goods by road. The EC Council has adopted almost all of the proposals intended to effect these objectives, although legislation in the ocean-transport sector has been less complete than in the air- and surface- transport sectors.⁹⁴ In addition to White Paper measures, the EC Council has adopted a number of measures designed to harmonize standards in the area of transport services.

The EC initiatives concerning the 1992 program in transport, especially those concerning competition and economic regulation, appeared mostly in the form of regulations directly applicable to member states (table 3-12). Consequently, member-state implementation of EC transport initiatives is virtually complete. As shown in table 3-13, member states had implemented more than 94 percent of transport initiatives as of September 1, 1993.⁹⁵

Isolated problems in implementation, nonetheless, remain. Implementation has been incomplete with respect to directive 91/670, the sole 1992 program initiative issued in directive form. This measure, adopted in December 1991, requires EC member states to accept licenses of pilots, flight navigators, and flight engineers issued by other member states applying equivalent licensing standards. Greece, the Netherlands, and Portugal have not yet implemented this directive, for which implementation was supposed to be complete by June 1, 1992. The Netherlands has indicated that it is currently in the process of transposing this directive, and that transposition has been delayed because it requires "other policy changes" simultaneously.⁹⁶ An industry group indicates that implementation delays for this regulation are attributable to some member states' disagreements on the nature of training and accreditation requirements for pilots, and to resistance to imposing licensing requirements for other flight personnel not currently

⁹⁴ For a more detailed discussion of this matter, see USITC, *EC Integration: Fifth Followup*, USITC publication 2628, Apr. 1993, pp. 115-16.

⁹⁵ The table 3-13 figure slightly understates the actual rate of implementation because the underlying data base deems regulation 89/3975 to be entirely unimplemented in several member states. As explained below, however, implementation problems pertaining to that regulation concern only a small portion of the regulation; the bulk of the regulation provisions are fully applicable in all member states.

⁹⁶ Government of the Netherlands, *Report to Parliament on Implementation of Directives, as of June 30, 1993.*

Table 3-12
Transport: List of measures with Implementation dates before Sept. 1, 1993

Measure	Title
86/4055-Reg.	Maritime transport
86/4056-Reg.	Maritime transport
86/4057-Reg.	Maritime transport
86/4058-Reg.	Maritime transport
87/3975-Reg.	Rules on competition in air transport
87/3976-Reg.	Air transport, as amended by 90/2344-Reg
89/2299-Reg.	Code of conduct for computerized reservation systems
89/4060-Reg.	End of controls in road and inland waterway transport
90/3916-Reg.	Measures to be taken in crisis in carriage of goods
91/294-Reg.	Operation of air cargo services
91/670-Dir.	Personnel licenses for functions in civil aviation
91/3921-Reg.	Inland waterway cabotage for non-EC carriers
91/3922-Reg.	Harmonization of technical rules for air transport
91/3925-Reg.	Baggage controls on intra-Community air and sea service
92/684-Reg.	Rules for carriage of passengers by coach and bus
92/881-Reg.	Access to the market in the carriage of goods by road
92/2407-Reg.	Licensing of air carriers
92/2408-Reg.	Access for Community air carriers to intra-EC air routes
92/2409-Reg.	Fares and rates for air services
92/3577-Reg.	Principle of freedom to provide maritime cabotage services

Source: Compiled by USITC from official sources issued by the Commission of the European Communities.

Table 3-13
Transport: Percent of EC 92 legislation Implemented

	Measures applicable	Number of derogations outstanding	Actual Implementations by EC member states	Percent Implemented
Transport	20	1	226	94.56

Source: Compiled by USITC from official sources issued by the Commission of the European Communities.

subject to such requirements.⁹⁷ Reasons for delays in other countries may also be suggested by the experience of France, which did not implement this directive until March 1993, and indicated that its implementation was delayed because the EC Commission had failed to issue, on a timely basis, a clarification requested by the member states concerning how to implement the directive.⁹⁸

Implementation also is incomplete for a 1987 regulation (87/3975) concerning rules on competition on air transport. Although most substantive provisions of the regulation are directly applicable to member states, one provision requires member states to consult with the EC Commission before July 31, 1989, concerning procedures to assist EC Commission investigations of undertakings subject to the regulation. EC statistics as presented in appendix C show that this aspect of the regulation has not been implemented by Belgium, Germany, Greece, Italy, Luxembourg, the

Netherlands, and Portugal. Of these countries, however, the EC Commission currently has infringement proceedings outstanding against only Italy, Luxembourg, and the Netherlands, concerning failure to promulgate assistance procedures; a previous proceeding against Belgium has been closed.⁹⁹ A business official in Luxembourg stated that Luxembourg did not perceive transport as an area where implementation of EC directives was a priority.¹⁰⁰ The Dutch Government does not include this measure in its list of EC initiatives that the Netherlands has not yet implemented.¹⁰¹

Competition Policy

EC competition policy is applied primarily by articles 85, 86, 90, and 92 of the Treaty of Rome, as well as by the Merger Regulation and several block exemption regulations. No EC directives have been

⁹⁹ U.S. Mission to the EC, facsimile to USITC staff, Oct. 1993.

¹⁰⁰ Luxembourg Chambre de Commerce official, interview with USITC staff, Sept. 1993.

¹⁰¹ Government of the Netherlands, *Report to Parliament on Implementation of Directives, as of June 30, 1993*.

⁹⁷ Association of European Airlines official, interview by USITC staff, Nov. 1993.

⁹⁸ Judicial Section, Office of the French Prime Minister, interview by USITC staff, Sept. 1993.

adopted that would require transposition by the member states. As shown in table 3-14, EC legislation in the competition area has been written as regulations that are directly applicable to the member states. Therefore, implementation is complete at 100 percent (table 3-15).

Company Law

The Treaty of Rome set forth principles regarding the right of establishment and nondiscrimination of member-state enterprises, and authorized the EC Council to issue directives in pursuit of these goals.¹⁰² At the time of the White Paper, harmonizing company law in the member states still needed much work, which the White Paper specified by announcing the most important goals.¹⁰³ Thus, some of the company law directives that have been adopted and that are covered by this study pre-date the White Paper.

Many EC company law proposals have not yet been adopted. For example, the European Company Statute and several other company law proposals have not been adopted due to the controversy over worker participation. Of the EC company law directives that have been adopted, 12 have passed their implementation deadline (table 3-16). For these directives, member states have achieved an implementation rate of 80 percent (table 3-17). Based on this information, member-state implementation of company law directives can be characterized as substantially complete. However, for those company law directives adopted since 1985, which can be considered more closely a product of the White Paper, the implementation rate was only partially complete, at 58 percent.

¹⁰² See generally Treaty of Rome, title III, arts. 52-58.

¹⁰³ EC Commission, *White Paper on Completing the Internal Market*, pp. 35-37; EC Commission official, DG XV, USITC staff telephone interview, Oct. 28, 1993.

Only Denmark and the United Kingdom have implemented every company law directive.¹⁰⁴ Appendix C indicates that Belgium, Greece, Ireland, and the Netherlands have the worst implementation rates: only 8 of 12 directives. According to an EC Commission company law official, infringement proceedings for noncommunication have been brought against all member states that have failed to implement any of these 12 directives.¹⁰⁵

Member states explained the delay in implementation partly in the large number of company law directives, which impose a heavy burden on governments passing implementing legislation by the deadlines.¹⁰⁶ Further, several member-state officials noted that the company law directives were highly technical in nature and sometimes hard to transpose.¹⁰⁷ No member state indicated any political reasons for nonimplementation in this area.

Directives 90/604 and 90/605 covering exemptions for small and medium-size enterprises (SMEs) have the lowest rate of implementation, although most member states indicated that they were in the process of

¹⁰⁴ EC statistics presented in appendix C show that the United Kingdom has not yet implemented directive 90/605. However, a British official stated that this directive was implemented by a statutory instrument (No. 93/1820) on July 21, 1993. British Department of Trade and Industry, USITC staff telephone interview, Oct. 29, 1993.

¹⁰⁵ EC Commission official, DG XV, USITC staff telephone interview, Oct. 28, 1993.

¹⁰⁶ Irish Department of Tourism and Trade, USITC staff telephone interview, Oct. 26, 1993; German Ministry of Justice, USITC staff telephone interview, Oct. 27, 1993.

¹⁰⁷ Irish Department of Tourism and Trade, USITC staff telephone interview, Oct. 26, 1993. In addition, a German official stated that implementation in Germany has been slowed due to addition of the Eastern Länder whose laws must also now be harmonized with those of the rest of Germany. German Ministry of Justice, USITC staff telephone interview, Oct. 27, 1993.

Table 3-14
Competition policy: List of measures with Implementation dates before Sept. 1, 1993

Measure	Title
89/4064-Reg.	Controls business concentrations (Merger Regulation)
93/151-Reg.	Certain block exemptions from EC competition rules

Source: Compiled by USITC from official sources issued by the Commission of the European Communities.

Table 3-15
Competition policy: Percent of EC 92 legislation Implemented

	Measures applicable	Number of derogations outstanding	Actual Implementations by EC member states	Percent Implemented
Competition policy	2	0	24	100.00

Source: Compiled by USITC from official sources issued by the Commission of the European Communities.

Table 3-16
Company law: List of measures with implementation dates before Sept. 1, 1993

Measure	Title
68/151-Dir.	Disclosure and the validity of obligations entered into by, and the nullity of companies with limited liability (1st Dir.)
77/91-Dir.	Formation and capital of public limited companies
78/660-Dir.	Coordination of annual accounts
78/855-Dir.	Mergers between public limited liability companies: domestic mergers (3rd Dir.)
82/891-Dir.	Division of public limited liability companies (6th Dir.)
83/349-Dir.	Consolidated accounts
84/253-Dir.	Qualification of auditors
85/2137-Reg.	Regulation of European Economic Interest Groups
89/666-Dir.	Disclosure requirements for firms (11th Co. Law Dir.)
89/667-Dir.	Single-member private companies (12th Co. Law Dir.)
90/604-Dir.	Annual and consolidated accounts - exemptions for SMEs
90/605-Dir.	Annual and consolidated accounts - exemptions for SMEs

Source: Compiled by USITC from official sources issued by the Commission of the European Communities.

Table 3-17
Company law: Percent of EC 92 legislation Implemented

	Measures applicable	Number of derogations outstanding	Actual Implementations by EC member states	Percent Implemented
Company law	12	1	115	80.42
Since 1985	5	0	35	58.33

Source: Compiled by USITC from official sources issued by the Commission of the European Communities.

implementing them.¹⁰⁸ One reason given for the delay is that, whereas the implementation deadline of the directives was January 1, 1993, they do not enter into force until January 1, 1995.¹⁰⁹

Many member states yet to implement certain directives report that such company law directives are in the process of being implemented. For example, Spanish officials stated that all three directives that have not yet been implemented (directives 89/667, 90/604, and 90/605) will be implemented by a single law. The draft law is currently in the process of review by the Ministry of Justice.¹¹⁰ An Irish official stated that the Department of Employment and Enterprise has prepared draft statutory instruments for all of the remaining directives that have passed their implementation deadlines. The instruments have been submitted to the attorney general's office, after which

they will be officially implemented, since no Parliamentary legislation is required in their case.¹¹¹

The German Ministry of Justice reportedly has prepared draft legislation to implement directives 90/604 and 90/605; this legislation is currently under review by the other ministries that have an interest in these directives: the Ministries of Economics and of Finance. Thereafter, the directives will be considered at the Cabinet level and finally presented to Parliament with an estimated completion date in mid-1994.¹¹² In Belgium, directives 89/666 and 89/667 were partially transposed by a royal decree of December 30, 1991, but portions of these directives require an amendment to Belgian company law. The Belgian Parliament is now considering a draft law, which is now in an advanced stage in committee and should be completed by the end of the year.¹¹³

In addition, some member states claimed that they have implemented some of the directives, but that EC records do not as yet reflect this fact. For example, a German official stated that directives 89/666 and

¹⁰⁸ According to an EC Commission company law official, directives 90/604 and 90/605 do not apply to all member states since they may not all have this form of company organization (for example, Italy). EC Commission official, USITC staff telephone interview, DG XV, Oct. 28, 1993.

¹⁰⁹ German Ministry of Justice, USITC staff telephone interview, Oct. 27, 1993.

¹¹⁰ USITC staff meeting with officials of the Subdirector General for Legal Affairs, EC State Secretariat, Ministry of Foreign Affairs, Madrid, Spain, Sept. 23, 1993.

¹¹¹ Irish Department of Industry and Commerce, USITC staff telephone interview, Oct. 26, 1993.

¹¹² German Ministry of Justice, USITC staff telephone interview, Oct. 27, 1993.

¹¹³ Proposal No. 1005. Belgian Ministère des Affaires Étrangères, USITC staff telephone interview, Oct. 29, 1993.

89/667 were implemented and published.¹¹⁴ A Belgian official stated that directives 78/855 and 82/891 were only recently implemented by a law dated August 19, 1993 (published in the *Moniteur Belge*). Therefore EC data do not yet show them as implemented.¹¹⁵

Taxation

EC measures in taxation related to the 1992 program have focused on three areas: (1) harmonization of indirect taxation (value-added and excise taxes), (2) adoption of three company tax measures, and (3) establishment of a minimum tax on savings interest. The measures that relate to harmonization of indirect taxation were largely adopted and implemented in time for the removal of border controls on January 1, 1993. The two company tax directives were adopted in 1990 (table 3-18) and have been implemented in all but one member state. A company tax convention was also adopted in 1990, but it has been ratified by only two member states. The EC Council thus far has been unable to reach unanimous agreement on a directive that would set a minimum tax on savings interest, and the matter was still under study in December 1993.¹¹⁶

As shown in table 3-19, the overall rate of implementation in the field of tax is 94 percent, and thus implementation can be considered virtually complete. Measures on indirect tax lead implementation rates at 94 percent, followed by company tax law directives at 92 percent. Implementation is high, particularly in the area of indirect tax, for two reasons. First, harmonization (technically, approximation) of rates was regarded as necessary to remove border controls without economic distortions. Second, the directives were drafted to encompass, to the extent practical, the existing rates and structures of member-state systems, and to provide derogations for many of the elements of member-state systems that fell outside the norms established in the directives. For example, the United Kingdom, which traditionally has zero-rated food and has opposed having to impose a reduced rate of 5 to 9 percent on food, was given a derogation to continue zero-rating food.

¹¹⁴ Bundesministerium für Wirtschaft, USITC staff telephone interview, Oct. 27, 1993. Directive 89/666 was published in *Bundesgesetzblatt I*, p. 1282 (July 22, 1993), and directive 89/667 was published in *Bundesgesetzblatt I*, p. 2206 (Dec. 18, 1991).

¹¹⁵ Belgian Ministère des Affaires Étrangères, USITC staff telephone interview, Oct. 29, 1993.

¹¹⁶ The United Kingdom and Luxembourg continue to oppose harmonization of a withholding tax on savings. A. Hill, "UK wins 2.5% VAT for works of art," *Financial Times*, Dec. 14, 1993, p. 5.

Indirect Taxation

The EC Council adopted measures that relate to harmonization of indirect taxation only after lengthy debate and much compromise. The member states could not agree upon a permanent system for the administration of a VAT, and agreed instead only to a transitional system through January 1, 1997. Thus, the issue of a permanent system for the administration of VAT will need to be revisited in the next few years. The EC Council reached a compromise on a directive to harmonize VAT rates on second-hand goods and works of art in December 1993, after 15 years of debate, but only after the United Kingdom was authorized to apply a lower rate through June 1999.¹¹⁷

Appendix C shows that the United Kingdom has the worst record on implementation of indirect tax measures. However, the EC Commission's *Tenth Annual Report* shows that the United Kingdom has notified the EC of implementation of three of the directives listed as not implemented in appendix C (92/81, 92/82, and 92/83).¹¹⁸

The transitional system for the administration of VAT, which went into effect January 1, 1993, produced what one EC official described as "minor teething struggles."¹¹⁹ Under the transitional system, VAT is no longer paid at importation but instead is paid as part of an accounting exercise administered by the member states that involves VAT identification numbers, new accounting software, and electronic exchange of data. Many problems arose in the first few months, partly because of the late adoption of the VAT directives (late 1992), delayed submission of special VAT identification numbers to traders, late recording of intra-EC trade statistics by member states, confusion about the tax status of paper transactions involving

¹¹⁷ Under the compromise, the United Kingdom, which currently zero-rates works of art, will be authorized to impose a reduced rate of 2.5 percent on secondhand goods and works of art during a transitional period ending June 30, 1999, rather than the full 5-percent reduced rate applicable in the 11 other EC member states. The United Kingdom has long expressed concern that a higher rate would put the London art market at a disadvantage in comparison with the art markets in New York and Geneva. A. Hill, "UK wins 2.5% VAT for works of art," *Financial Times*, Dec. 14, 1993, p. 5.

¹¹⁸ EC Commission, *Tenth Annual Report*, p. 404. The report also shows as implemented in the case of certain member states three directives that appendix C shows as not requiring implementation (92/77, in the case of Denmark, and 92/79 and 92/84, in the case of Ireland).

¹¹⁹ EC Commission officials, interview by USITC staff, Brussels, Oct. 4, 1993.

Table 3-18

Tax systems: List of measures with implementation dates before Sept. 1, 1993

Measure	Title
COMPANY TAX	
90/434-Dir.	Taxation applicable to mergers, divisions, asset transfers
90/435-Dir.	Taxation applicable to parent firms and subsidiaries
INDIRECT TAX	
85/362-Dir.	Temporary importation of goods (17th VAT directive)
86/560-Dir.	Refunds to non-EC taxable persons (13th VAT directive)
89/465-Dir.	Uniform basis of assessment: abolition of derogations (18th)
91/680-Dir.	Common system of VAT
92/12-Dir.	Products subject to excise duty and their monitoring
92/77-Dir.	Common system of value added tax
92/78-Dir.	Taxes other than turnover taxes on tobacco consumption
92/79-Dir.	Approximation of taxes on cigarettes
92/80-Dir.	Taxes on tobacco other than cigarettes
92/81-Dir.	Structures of excise duties on mineral oils
92/82-Dir.	Approximation of the rates of excise duties on mineral oils
92/83-Dir.	Structures of excise duties on alcoholic beverages
92/84-Dir.	Rates of excise duty on alcoholic beverages
92/108-Dir.	Arrangements for holding products subject to excise duty
92/111-Dir.	Simplification measures with regard to value added tax
92/218-Reg.	Administrative cooperation over indirect taxation (VAT)
92/3649-Reg.	Intra-EC movement of goods subject to excise duty

Source: Compiled by USITC from official sources issued by the Commission of the European Communities.

Table 3-19

Tax systems: Percent of EC 92 legislation implemented

	Measures applicable	Number of derogations outstanding	Actual implementations by EC member states	Percent Implemented
Tax systems	19	6	208	93.69
Company tax	2	0	22	91.67
Indirect	17	6	186	93.94

Source: Compiled by USITC from official sources issued by the Commission of the European Communities.

commodities (transactions of a speculative nature are regarded as taxable events), problems in the clearance mechanism in matching bulk commodity transactions for purposes of VAT refunds,¹²⁰ and more confusion in the case of certain triangular transactions (a transaction involving three member states).¹²¹

Member states and firms have solved many initial delays and difficulties as they have become more familiar with the new system. In early November 1993, the EC Commission announced new measures to simplify the system of indirect taxation with respect to serial transactions, the provision of some services and transport, mailings of low value (such as newspapers);

¹²⁰ One official interviewed by USITC staff estimated that up to 40 percent of exporter claims for VAT refunds in the case of bulk commodity trades (for example, for oil and grains) cannot be matched because there is no offsetting importation since the bulk commodity has not crossed a border but remains in a tanker in, for example, Rotterdam.

¹²¹ EC Commission officials, interview by USITC staff, Brussels, Oct. 4, 1993.

and distance sales of products subject to excise duties.¹²² Also, the EC Council at its June 25, 1993, meeting adopted a common position on the EC Commission proposal to set up the MATHAEUS-Tax program to promote training and exchanges of information among member-state officials involved in indirect taxation matters.¹²³

Some small and medium-size businesses have complained that the new system has increased their paperwork and costs. However, the transitional system reportedly has resulted in much less total paperwork, particularly at the borders, but also in shifting some paperwork that remains, from forwarding agents to firms.¹²⁴

¹²² *European Report*, No. 1902 (Nov. 17, 1993), sec. II, p. 3.

¹²³ For further information, see *European Report*, No. 1871 (June 30, 1993), sec. II, p. 1.

¹²⁴ Danish Confederation of Industries, meeting with USITC staff, Copenhagen, Oct. 1, 1993.

Company Taxation

The two company tax directives adopted in 1990, relating to taxation of mergers, divisions, and asset transfers (90/434), and to parent firms and subsidiaries in different member states (90/435), have been implemented by all member states except Greece. It is unclear why Greece has not implemented the two directives.¹²⁵ However, the tax convention providing for elimination of certain double taxation (document 90/436) has been ratified by only two member states, Spain and France.

In July 1993, the EC Commission issued two proposed directives: one that would amend the mergers directive, and a second that would amend the parent/subsidiaries directives.¹²⁶ Both proposed directives would amend the existing directives to extend coverage to all companies established in the EC and subject to company tax, regardless of their legal form.

Intellectual Property

The EC goal in the area of intellectual property protection is to establish EC-wide regimes and/or partial harmonizations of national law. The primary goals set out in the White Paper were (1) to protect semiconductor maskworks; (2) to harmonize trademarks by creating an EC trademark regime parallel to the existing national regimes and by seeking partial harmonization among the national regimes; (3) to harmonize and strengthen member states' copyright laws, particularly with respect to audio and video recordings, computer programs, and data bases; and (4) to harmonize patent protection laws with regard to biotechnological inventions.

As of September 1, 1993, the EC Council had adopted 4 intellectual property directives out of 12 directives and regulations proposed by the EC Commission. Based on the three directives for which the implementation dates have passed, the implementation rate is only 61 percent (tables 3-20 and 3-21). Thus, implementation can be considered only

¹²⁵ U.S. Department of State telegram, message reference No. 10578, prepared by U.S. Embassy, Athens, Oct. 1, 1993. The cable stated that "no explanation was available" from the Greek Government.

¹²⁶ *Proposal for a Council Directive Amending Directive 90/434/EEC of 23 July 1990 on the Common System of Taxation Applicable to Mergers, Divisions, Transfers of Assets and Exchanges of Shares Concerning Companies of Different Member States*, COM (93) 293, OJ C225 (July 26, 1993), p. 3; and *Proposal for a Council Directive Amending Directive 90/435/EEC of 23 July 1990 on the Common System of Taxation Applicable to in the Case of Parent Companies and Subsidiaries of Different Member States*, COM (93) 293, OJ C225 (July 26, 1993), p. 5.

partially complete. Moreover, the overall EC performance on intellectual property must be rated lower. Only one directive, 87/54 on the legal protection of semiconductor products, has been fully implemented by all member states. Both the Trademark Harmonization Directive (89/104), which is more important across a wider range of business, and the Directive on the Legal Protection of Computer Programs (91/250), which affects a greater volume of business, have been implemented by half or fewer member states, although it should be noted that their implementation deadline was fairly recent—January 1, 1993. Furthermore, the original EC goal of trademark protection relies upon a number of directives that create, implement, and enforce a Communitywide trademark; none of these has been adopted. Although many of the Green Paper¹²⁷ goals for copyright have been enacted for implementation in 1994 and 1995 (specifically rental and lending rights and accession to the Rome Convention and the Paris Act of the Berne Convention), directives on legal protection of data bases, copyright term harmonization, and satellite broadcasting and cable retransmission have not. Finally, in the patent area, neither a directive on biotechnological inventions, nor a regulation on plant variety have been adopted.

Belgium, Luxembourg, the Netherlands, Germany, Ireland, Portugal, and the United Kingdom have not implemented the Trademark Harmonization Directive (89/104) for two reasons specific to intellectual property protection. First, these countries have not yet agreed on the location and the language of operation of the proposed Community Trademark Office. Second, some of these countries were late in bringing the trademark legislation before their respective national parliaments. According to industry sources, all of these countries currently have adequate trademark laws and all of them intend to implement the Trademark Directive.¹²⁸

In the United Kingdom, legislation on trademark harmonization has been drafted and will be presented to Parliament as soon as there is a slot in the legislative program, probably during the 1993-94 session. The contemplated bill goes further than directive requirements and also updates British domestic legislation.¹²⁹

¹²⁷ EC Commission, *Green Paper on Copyright and the Challenge of Technology—Copyright Issues Requiring Immediate Action*, COM (88) 172 final, June 7, 1988.

¹²⁸ Bruce J. MacPherson, international manager, International Trademark Association, telephone conversation with USITC staff, New York, Sept. 9, 1993.

¹²⁹ U.S. Department of State telegram, "ITC Study of EC Member State Implementation of 1992 Directives: British Implementation," message reference No. 18078, prepared by U.S. Embassy, London, Oct. 5, 1993.

Table 3-20**Intellectual property: List of measures with implementation dates before Sept. 1, 1993**

Measure	Title
87/54-Dir.	Legal protection of semiconductor products
89/104-Dir.	Trademark harmonization
91/250-Dir.	Legal protection of computer programs

Source: Compiled by USITC from official sources issued by the Commission of the European Communities.

Table 3-21**Intellectual property: Percent of EC 92 legislation implemented**

	Measures applicable	Number of derogations outstanding	Actual implementations by EC member states	Percent implemented
Intellectual property	3	0	22	61.11

Source: Compiled by USITC from official sources issued by the Commission of the European Communities.

Belgium, Luxembourg, and the Netherlands regulate trademarks jointly. Existing Benelux trademark law is up-to-date and stipulates most of the mandates of the Trademark Harmonization Directive. The Benelux legislators have thus decided against adoption of a new law; rather they would implement the provisions of the directive by means of a protocol amending the Benelux law on trademark. On December 2, 1992, the Ministers of Foreign Affairs of the three contracting parties—Belgium, Luxembourg, and the Netherlands—signed the protocol amending the Benelux law on trademark. The protocol will now have to undergo the ratification procedure in each country. The protocol, ratified by each country, could enter into force by the end of 1994.¹³⁰

The Portuguese trademark law is a part of the Portuguese "Industrial Property Code," which the Portuguese Government is in the process of amending to harmonize the law with both the Trademark Directive and the European Patent Convention (which is not part of the EC 1992 program). The Parliament has approved the new code and authorized the Government to enact it, which should occur in early 1994. The new law is compatible with the EC directive.¹³¹

According to EC statistics presented in appendix C, the Computer Software Directive (91/250) has not been implemented in Belgium, Spain, France, Luxembourg, the Netherlands, Portugal, and Germany. According to

industry sources,¹³² the delay has occurred because of slow legislative processes and pending court cases on copyright issues in some of the countries. Industry sources further report that all seven countries currently have effective copyright laws and do not intend to delay implementing the directive.

Other sources indicate that Germany implemented the legislation in July 1993.¹³³ The new law protects copyrights for almost every computer program, even if only minimally original. Thus the Federal Court of Justice case law in Germany, which had placed high standards for originality as a prerequisite to protection, will no longer prevail. The previous law protected only 5 to 10 percent of marketed software.¹³⁴

The Dutch Parliament is considering legislation to implement the EC Software Directive.¹³⁵ The Netherlands, Belgium, and Luxembourg currently do not explicitly protect computer programs, but court rulings in Belgium and the Netherlands have held that original computer programs are copyrightable.¹³⁶ The

¹³² Brad Smith, Business Software Alliance, telephone conversation with USITC staff, London, Sept. 17, 1993.

¹³³ Although appendix C shows that according to official EC sources Germany has not implemented this directive, on May 7, 1993, the Bundesrat approved the copyright law amendment transposing the computer software directive into German law. According to numerous sources, the new law went into force with its publication in the *Federal Law Gazette*.

¹³⁴ "Copyright Law Amendment for Transposition of Computer Program Directive," *Business Law Europe*, May 31, 1993, pp. 6-7.

¹³⁵ Government of the Netherlands, *Kwartaloverzicht Van Omzetting Van EG-richtlijnen in Nationale Regeleving Naar De Stand Van 30 Juni 1993*, p. 26.

¹³⁶ U.S. Department of Commerce, *Copyright Protection for Computer Software*, June 1993, pp. 2-3.

¹³⁰ Jean Bleyer, Dennemeyer & Associates, Luxembourg, paper presented during the European Communities Trade Mark Association Twelfth Annual Conference, Madrid, Spain, June 2-5, 1993.

¹³¹ Joao de Arantes e Oliveira, partner and director of Raul Cesar Ferreira (Herd.), Lda, paper presented during the Twelfth Annual Conference of European Communities Trade Mark Association, Madrid, June 2-5, 1993.

revised copyright law that entered into force in December 1991 in Portugal provided various civil and criminal sanctions for the unauthorized reproduction of software. It is believed to protect computer programs as literary works.¹³⁷ Computer programs are explicitly protected under current Spanish law, and civil and criminal remedies are provided. In 1990, a Madrid Court held that copyright protection afforded to computer programs extended to the preparation of derivative works.¹³⁸ Computer programs are also explicitly protected under the French national law.

The Social Dimension

Although the White Paper did not call for legislative action in the social dimension area, in 1989 the EC Commission presented a Social Dimension Action Program, which included a package of 47 social dimension initiatives. The EC Commission has drafted proposals for all but one of these initiatives, but some take the form of decisions or nonbinding recommendations.¹³⁹ Twenty directives have been adopted (appendix C) that must be transposed into member-state law. Most of these 20 adopted directives and those adopted in the earlier stages of the social dimension legislative process, concern worker safety and health. The more controversial labor-management directives either have not yet been adopted or have been adopted more recently, with implementation dates set in the future. Nonetheless, as of September 1, 1993, the implementation rate is poor for those 11 directives and 1 decision that have already passed their implementation deadline (table 3-22). As shown in table 3-23, implementation is incomplete, at 41 percent. This figure includes one directive—88/364—which all member states have implemented, but which predates the Social Dimension Action Program and therefore is not technically 1 of the 47 initiatives. However, the implementation rate also includes one directive—91/533 (Proof of Work)—that had a recent implementation deadline of June 30, 1993. As shown in appendix C, only Spain has implemented this directive. Should this directive not be included in the calculations, the percent of EC social dimension implementation is still below 50 percent, but rises to 44 percent.

With respect to all relevant directives, except the Proof of Work Directive, the EC Commission has sent article 169 letters to member states for failure to notify

the EC Commission of implementation. The United Kingdom is the only member state that has implemented all effective Social Dimension Directives, except the recently effective Proof of Work Directive. Ireland and Denmark also have good implementation records. Denmark, which has been implementing the Social Dimension Directives by contractual agreements between employers and trade unions,¹⁴⁰ has implemented all but one of the effective directives. Ireland has implemented all but two. The one directive that neither Denmark or Ireland has implemented is that addressing exposure to carcinogens at work (90/394). All member states except the United Kingdom have faced problems with implementation of that directive.

France was the first member state to transpose many of the safety and health directives,¹⁴¹ and France has a fairly good implementation rate, having implemented all but three of the effective directives (not counting the Proof of Work Directive). Three member states—Greece, Italy, and Germany—have not implemented or have been sent article 169 letters regarding all post-1988 Social Dimension Directives whose deadlines have passed. EC Social Affairs Commissioner Papandreou noted that these directives first became applicable on January 1, 1993, and that several member states, including Greece, are in the process of transposing them.¹⁴² One trade association representative suggested that some of these member states may be slow in implementing social dimension measures in part because these measures are so new.¹⁴³

Only Spain has adopted the recently effective Proof of Work Directive, apparently because the requirements of this directive were already contained in existing Spanish laws.¹⁴⁴ However, Spain has been sent article 169 letters for failure to notify implementation of all other effective measures except the pre-1989 directive. Spanish officials have indicated that Spain has recently implemented directive 91/382, and that the current government plan to

¹⁴⁰ Representative of Danish trade organization, meeting with USITC staff, Sept. 29, 1993. In Denmark, employers, labor, trade unions (the "social partners") have traditionally all participated in making social legislation. This legislation usually takes the form of labor contracts or collective bargaining agreements, which are legally binding in Denmark.

¹⁴¹ French Government official, meeting with USITC staff, Paris, Jan. 8, 1993.

¹⁴² *Answer to Written Question No. 2509/92, OJ C 106* (Apr. 16, 1993), p. 12.

¹⁴³ Representative of Danish trade organization, meeting with USITC staff, Sept. 29, 1993.

¹⁴⁴ Representative of GM Spain, meeting with USITC staff, Madrid, June 13, 1990; representative of Spanish Confederation of Business Organizations (CEOE), meeting with USITC staff, Madrid, June 14, 1990.

¹³⁷ *Ibid.*, p. 3.

¹³⁸ *Ibid.*, p. 4.

¹³⁹ The one measure yet to be addressed concerns the inclusion of a social clause in public works contracts. One of the original 47 initiatives—that addressing atypical work—has been broken down into 3 separate proposals.

Table 3-22

Social dimension: List of measures with Implementation dates before Sept. 1, 1993

Measure	Title
88/364-Dir.	Protection from certain chemicals and work activity
88/383-Dec.	Information on safety, hygiene, and health at work
89/391-Dir.	Improvements in safety and health of workers at work
89/654-Dir.	Safety and health requirements at work
89/655-Dir.	Use of work equipment at work
89/656-Dir.	Use of personal protective equipment at work
90/269-Dir.	Handling heavy loads and risk of back injury
90/270-Dir.	Work with visual display units
90/394-Dir.	Exposure to carcinogens at work
91/382-Dir.	Exposure to asbestos at work, amending 83/477
91/383-Dir.	Worker safety and health for atypical work
91/533-Dir.	Proof of work contracts

Source: Compiled by USITC from official sources issued by the Commission of the European Communities.

Table 3-23

Social dimension: Percent of EC 92 legislation implemented

	Measures applicable	Number of derogations outstanding	Actual implementations by EC member states	Percent implemented
Social dimension	12	1	59	41.26

Source: Compiled by USITC from official sources issued by the Commission of the European Communities.

increase the rate of implementation generally will address any problems in the social dimension area.¹⁴⁵

Only Germany has already transposed directive 90/641, which does not call for implementation until December 31, 1993, but Germany has failed so far to implement any of the effective Action Program Directives. The delay has occurred in part because of conflicting interests between labor and management, and by the fact that Germany is attempting to transpose all the already effective Social Dimension Directives in one law.¹⁴⁶ It is expected that transposition will be complete in spring 1994.¹⁴⁷

Although EC statistics presented in appendix C indicate that Luxembourg has not implemented any of the effective directives except directive 88/364, Luxembourg indicates that it has also implemented directive 91/382, governing worker exposure to asbestos.¹⁴⁸ A Luxembourg Government official explained that the delay of other Social Dimension

Directives reflects the country's general thoroughness in implementation.¹⁴⁹ He indicated that the Social Dimension Directives for the most part are consistent with existing Luxembourgian law, but that questions remain, such as which laws should be amended, and whether the Labor Ministry or the Health Ministry should be responsible for enforcement.¹⁵⁰

Although official EC records indicate that the Netherlands has transposed only directives 88/364 and 91/382, the Netherlands reports also having implemented directives 89/656 and 90/269.¹⁵¹ In the social dimension area, the EC directives set forth lower standards than those current in the Netherlands. Dutch implementation has been delayed by conflicts between labor groups and employer groups concerning how strict such standards should be.¹⁵²

Residual Quantitative Restrictions

The EC Commission has worked for many years to transform national quantitative restrictions (QRs) such as quotas and voluntary restraint agreements applied by individual member states into EC-wide quotas or other EC-wide protective measures. Although the

¹⁴⁵ Spanish Government officials, meeting with USITC staff, Sept. 23, 1993 and telefax from Spanish Government official to USITC staff, Nov. 10, 1993. According to this information, directive 91/382 was implemented by Ministerial Order 26-July-1993 (BOE No. 186, Aug. 5, 1993).

¹⁴⁶ German Government official, USITC staff telephone conversation, Oct. 29, 1993.

¹⁴⁷ Ibid.

¹⁴⁸ Transposed April 4, 1993, RGD. Government of Luxembourg, *Directives Marche Interieur Transposées* (Sept. 14, 1993).

¹⁴⁹ Luxembourg Government official, meeting with USITC staff, Sept. 14, 1993.

¹⁵⁰ Ibid.

¹⁵¹ Dutch Government official, fax to USITC staff, Nov. 4, 1993.

¹⁵² Ibid.

replacement of national QRs with EC-wide measures was not explicitly addressed in the White Paper, the January 1, 1993, elimination of intra-Community borders and physical border controls means that the EC member states can no longer enforce national QRs. The EC has abolished most national QRs. However, a few products, notably Japanese automobiles, still face national quotas administered by the EC Commission.

An implementation rate for the elimination of QRs was not calculated here because the successful operation of the new EC-wide trade arrangements is contingent upon the EC as a whole giving effect to the new regime, rather than on individual member states adopting specific measures to harmonize their policies. Table 3-24 shows the status of the transition to these new EC-wide trade regimes, and appendix C lists the regulations that establish some of these new single-market trade rules.

Article 115 Restrictions on Intra-Community Trade

Article 115 of the Treaty of Rome permits member states to restrict the free movement of certain products within the Community through temporary border controls at their internal EC frontiers. Such measures enable member states to prevent circumvention of their national QRs, otherwise possible by transshipping the restricted product through other member states that do not maintain the same QRs. Although the EC has eliminated all article 115 restrictions, article 115 authority remains in the Treaty of Rome.¹⁵³

Bananas imported from Central and South America were the only products subject to article 115 measures after January 1, 1993.¹⁵⁴ These article 115 restrictions¹⁵⁵ were terminated on July 1, 1993, when the new EC-wide banana regime (discussed below) became operative.

EC-Wide or EC-Administered QR Regimes

There are five EC-wide QR regimes administered or enforced by the EC Commission. These measures,

¹⁵³ For a more detailed discussion of article 115 measures and their gradual elimination by the EC Commission, see USITC, *EC Integration: Fifth Followup*, USITC publication 2628, Apr. 1993, pp. 133-134.

¹⁵⁴ *Ibid.*

¹⁵⁵ On May 29, 1993, the EC Commission approved an additional article 115 measure enabling France to restrict imports of virtually all bananas, except those from French overseas departments and territories, until the new banana regime entered into force. For additional information, see "Bananas: Germany Promises Court Case, France Shuts Import Door," *European Report*, No. 1857 (May 18, 1993), *Internal Market*, p. 8.

summarized in table 3-24, apply to bananas, automobiles from Japan, the Community's Generalized System of Preferences (GSP) program, textiles and apparel articles under the Multifiber Arrangement (MFA), and products from Central and Eastern Europe. Under these regimes, the Community restricts entry of certain products into specific member states through EC-enforced or EC-administered measures. These regimes are based either on an EC-wide import-licensing program (bananas and textiles), a shared EC quota (GSP products), or national quotas negotiated and administered by the EC Commission (Japanese automobiles and certain Central and Eastern European products).¹⁵⁶

Effective July 1, 1993, imports of bananas are governed by a new EC-wide tariff-rate quota system using import licenses allocated on the basis of product origin. This new banana regime replaced a system of national QRs enforced by article 115 measures.¹⁵⁷ The new EC-wide banana regime survived a 1993 German request for an injunction against the new banana trade rules in the ECJ,¹⁵⁸ but it is being examined by the General Agreement on Tariffs and Trade (GATT) Council to determine if the new banana trade rules conform with the GATT.¹⁵⁹

¹⁵⁶ For more detailed discussions of each of these EC-wide or EC-administered QR regimes, see USITC, *EC Integration: Fifth Followup*, USITC publication 2628, Apr. 1993, pp. 134-142.

¹⁵⁷ In the past, EC member states maintained different policies and QR regimes towards banana imports to protect their markets and to ensure a market for bananas produced by their former colonies in Africa, the Caribbean, and the Pacific. Under this old banana regime, article 115 measures restricted imports of bananas from Central and South America into France, Greece, Italy, Portugal, and the United Kingdom. *Ibid.*

¹⁵⁸ German concerns reportedly were that the new banana regime would raise banana prices by introducing duties on bananas for the first time in that country. Germany blocked the signature of the Treaty of Rome for 4 days in 1957 in order to obtain a derogation allowing it to import bananas duty-free, which it has done ever since. "Bananas: Germany Promises Court Case, France Shuts Import Door," *European Report*, No. 1857 (May 8, 1993), *Internal Market*, p. 7. The ECJ ruled that the new regime respects the divergent interests of EC producers and consumers and banana producers. "EC Court Rejects German Attempt to Block New Regime," *European Report*, No. 1871 (Jun. 30, 1993), *Internal Market*, p. 7. Germany took no subsequent actions on this issue during 1993.

¹⁵⁹ This ongoing GATT examination was initiated by a complaint filed by Latin American "dollar banana" producers. "GATT Council Continues Examination of EC Banana Regime," *European Report*, No. 1878 (July 24, 1993), *External Relations*, p. 8. In May 1993 the GATT Council, based on a prior complaint filed by the "dollar banana" producers, ruled that the EC former banana import regime was incompatible with the GATT because it placed illegal quantitative restrictions on the fruit. "GATT Panel Says EC Limits on Dollar Zone Bananas Are Illegal," *European Report*, No. 1862 (May 29, 1993), *External Relations*, p. 2. The United States supported the "dollar

Table 3-24

Quantitative restrictions (QRs): National QRs and the transition to EC-wide trade arrangements, 1993

Products	Residual national QRs	EC-wide trade arrangement	Status
EC-wide or EC-administered QR arrangements:			
Bananas	Formerly: France, Greece, Italy, Portugal, Spain, United Kingdom Currently: none	All article 115 restrictions on intra-Community trade eliminated; an EC-wide origin-based tariff rate quota replaced national QRs July 1, 1993	The European Court of Justice rejected a German challenge to the new EC banana regime in May 1993; GATT Council is examining the new banana regime for GATT conformity
Automobiles from Japan	Formerly: France, Italy, Portugal, Spain, United Kingdom Currently: None (see EC-wide trade arrangement)	Effective Jan 1, 1993 national QRs replaced with EC-wide voluntary export restraint agreement (with EC-administered national export restraints for France, Italy, Portugal, Spain and United Kingdom) based on estimated EC market demand	Declining EC market demand delayed entry into force until April 1993; authorized Japanese exports reduced in April and in September
Generalized System of Preferences (GSP)—certain articles	None	Community quota allocated to individual member states	Extended through Dec. 31, 1993; revision of EC GSP linked to conclusion of Uruguay Round
Textiles/apparel subject to Multifiber Arrangement (MFA)—certain articles	None	Community quota allocated to individual member states replaced by Community-based licensing and monitoring system	Extended through Dec. 31, 1994; revision linked to conclusion of Uruguay Round
Products from Central and Eastern Europe	None	National QRs replaced with EC-wide "association agreements" beginning in 1992	Association agreements signed with Poland, Czech and Slovak Republics, Hungary, Bulgaria, and Romania; agreements envision free trade by 2000
Residual national QRs:			
Footwear from China	Certain member states	Not scheduled	
Certain articles from North Korea, Vietnam, Albania, Mongolia, and ex-Soviet Union republics	Certain member states	Not scheduled	

Source: Compiled by the U.S. International Trade Commission.

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banana" producers in both of these complaints. For further information on U.S. perspectives, see U.S. Department of State telegram, "USEC Submission of 1994 Trade Acts Report for the European Communities," message reference No. 12717, prepared by U.S. Embassy, Brussels, Oct. 29, 1993.

Effective January 1, 1993, an EC-administered voluntary export restraint agreement for Japanese automobiles replaced a system of national QRs. Prior to the implementation of the new regime, France, Italy, Portugal, Spain, and the United Kingdom maintained national QRs on imports of automobiles from Japan.

The new EC-Japan automobile trade agreement establishes annual ceilings for total Japanese exports to the Community during the 7-year period 1993-2000. The agreement also establishes specific ceilings on Japanese auto exports to France, Italy, Portugal, Spain, and the United Kingdom for each calendar year during the same period. Full implementation of the new EC-Japan automobile agreement was delayed during 1993 because of uncertainties in matching the 1993 calendar year Japanese quota with declining EC market demand. In April 1993, the two sides agreed on a quota of 1,089,000 automobiles, down from Japanese sales in the Community of 1,202,000 units in 1992.¹⁶⁰ In September, the 1993 Japanese quota again was cut to 980,000 automobiles in view of a projected continued decline in European demand.¹⁶¹

Exports to the Community under the EC's GSP program are subject to EC-wide quotas that are allocated to individual member states. The Community was scheduled to undertake a thorough 10-year revision of the GSP program in January 1991, but instead has extended the program annually with the goal of linking a new GSP scheme to the conclusion of the GATT Uruguay Round negotiations.¹⁶² Exports to the EC that are subject to the Community's MFA agreements also had been subject to EC-wide quotas allocated to individual member states. In 1992, the Community's MFA agreements were extended through December 31, 1994, with the goal of linking a new MFA trade regime with the conclusion of a GATT Uruguay Round agreement. As part of this extension, the Community abolished the system of EC quotas and implemented a computerized import-licensing system that now allows supplier countries to export freely throughout the Community under overall EC-wide quotas.¹⁶³

The Community began replacing national QRs on Central and East European countries with EC-wide measures in 1990. "Interim agreements" signed with Poland, Hungary, and former Czechoslovakia (now separate agreements with the Czech and Slovak Republics) in March 1992 called for economic cooperation and mutual reduction of trade barriers;

¹⁶⁰ "Euro Car Manufacturers Up in Arms, Japanese Makers Lie Low," *European Report*, No. 1849 (Apr. 3, 1993), External Relations, p. 11.

¹⁶¹ "Trade Pact Gives Japan Bigger Share of Car Market," *European Report*, No. 1883 (Sept. 8, 1993), External Relations, p. 7.

¹⁶² "No Move on GSP Review Until GATT Round is Concluded," *European Report*, No. 1890 (Oct. 2, 1993), External Relations, p. 8.

¹⁶³ U.S. Department of State telegram, "EC Concludes Negotiations Prolonging Bilateral Textile Agreements for Two Years," message reference No. 00202, prepared by U.S. Embassy, Brussels, Jan. 7, 1993.

"association agreements" signed with the countries in 1993 establish a plan for the EC to reduce tariffs and dismantle national QRs and set as a long-term goal eventual EC membership for these Central and East European countries. Additional protocols to the association agreements were negotiated during 1993 to accelerate the schedule for the elimination of trade barriers. This accelerated trade liberalization schedule became operative on July 1, 1993.¹⁶⁴ The EC also is negotiating association agreements with Bulgaria and Romania, as well as similar but less far-reaching agreements with Albania and the Baltic States (Estonia, Latvia, and Lithuania).

Residual National QRs

Although most EC member-state QRs have been abolished or converted into EC-wide restrictions, a few EC member states reportedly continue to maintain national QRs (without the use of article 115 restrictions) on certain products from nonmarket countries, including footwear from China, and certain products of North Korea, Vietnam, Mongolia, and the republics of the former Soviet Union. The EC Commission has proposed the abolition of most of these national QRs.¹⁶⁵

Standards

Introduction

Harmonization of disparate national standards and national systems that assess conformity has been a key element of the single market program. Of the 521 measures considered in this investigation, some 366 measures or 70 percent relate to standards. A similar ratio is evident in the legislative blueprint in the White Paper. Nearly half of the standards-related measures considered in this study pertain to agricultural products and processed foods.

As previous reports in this series made clear, standards has been singled out as a component of the 1992 program of considerable interest to U.S. manufacturers. They have generally welcomed the time, cost, and production economies associated with replacing 12 different national product requirements with one standard applicable throughout the Community. However, some concern remains about access to required testing, certification, and production monitoring services.

¹⁶⁴ "EC Council Raises Tariff Quotas and Ceilings," *European Report*, No. 1882 (Sept. 4, 1993), External Relations, p. 1; and "Copenhagen Package Takes Effect," *European Report*, No. 1877 (July 21, 1993), External Relations, p. 3.

¹⁶⁵ For a more detailed discussion of these residual national QRs applicable to products of nonmarket countries, see USITC, *EC Integration: Fifth Followup*, USITC publication 2628, Apr. 1993, pp. 140-141.

The Community had already accomplished much by way of technical harmonization before 1985, particularly in veterinary and phytosanitary matters, automobiles, chemicals, and processed foods. The 1992 program was to build upon the progress already made in these fields and to carry it forth with intensified vigor in others. Both industrial and agricultural goods would be affected.

A new legislative procedure for attaining harmonization was formally adopted before issue of the White Paper in 1985. The new procedure served as the model of much of what would come in such fields as machinery and medical equipment. This so-called "new approach" to standardization involved restricting the scope of binding EC-level legislation to areas clearly in need of Communitywide rules. In other areas of technical regulation, the principle of mutual recognition was to ensure the free movement of goods. The legislation that was undertaken would make it obligatory only for products to conform with selected critical safety and performance criteria or "essential requirements." Manufacturers would retain flexibility in terms of the means used to achieve and demonstrate conformity. The private sector would formulate Europewide voluntary standards associated with internal market directives. The regional standards organizations—the European Committee for Standardization (CEN), the European Committee for Electrotechnical Standardization (CENELEC), and the European Telecommunications Standards Institute (ETSI) are the focal points for such work. Governments would also give up some of their conformity assessment functions to competent third-party laboratories known as "notified bodies."

Progress to Date

EC progress in adopting legislation that was needed to accomplish these aims has been good, particularly when compared with the rest of the 1992 program. Legislation in the automobile and pharmaceuticals area is now complete, and considerable recent progress in the lagging agriculture and processed foods areas has occurred. In fact, the amount of legislation passed since 1986 in fields such as chemicals is about the same as that passed in the 23 years prior. Even so, critical measures in fields such as processed foods, medical devices, pharmaceuticals, and motor vehicles were passed only in June 1993; important legislation has yet to be adopted in some of these and other fields (for example, official control in processed foods and pressure vessels in the machinery sector). Environmental regulation, meanwhile, has

taken on added urgency as national packaging and "green label" schemes proliferate.

Member-state transposition of standards-related measures is substantial, with 80 percent of the required national laws passed, as shown in the following tabulation—

	Overall Implementation rate
	Percent
All standards-related measures	80
All industrial products	78
(of that, new approach)	75

The machinery sector has the highest implementation rate; the medical devices and telecommunications sectors have the poorest rates, as illustrated below (in percent)—

Sector	Implementation rate
Machinery	93
Generic	90
Processed foods	82
Environment	82
Motor vehicles	81
Agriculture	79
Pharmaceuticals	79
Chemicals	69
Telecommunications	59
Miscellaneous	54
Medical devices	42

As explained more fully in table 3-25, implementation of standards-related directives is lagging in such fields as veterinary controls, plant health, medical devices, telecommunications and broadcasting, dangerous substances, and genetically modified organisms. Notably, transposition of some of the most far-reaching support legislation has also been a problem. Preventing the sale of harmful or misleading products and services is a key goal of EC legislators, but implementation of the Product Liability Directive was a problem until recently. Although many member states have transposed the directive, France and Spain have yet to do so. The Information Procedure Directive—the major EC weapon in its barrier-prevention arsenal, has only a 43-percent implementation rate. Although an EC report shows that the procedure is in fact operational in all member states,¹⁶⁶ the EC Commission has contacted a number

¹⁶⁶ EC Commission, *Report from the Commission the Operation of Directive 83/139/EEC in 1990 and 1991*, COM (92) 565 final, Dec. 18, 1992.

Table 3-25**Standards: Summary of progress of member-state implementation of EC 1992 legislation, by sector***(A = Virtually complete; B = Substantially complete; C = Partially complete; D = Substantially incomplete)*

Subject area	Implementation status	Comments
Agriculture	B	The directives for which transposition is lagging involve controversial areas such as the environment and animal welfare as well as areas which exhibit substantial cultural diversity among the member states. Veterinary controls are also lagging.
Processed foods	B	Problems have emerged in the controversial food additive area, and significant pieces of legislation such as that on food hygiene and nutrition still await final Council adoption.
Chemicals	C	Directives related to dangerous substances and preparations lag considerably behind and numerous infringement proceedings have begun. Such products are by necessity highly regulated. Legislative mechanisms are complicated and decisions are often controversial.
Pharmaceuticals and medical devices	B	All of the most important measures in the pharmaceuticals area have either been implemented or are not yet required to be transposed. The recent adoption of legislation establishing a single authorization procedure and the relatively complicated nature of legislative texts were blamed for slowing progress in transposing remaining directives. Implementation of the "new approach" active implantable medical device directive is only partially complete.
Motor vehicles	B	Delays in implementation can be attributed to the same administrative reasons common to implementation of EC directives generally.
Machinery	A	Out of the 38 measures in this category, which includes 7 of the 9 "new approach" directives, only 1 directive has a poor implementation record. The delay in implementation of this directive on labeling of energy consumption can be attributed to its very recent implementation deadline (7/1/93).
Telecommunications	C	Telecommunications implementation is only partially complete. However, implementation of the directives that form the foundation of the single market for telecommunications—measures on telecommunications services, terminal equipment, network access, and mobile communications—is virtually complete. With the exception of the Broadcast Directive, implementation problems have typically been technical rather than substantive.
Environment	B	Although the White Paper did not explicitly address environmental legislation, numerous measures adopted under the single market program address environmental matters. Implementation of cross-industry measures is substantially complete. Directives exhibiting poor implementation have generally been passed recently, and thus subject to typical administrative delay, or concern controversial matters often subject to ongoing infringement proceedings, such as wild birds or waste.

Table 3-25—Continued

Standards: Summary of progress of member-state implementation of EC 1992 legislation, by sector

(A = Virtually complete; B = Substantially complete; C = Partially complete; D = Substantially incomplete)

Subject area	Implementation status	Comments
Generic	B	Implementation is substantially complete for the 5 generic directives scheduled to be in effect, but there are nearly as many measures scheduled for implementation in 1994 or yet to be adopted. The directive on member-state notification of technical standards is only partially implemented, whereas the product liability directive is substantially transposed. The important directive on general product safety is to be implemented in mid-1994.
Miscellaneous	C	Implementation of miscellaneous legislation is only partially complete, with complete transposition of the toy safety directive, partial transposition of the directive on genetically modified organisms, and substantial disagreement among member states about measures regarding tourism.

Source: Compiled by USITC from official sources issued by the Commission of the European Communities.

of member states regarding their failure to include mechanisms for the recognition of regulations, standards, and practices of other member states as giving equivalent assurance.

Clear recognition of equivalence is an important way to make the principle of mutual recognition operational in practice. The jurisprudence of the ECJ in its landmark *Cassis de Dijon* decision found that member states must accept any product lawfully produced and marketed in another member state unless that product endangers one of the recognized aims of article 36 of the Treaty of Rome, such as protection of human health or the environment. The Community has chosen to rely heavily on mutual recognition in certain fields, notably processed foods, as a way of preserving EC diversity and of avoiding undue regulation.

Obstacles

For certain standards-related policies, states or regions have pre-eminent jurisdiction relative to federal governments, which can delay implementation. This is true, for example, in the case of environmental regulation in Germany and Belgium and horticultural regulation in Italy. Inadequate funding and untrained staff have hampered the implementation and application of some technical regulations at the national level. In addition to general procedural and technical logjams, reasons for transposition delays also include such matters as linkage to recently adopted legislation (for example, in the fields of medical devices and pharmaceuticals, where the most important legislation just passed in June 1993), inherent political sensitivity (for example, regarding pesticide residues, organic foods, homeopathic medicines, genetically modified organisms, and wild birds), inherent risk and highly technical nature (for example, dangerous substances), lingering policy differences (as in broadcasting and food additives), uneven starting points (for example, divergent agricultural disease control situations and installation and voltage regulations in the electrical safety area) and technical uncertainty and steady product evolution (as in telecommunications, notably high-definition television (HDTV)).

Experience also seems important: the greatest success has been achieved in those areas long subject to EC-wide technical rules. Many of the sectors newly regulated at the EC level as a result of the 1992 program involve smaller producers and the more provincial government administrations.

Industry structure and market conditions may also have an impact on implementation. The chemicals and processed food areas, for example, are dominated by

large, multinational firms that are well versed in regulatory procedures and adept at lobbying member-state officials to advance their interests.¹⁶⁷ Although the importance of maintaining brand reputation has apparently reinforced the momentum towards integration in the processed food area, the size and influence of multinational firms has reportedly slowed implementation of measures that could disadvantage them.¹⁶⁸

The degree of technical certainty also appears important. Telecommunications is a field where EC legislation will set standards for future generations of products and services. Considerable debate goes on regarding the merits of different technical solutions. Difficulty achieving consensus appears to have been a factor slowing implementation of several directives such as those setting standards for satellite broadcasting signals. Practical problems of bringing new technology to market have also slowed implementation, for example, as in the case of digital cordless telecommunications equipment (DECT), where manufacturing problems related to chip-set design have reportedly slowed transposition.¹⁶⁹

While evidence is scanty, fear and mistrust appear to be dampening enthusiasm for complete harmonization and decentralized control.¹⁷⁰ In telecommunications, for example, substantial deregulation is occurring and competition is largely technology- rather than market-driven.¹⁷¹ Nevertheless, unwillingness to fully subject long-protected national telephone monopolies to unbridled competition and any additional operational uncertainty seems to be tempering progress.¹⁷² In agriculture,

¹⁶⁷ This situation is generally acknowledged to be true and was raised specifically by Danish Ministry of Agriculture officials, interview by USITC staff, Oct. 1, 1993.

¹⁶⁸ Representatives of the Danish Chamber of Commerce, interview by USITC staff, Oct. 1, 1993.

¹⁶⁹ EC Commission official responsible for monitoring member-state implementation, interview by USITC staff, Oct. 4, 1993.

¹⁷⁰ One business representative interviewed commented that the commercial challenge posed by implementation had led to implementation delays, as government, industry, and other interest groups seek to reach accommodation. Representative, Chamber des Metiers and l'Euro Info Centre, interview by USITC staff, Sept. 14, 1993.

¹⁷¹ U.S. Department of State telegram, "London Event Highlights Commercial Importance of Telecommunications in Western Europe—Lessons Learned and Opportunities for U.S. Firms," message reference No. 18276, prepared by the U.S. Embassy, London, Oct. 7, 1993.

¹⁷² For example, the U.S. Embassy in Athens noted that telecommunications "is a major political and economic issue in Greece," when seeking to explain implementation delays despite the substantial unsatisfied demand of Greece for basic equipment infrastructure. U.S. Department of State telegram, "USITC Section 332 Study on EC Member State Implementation of 1992 directives—Greece," message

the 1992 program calls for a new emphasis on disease and food hygiene control at the points of production and consumption instead of at the border. This change has caused lingering prejudices and legitimate fears to surface, given the context of still widely differing climatic conditions, attitudes towards matters such as pasteurization, and regulatory structures among member states. On a more day-to-day level, consumers and producers alike are beginning to question the wisdom of EC-wide bans on long-cherished ingredients in traditional products (coloring agents in locally produced sausage, for example).

Some debate also continues regarding whether EC technical legislation should set "ceilings" or "floors" for the level of protection afforded. France filed a recent complaint in the ECJ against the EC Commission about its decision to permit Germany to retain more restrictive national legislation on the chemical pentachlorophenol (PCP) and products treated with PCP than that contained in EC directive 91/173. (Denmark and the Netherlands have requested similar derogations.)¹⁷³ Belgium also won support for its insistence on setting higher national standards with an ECJ ruling on November 25, 1992.¹⁷⁴ Case-by-case derogations from EC obligations to ensure free movement of products conforming to EC requirements are envisaged by article 100A.4 of the Treaty of Rome. Some of the more "protective" member states wish to both assure themselves that such an option exists and to avail themselves of it in cases deemed necessary to protect higher national standards. The limited flexibility of EC law in responding to technical advances has also been cited as justifying national deviations from EC rules.¹⁷⁵ Others fear that such deviations from commonly set norms will slowly re-fragment the newly unified market.

¹⁷²—*Continued*

reference No. 10578, prepared by U.S. Embassy, Athens, Oct. 1, 1993. Similar comments were made by EC Commission officials responsible for implementation, interview by USITC staff, Oct. 5, 1993. The considerable revenues and employment by the state-owned telephone monopoly was cited as the reason for implementation delays in the Netherlands. Representative of the American Chamber of Commerce, the Netherlands, interview by USITC staff, Sept. 16, 1993. A similar situation exists in Ireland, despite its very modern phone system. Representative of the Chambers of Commerce of Ireland, interview by USITC staff, Sept. 21, 1993.

¹⁷³ *European Report*, No. 1847, Mar. 27, 1993.

¹⁷⁴ Case C-376/90, *Commission of the European Communities v. the Kingdom of Belgium*, Judgment of Nov. 25, 1992.

¹⁷⁵ For example, the EC Commission is presently reviewing the basic standards for radiation protection in Community rules after receiving several requests for national deviations from the member states. EC Commission, *Tenth Annual Monitoring Report*, p. 137.

Problems in Application

Despite the progress in transposing standards-related directives, some problems still occur in application. The EC Commission reports that "firms continue to experience difficulties in the day to day import and export of most common products between Community member states on account of barriers raised by national legislation on, among other things, labeling, composition, packaging, prices, quality, or safety."¹⁷⁶ Both EC and U.S. firms complain about the proliferation of national and EC marks and labeling requirements, not only regarding product safety, but environmental and energy efficiency.¹⁷⁷ Although Community rules oblige member states to accept products lawfully bearing the CE mark of conformity, customers are apparently demanding fuller information.¹⁷⁸

Operation of the mutual recognition principle has proved difficult in practice. Among other things, problems continue in securing official acceptance of test reports issued by another member state. In fields not covered by EC legislation, the European Organization for Testing and Certification should ultimately help to build mutual confidence and wider acceptance.¹⁷⁹ For fields covered by EC directives and regulations, a number of ECJ cases have been launched against member states that continue to require assurance over and above what they are permitted to seek under EC rules. The EC is developing guidelines on sampling and analysis techniques to use in market surveillance as one way to facilitate mutual acceptance of test results.¹⁸⁰

Problems have emerged in interpreting the scope of directives. This is true for the new approach directives on toys, machinery, and telecommunications terminal equipment, although some have now been resolved. It is also true in the case of cosmetics and cigarette labeling, where several member states have been found by the ECJ to violate their Community obligations because they imposed requirements over and above those in the EC rules.

These problems in applying standards-related regulations were among the forces behind the

¹⁷⁶ *Ibid.*, p. 23.

¹⁷⁷ EC Affairs, manager, the EC Committee of the American Chamber of Commerce in Belgium, interview by USITC staff, Brussels, Oct. 5, 1993; and representative of Netherlands Wholesale and International Trade Association, interview by USITC staff, Sept. 17, 1993.

¹⁷⁸ Representative of BEUC, Oct. 5, 1993.

¹⁷⁹ EC Commission official responsible for monitoring member-state implementation, interview by USITC staff, Oct. 4, 1993.

¹⁸⁰ *Ibid.*

Sutherland report.¹⁸¹ Better communication between member-state authorities and better information for business persons are needed, the report concluded. Furthermore, the report called for greater uniformity in redress mechanisms for consumers. The EC working document setting forth a strategic program to reinforce the effectiveness of the single market puts heavy emphasis on information exchange, training, and other operational support as a means of securing greater compliance with EC rules. The EC is also developing a guide to implementing new approach directives and more specific guides for particular fields that should be available in 1994. The EC launched an initiative to inform and provide technical advice to smaller firms. Meanwhile, the EC Commission has proposed consolidating standards-related legislation in a number of sectors as a way of making EC law more understandable.¹⁸²

Additional Issues

When considering the rate of progress in transposing standards-related directives, several additional factors should be borne in mind. The first is that there are considerable differences in legislative scope and effect between sectors because of the nature of regulation in individual sectors. In more regulated or mature sectors such as agriculture and automobiles, considerable progress occurred prior to 1985 under the "old approach" to harmonization. The narrow and highly prescriptive nature of such regulations continued in the 1992 program. In sectors subject to the new approach, on the other hand, the scope of single pieces of legislation can be immense. To illustrate, the automobile sector has separate old approach directives on braking devices, rear fog lamps, and tread depth of tires. In contrast, one new approach directive covers thousands of kinds of machinery, another covers all products incorporated permanently in physical structures and other civil engineering works.

Not only do these differences matter when evaluating the true scope of transposed legislation, they matter when understanding how much more must be done to make it truly operational. Old approach directives are generally "self-contained"—every characteristic of the end product or production process essential to achieving the desired public policy goal (for example, protecting human health) is mandatory in

the legislation itself; the method to demonstrate conformity is prescribed in detail. New approach directives, on the other hand, leave considerable room for manoeuvre. The products falling within the scope of the directive are often so broad as to create uncertainty. Manufacturers usually have options for how to demonstrate conformity. If their goods conform with standards developed by CEN/CENELEC, they can often self-declare conformity;¹⁸³ at other times, a "notified body" must be engaged.

Indeed, the slowness of the private European standards institutes in developing necessary standards to support new approach directives prompted a very public effort to speed progress.¹⁸⁴ Although still far from done, CEN and CENELEC have similar percentages of standards ratified or in draft (under inquiry) for the nine new approach directives whose transposition deadlines have passed, as do member states for EC directives due to be transposed into national law, as shown in table 3-26. The two lagging standardization programs involve machinery and construction products.¹⁸⁵ Telecommunications standards are being developed by ETSI, but serious lags remain in some areas, notably terminal equipment.

Member states also appear to vary considerably in their capacity to find and designate suitable testing and evaluation facilities as "notified bodies." Some more developed countries such as Germany and the United Kingdom are well represented among notified bodies, but less affluent countries are not. Moreover, the EC Commission was apparently surprised that some testing bodies were unwilling to serve in this capacity.¹⁸⁶

These delays forced the EC to build in so-called "transition periods": during these periods, national rules continue to govern the sale of such products until use of harmonized standards or attestation by

¹⁸³ Notably, directives 87/878 on toy safety, 89/336 on electromagnetic compatibility, 89/392 on machinery safety, 89/686 on personal protective equipment, and 90/385 on active implantable medical devices.

¹⁸⁴ The overall standardization program of these bodies still lags, and the Secretary General of CEN recently predicted that completing the majority of remaining standards could take until the early part of the next decade. U.S. Department of State telegram, "Status of EC Notified Bodies," message reference No. 06319, prepared by U.S. Mission to the EC, Brussels, May 26, 1993.

¹⁸⁵ The EC Commission recently issued a new mandate to CEN regarding machinery standards after urging CEN to simplify the process. EC Commission official responsible for industrial standards, interview by USITC staff, Oct. 5, 1993.

¹⁸⁶ EC Commission officials responsible for monitoring member-state implementation, interview by USITC staff, Oct. 4, 1993.

¹⁸¹ High Level Group on the Operation of the Internal Market, report to the EC Commission, *The Internal Market After 1992: Meeting the Challenge*, Oct. 1992.

¹⁸² Among them, agricultural tractors, dangerous substances and preparations, units of measurement, fertilizers, labeling of foodstuffs, and fruit juices.

Table 3-26
Status of standards-development work associated with selected New Approach directives,
Oct. 4, 1993

Directive	Subject	Total In program	Ratified	Under enquiry	Share of total ratified or under enquiry
			Number		Percent
87/404	Simple pressure vessels	42	17	19	86
88/378	Safety of toys	9	5	3	89
89/106	Construction products	206	10	73	40
89/392	Machinery - static	229	15	107	53
89/686	Personal protective equipment	180	61	89	83
90/384	Non-automatic weighing instruments .	1	1	0	100
90/385	Active implantable medical devices ..	39	1	25	67
90/396	Appliances burning gaseous fuels ...	66	10	39	74
91/368	Machines - lifting and mobility	46	0	29	63

Source: European Committee for Standardization (CEN), informal transmittal to USITC staff, Oct. 20, 1993.

designated notified bodies can occur. When the transition period ends, the EC-wide rules become mandatory. Products meeting the requirements of the applicable directive and bearing the CE mark of conformity are guaranteed free movement throughout the EC; those that do not comply are banned. The mention of a transition period within a directive does not relieve a member state of its obligation to transpose it. However, it could remove some of the urgency for doing so.

These practical differences between "old" and "new" approach directives should not be overdrawn, however. Old approach directives also often require additional technical work before they can have practical effect. In the processed food area, for example, the EC Commission must issue directives of its own to effect more detailed and technical provisions and must consult with the Standing Committee on Foodstuffs, composed of member-state regulatory officials and other interested parties, when performing this function. In the chemicals area, a Committee on Adaptation to Technical Progress in the field of dangerous substances and preparations plays a similar role. In the case of agriculture, the EC is advised by a Standing Veterinary Committee, among others. Furthermore, given the unpredictable nature of animal and plant health situations, the EC can ban certain products after outbreaks of illness and can approve required national plans on disease control.

Similarly, many old approach directives have what is in effect a "transition period." That is, they state that on a certain date member states must permit the sale in their markets of goods conforming to the directive, and that on a later date they must prohibit goods not conforming. This is particularly true in the case of processed foods and motor vehicles. Prior to the EC 92 program, the EC had already passed a significant body of technical legislation pertaining to automobiles.

The single-market program not only completed that legislation, but transformed it from being "optional" to obligatory by 1995.

Besides how old and new approach directives differ, another distinction is important: regulation of innovative products often focuses on the method for evaluating and approving them for use. Food additives, pharmaceuticals, and chemicals are areas where the mode of regulation focuses not on describing required characteristics of a known final product but rather on the data that must be supplied to show that an innovative product is safe for use in certain contexts and amounts and on the labels that must accompany such products. Lists of products acceptable under such procedures are sometimes then contained in EC-level legislation. Finally, a mechanism to evaluate the data must be created. Thus, the authorization procedure is a key legislative package in the pharmaceuticals field.

In the telecommunications area, harmonized standards play a key role in achieving other single-market goals, such as greater competition and open public procurement. Telecommunications standards writing focuses not only on the method of approving new products, but on allocation of radio frequencies and conditions for access to the main telephone network.

The sections that follow address implementation of standards-related measures on a sector-by-sector basis. The final three sections are not industry-specific. The miscellaneous category includes directives not falling neatly into any of the other categories. The generic category includes directives having broad-based impact; and the environmental category includes those environmental measures that are not clearly industry-specific. Environmentally motivated directives on matters such as exhaust emissions are dealt with in the relevant category, in this case, motor

vehicles. Although neatly categorized for this purpose, many of the different laws dealing with technical standards and approval procedures are so interrelated as to become difficult to separate. For example, although the EC Council slated 11 new approach directives to be implemented on or before September 1, 1993, it decided only in June 1993 on uniform rules for marking products as conforming to these requirements. The two laws containing the new CE marking rules are in the "generic" category, even though they amend prior legislation in sectors such as machinery.

Agriculture

Concerns about the control of animal and plant disease, the safety and wholesomeness of the food supply, and the viability of animal and plant propagation coupled with biological, cultural, and geographic differences among EC member states have made it hard to achieve two of the major goals of the EC single-market program: free movement of goods and elimination of physical frontiers.¹⁸⁷

The free movement of farm-based agricultural goods within the EC has been pursued through the harmonization of standards regulating the production, processing, and marketing of animal and plant products. Within this context, EC measures have been written in the following categories:¹⁸⁸

- Animal health (to protect animals against epizootic diseases)

¹⁸⁷ The agricultural measures considered in this report pertain to the harmonization of standards related to the free movement of goods. Although free movement is one of the principles underpinning the Common Agricultural Policy (CAP) and its common market organizations, other CAP policies are excluded from the scope of this study.

¹⁸⁸ EC Commission, *Internal Market, Current Status 1 January 1993, Veterinary and Plant Health Controls*, Jan. 1993, p. 2.

- Public health (to protect humans from the effects of animal diseases)
- Public health and animal health (combining the two categories above for disease potentially affecting both)
- Zootechnics (maintaining pedigree and herdbooks)
- Plant health (to protect seeds and plants from contamination)

The measures generally address methods for disease control, farming practices (for example, use of hormones and pesticides), procedures for maintaining and registering animal pedigrees and seed certification, and health requirements in the processing and marketing of animal- and crop-based foodstuffs.

The basic intent of these measures is to reduce the number of checks and inspections for agricultural products, both for intra-EC and third-country trade, while maintaining appropriate health standards throughout the Community. As such, the measures have been designed to require a single check at the point of origin or entry.¹⁸⁹

There were 130 EC agricultural measures applicable to member states considered in this study (see appendix D). As of September 1, 1993, member-state implementation was substantial, with an overall rate of 80 percent (table 3-27). Nevertheless, the EC Commission reported that 1992 was the third year in a row that the number of article 169 infringement proceedings in the agriculture field increased substantially.¹⁹⁰ The member-state implementation rate varies considerably by category and by member state, as shown in the following tabulation (from appendix C, in percent):

¹⁸⁹ EC Commission, *Completing the Single Market, White Paper to the European Council*, June 1985, pp. 12-13.
¹⁹⁰ EC Commission, *Tenth Annual Report*, p. 81.

Member state	Category					Total
	Animal health	Public health	Plant health	Public and animal health	Zootechnical	
Belgium	90	91	77	93	100	89
Germany	84	68	77	80	100	80
Denmark	90	91	74	93	100	90
Spain	74	91	74	93	90	84
France	81	79	75	60	90	78
Greece	81	65	71	67	90	74
Italy	79	85	84	80	100	86
Ireland	74	68	77	53	40	69
Luxembourg	94	76	59	93	90	81
Netherlands	90	85	74	73	30	79
Portugal	91	82	88	100	80	90
United Kingdom	87	85	68	87	100	84
Average, EC	84	80	75	81	84	80

Table 3-27
Agriculture - farm based products: Percent of EC 92 legislation Implemented

	Measures applicable	Number of derogations outstanding	Actual Implementations by EC member states	Percent Implemented
Agriculture - farm based	130	68	1,196	80.16
Animal health	37	61	322	84.07
Public health	34	0	328	80.39
Plant health	34	7	299	74.56
Public and animal health	15	0	146	81.11
Zootechnical aspects	10	0	101	84.17

Source: Compiled by USITC from official sources issued by the Commission of the European Communities.

Denmark and Portugal lead with an overall implementation rate of 90 percent, while Ireland trails with a rate of 69 percent. In terms of categories, animal health and zootechnical measures have been implemented at the leading rate of 84 percent, while plant health measures have been implemented at the low rate of 75 percent. The Animal Health Directives for which implementation is lagging include those relating to Health Conditions for Aquaculture Animals (Directive 91/67) and Protection of Animals During Transport (Directive 91/628). In the public health area, implementation of Directive 92/5 on Meat and 91/684 on Egg Products lags considerably. The much delayed plant health directives deal with organisms harmful to plants and plant products, seed potatoes, plant protection products, and propagating material. In the public and animal health area, the EC Commission

attaches particular importance to directives making possible the removal of veterinary checks at internal frontiers and the organization of EC checks at internal frontiers. In the EC Commission's words, "the transposal and implementation of these directives is essential to the completion of the single market." The EC Commission finds, however, that "the situation gives cause for concern."¹⁹¹

These implementation rates were calculated using data primarily from the EC Info92 data base. Commission staff obtained some other information from member states that in some cases contradicted Info92. The following tabulation shows discrepancies in implementation claims:

¹⁹¹ Ibid., p. 85.

Member state	Category and measure	Implementation status	
		INFO92	Member state data
Denmark	Plant health:		
	90/642-Dir.	No	Yes
	91/414-Dir.	No	Yes
	91/682-Dir.	No	Yes
Luxembourg	91/683-Dir.	No	Yes
	Plant health:		
	88/380-Dir.	No	Yes
	89/366-Dir.	No	Yes
Netherlands	91/357-Dir.	No	Yes
	92/10-Dir.	No	Yes
	Public health:		
	92/87-Dir.	No	Yes
	Plant health:		
	91/683-Dir.	No	Yes
	Public and animal health:		
	92/60-Dir.	No	Yes
	92/67-Dir.	No	Yes

Taking these discrepancies into account, Denmark would lead, with an overall implementation rate of 91 percent, and Ireland would still lag, with a rate of 67 percent. The overall EC implementation rate would rise slightly to 81 percent.

The EC Commission has mentioned several reasons for delays. Many directives came due for transposal in 1992, adding to a substantial backlog in some areas. "Another problem," the EC Commission continued, "has been the complexity of the directives which in many cases require not only technical adjustments to existing national laws but also a fundamental reorganization of the sectors concerned," notably in the veterinary and plant health control areas.¹⁹²

Several factors help explain the wide variation in implementation rates across categories. First, measures that have been implemented tend to be in areas that are either relatively focused and generally less contentious, or that involve a relatively larger proportion of "horizontal," framework measures, such as animal disease controls. Areas that have lower implementation rates, such as plant health measures, tend to be more detailed and technical, to pose a greater risk, and to comprise a relatively larger proportion of "vertical" measures, such as additives allowed in animal feedstuffs and pesticides. Additionally, measures successfully implemented tend to be in areas concerning primary inputs and farm production, such as breeding animal registration and animal disease control. These areas tend to be less visible to the final consuming public and generally do not involve controversial issues, such as the environment.¹⁹³ Areas in which member-state implementation of measures is lagging generally involve controversial consumer issues, such as medication and pesticide residues in feedstuffs and food, irradiation,¹⁹⁴ and packaging requirements.

Another factor affecting the implementation of measures is the variety of legislative and administrative systems and processes among member states. For example, in some member states, veterinary issues are under the purview of one ministry (Agriculture), while in most other members they are under two (Agriculture and Health). Spain's Ministries of Health and Agriculture are reportedly bogged down because so

many of the single-market directives fall within their purview and require substantial change from current practice.¹⁹⁵ Portugal, whose relatively recent entry into the Community required it to do much more, has apparently made great strides catching up. Ireland, the Netherlands, and Denmark have had specific problems transposing zootechnical directives, due in part to the relative newness of regulation in this area.¹⁹⁶ These structural differences affect the implementation of measures for agricultural and food products in particular, since there is considerable regional variation in production methods and consumer tastes and preferences for such products.

Coordination between the EC and member-state agencies and internal EC political matters also affect the implementation process.¹⁹⁷ For example, EC Commission responsibility for measures regarding nutritional claims was transferred from Directorate General (DG) III to DG XI because consumer protection was deemed to require a higher profile. However, member states were not consulted about this move, which reportedly caused administrative problems between the EC and member-state agencies.¹⁹⁸

Other historical and cultural factors have also affected the implementation of EC measures. Regional and national dietary preferences, attitudes towards farming and animal husbandry, and the degree of government intervention in agriculture are a few.¹⁹⁹ Protectionist tendencies²⁰⁰ and mistrust may also play

¹⁹⁵ Officials of EC State Secretariat, Ministry of Foreign Affairs, Spain, interview by USITC staff, Sept. 23, 1993.

¹⁹⁶ EC Commission, *Tenth Annual Report*, p. 84; and Danish Ministry of Agriculture official, interview by USITC staff, Sept. 30, 1993.

¹⁹⁷ For example, Danish officials attributed the pending character of directive 91/69 to the fact that they were still waiting to receive clarifications requested of the EC Commission. U.S. Department of State telegram, "USITC Sec. 332 Study (Implementation of EC Directives—Denmark)," message reference No. 006646, prepared by U.S. Embassy, Copenhagen, Sept. 30, 1993.

¹⁹⁸ *Ibid.*

¹⁹⁹ For example, there is a schism regarding animal welfare issues. The "North" (particularly the United Kingdom, Germany, and the Netherlands) is viewed by the "South" (mainly France, Spain, and Italy) as having an "anthropomorphic" attitude toward animals. Controversial issues include the transportation of live animals and the confinement of veal calves and laying hens. The balance of power regarding such issues has shifted in recent years to the "North." Officials of the French Veterinary Services, interview by USITC staff, Paris, Sept. 17, 1993.

²⁰⁰ For example, one observer suggested that agriculture-oriented member states may use the harmonized market to reinforce standards to protect domestic agricultural interests while trade-oriented member states may apply EC measures loosely to attract trade. USITC staff interview with an official of a major French importer of fruit and vegetables, Paris, Sept. 16, 1993.

¹⁹² *Ibid.*, p. 81.

¹⁹³ Officials of the Agriculture Directorate General, EC Commission, interview by USITC staff, Brussels, Sept. 14, 1993.

¹⁹⁴ Official of the Confederation of Importers and Marketing Organizations in Europe of Fresh Fruit and Vegetables, interview by USITC staff, Brussels, Sept. 13, 1993.

a role.²⁰¹ The EC Commission is considering tightening up controls on the use of hormones in meat because of concern that hormones remain in use despite an EC-wide ban imposed in 1988 (directive 88/146).²⁰² Although fines for fraud are levied, they reportedly have not been an effective deterrent.²⁰³ These factors have played a large part in shaping member-state policies and measures prior to the single-market program and created uneven starting points from which member states had to conform to EC measures.²⁰⁴ The EC Commission notes that the reorganization of veterinary checks is based on mutual trust between the member states. "Thus," it continues,

²⁰¹ For example, some member-state agriculture agencies question the competence of EC-level inspectors (USITC staff interview with member-state veterinary officials, Sept. 17, 1993). Also, there is concern that the quality of food supplies may decline in the wake of the removal of border controls (USITC staff interview with a BEUC official, Brussels, Oct. 5, 1993).

²⁰² *European Report*, No. 1862, May 29, 1993.

²⁰³ Danish Ministry of Agriculture official, interview by USITC staff, Sept. 30, 1993.

²⁰⁴ The EC Commission launched infringement proceedings against Spain for its ban on the import of frozen minced meat originating in France. The meat in question reportedly complied with directive 88/657 and came from establishments officially approved by France in application of the directive. EC Commission, *Tenth Annual Report*, p. 22.

"apart from the considerable technical work involved, their transposal requires the member states to confront psychological barriers. This has probably played an important part in the widespread delays affecting transposal."²⁰⁵

Inadequate staffing and funding of EC and member-state agencies²⁰⁶ has also affected the implementation of measures. Since the 1985 White Paper, the pace of drafting and implementing measures increased dramatically, and EC and national authorities have struggled to cope with the burden of so much.²⁰⁷ For example, in France, the number of production regulations related to the Veterinary Services increased from 7 in 1962 to 445 in 1992; this number rose from 111 in 1985 when the White Paper was introduced (figure 3-1).²⁰⁸ The EC measures will result in the need for increased member-state training and staffing

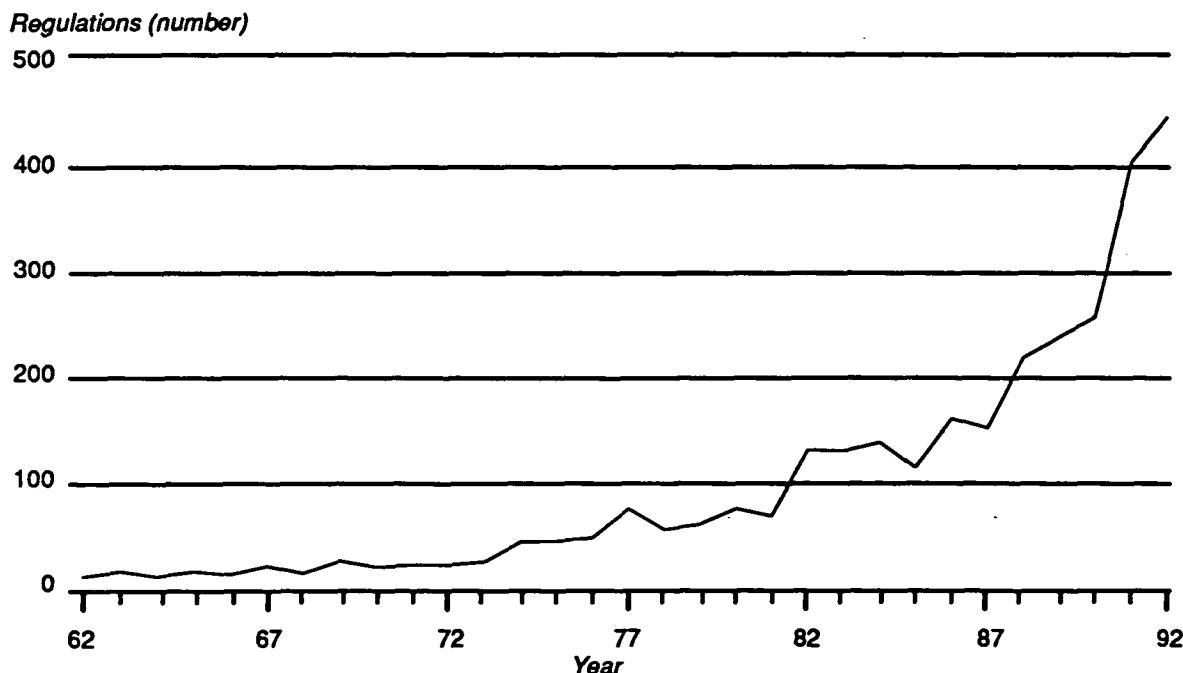
²⁰⁵ *Ibid.*, p. 85.

²⁰⁶ Such as for food inspection, veterinary services, and microbiological testing.

²⁰⁷ This factor was mentioned by most of the EC and member-state officials that were interviewed.

²⁰⁸ Data provided by officials of the French Veterinary Services, interview by USITC staff, Paris, Sept. 17, 1993.

Figure 3-1
Production regulations introduced by the French Veterinary Services, 1962-92



Source: Unpublished data from the French Veterinary Services, Sept. 1993.

to ensure compliance,²⁰⁹ and the Community favors a user-fee approach to fund EC-level services, such as inspection and certification and data collection and dissemination.²¹⁰ Although the EC Directorate General for agriculture established the Office of Veterinary and Phytosanitary Inspection in 1992, problems adjusting to changing animal and public health requirements in the face of funding limitations have compromised the effectiveness of the office.²¹¹

The General Agreement on Tariffs and Trade (GATT) dispute between the Community and the United States is centered on agricultural issues. The dispute is changing the priority of internal market measures on the EC agenda and diverting EC and member-state resources from the harmonization process.²¹² On the other hand, the shift in emphasis by the EC to drafting "horizontal" measures based on mutual recognition of member state systems and structures has had a positive influence on implementation. This shift allowed more flexibility among member states and facilitated implementation.²¹³ Although horizontal measures tend to be broad and fundamental, focused and specific vertical measures are generally considered to be integral to and inseparable from their related horizontal measures.²¹⁴

The implementation of agricultural measures is also positively affected by the prominent position of the Common Agricultural Policy (CAP) in the EC agenda and the relative importance of agricultural exports²¹⁵ to member-state economies. The CAP currently accounts for roughly two-thirds of the EC budget, and agricultural trade is important to several member states, particularly France, the Netherlands, and Denmark. The administrative structures between the Community and member states formed by the CAP

have facilitated the single-market program for agriculture.²¹⁶ The regular communication among member-state veterinary officials participating in the Standing Veterinary Committee has facilitated implementation and the resolution of noncompliance problems.²¹⁷

Another positive factor affecting implementation is the general trend in the global food industry toward increased concentration, multinational ownership and control, and world trade. This trend has aided the EC single-market process because affected interests have become more organized and effective, thus facilitating standardization.²¹⁸ Also, the reputation of a brand or company name is paramount and provides additional incentive for multinational firms to comply with EC measures.²¹⁹

Although member-state implementation of farm-based agricultural measures has been uneven, problems regarding compromise, trust, and enforcement have concerned EC and member-state agricultural officials.²²⁰ The need to compromise has often contributed to the construction of inadequate initial measures that require amendment. A general lack of trust, mainly in terms of relinquishing national control to EC authorities and other member states, has compromised the single-check basis of the measures.²²¹ Uneven enforcement of some implemented measures among member states has resulted in protectionism and competitive imbalances. Moreover, continued vigilance is necessary to prevent new obstacles to free movement from forming. Fully half of the national agricultural regulations notified to the EC Commission under the information procedure set forth in directive 83/189 were subject to requests for modification to prevent imposition of new barriers to trade. Twelve infringement proceedings were begun

²⁰⁹ U.S. Department of State telegram, "Request for Assistance in Connection With USITC Section 332 Study on EC Member State Implementation of 1992 Related Directives," message reference No. 071288, prepared by U.S. Embassy, Rome, Oct. 4, 1993.

²¹⁰ Official of the Agriculture Directorate General, EC Commission, interview by USITC staff, Brussels, Sept. 14, 1993.

²¹¹ EC Commission, *Working Document of the Commission: On a Strategic Programme on the Internal Market*, communication from the Commission to the Council and the European Parliament, COM (93) 256 final, June 2, 1993, p. 14.

²¹² Official of the EC Veterinary Legislation Directorate (Animal Health), Agriculture Directorate General, EC Commission, interview by USITC staff, Brussels, Sept. 13, 1993.

²¹³ Ibid.

²¹⁴ Officials of the EC Commission, Agriculture Directorate General, interviews by USITC staff, Brussels, Sept. 13-14, 1993.

²¹⁵ Intra-EC trade in particular.

²¹⁶ Officials of the Dutch Ministry of Economic Affairs and the Ministry of Foreign Affairs, interview by USITC staff, The Hague, Sept. 16, 1993.

²¹⁷ Danish Ministry of Agriculture official, interview by USITC staff, Sept. 30, 1993.

²¹⁸ Official of the Belgian Food Inspection Services, Belgian Ministry of Public Health, interview by USITC staff, Brussels, Sept. 13, 1993.

²¹⁹ Official of a major French meat trader, interview by USITC staff, Paris, Sept. 16, 1993.

²²⁰ These issues were cited by most of the officials interviewed by USITC staff.

²²¹ For example, application of Community rules prohibiting unnecessary additional checks and administrative requirements has been the subject of several judgments by the ECJ in recent years. Greece was found to be in violation of the treaty because it required the producer member state to issue certificates guaranteeing that pasteurized butter conformed with Greece's own standard (Case C-205/89, *Commission v. Greece*, Mar. 19, 1991). Ireland was found to be in violation for requiring prior import licenses (Case C-235/91, *Commission v. Ireland*, Nov. 17, 1992.)

in 1992 for failure to properly notify other member states and the EC Commission of draft legislation in the agriculture field.²²²

Areas for which measures remain to be drafted by the Community or implemented by member states generally involve specialty products with a wide variation in member-state standards. Such areas include exotic produce, game meat, fish products, and dairy products.²²³ Also, harmonization is incomplete for some products and processes that are controversial, such as irradiation and animal welfare. In addition, "vertical" technical measures are required in many areas where "horizontal" framework measures exist, such as pesticide residues and veterinary inspection.²²⁴ Harmonization also remains incomplete in such areas as poultry and fish products, which will generally follow the paradigm established by the red meat sector. And, certain data and communications systems regarding inspections and disease outbreaks in the agricultural sector, such as the "ANIMO," "SHIFT," and "EUROPHYT" data bases, are not completely in operation. Once they are operational, however, these data bases should ease communication among member-state authorities and facilitate application of EC-wide rules.

Processed Foods

EC policy towards foodstuffs is based on harmonization of the differing national regulations and standards and the mutual recognition of some national regulations and standards, particularly regarding quality. The 1985 White Paper set forth framework measures covering broad areas in need of harmonization rather than individual categories of products such as coffee and chicory extracts. The earlier vertical directives are to be revised. The seven framework measures are—

- Sampling and analysis of foodstuffs (85/591)
- Official control of foodstuffs (89/397)
- Food additives in foodstuffs (89/107)
- Materials in contact with foodstuffs (89/109)
- Food for particular nutritional uses (89/398)
- Frozen foodstuffs (89/108)
- Identifying foodstuff lot (89/396)²²⁵

²²² EC Commission, Working Document, p. 14.

²²³ *Ibid.*, p. 8.

²²⁴ EC Commission, *Tenth Annual Report*, p. 86.

²²⁵ This directive was not mentioned specifically in the White Paper, but is considered a framework measure with regard to foodstuffs.

Fifty-nine of the legislative measures adopted apply directly to foodstuffs (appendix C), including the 7 directives listed above and 13 other measures specifically mentioned in the White Paper. Approximately 80 percent of the measures are directives, while the remaining 20 percent are regulations. Some important legislation, for example on food hygiene and official control of foodstuffs, either is not yet due to be implemented or awaits final EC Council adoption.

The member-state implementation rate for the 48 measures concerning foodstuffs whose implementation deadlines were prior to September 1, 1993 (table 3-28), is 82 percent, indicating that the integration of foodstuffs into the EC realm is substantial.²²⁶ Many directives have implementation deadlines that have only recently passed, and the implementation rate considering only those with deadlines before May 31, 1993, rises to 91 percent (virtually completed). Leaving out the directives and regulations that relate only indirectly to the White Paper, and thus can be considered of lesser importance, the implementation rate is 90 percent (substantially completed).

The Netherlands leads the EC member states in the number of legislative measure implementations (42), while Germany, followed by Italy lead in the number of directives that have passed their implementation deadlines (13 and 11, respectively) and are late. Overall, the implementation rates of all member states are quite close, with the number of legislative measures implemented varying only between the aforementioned high of 42 to Germany's low of 35.

Many of the directives experiencing implementation delays employ a "positive list" approach. This approach prohibits the use of any material, ingredient, or testing method not listed in the directive, and it requires that the member states allow the use throughout the EC of any product or method contained in the list. Especially problematic areas include Directives on the Sampling and Analysis of Foodstuffs (85/591), Emulsifiers (89/393), and Plastic Materials in Contact With Foodstuffs (92/39). The first directive is a framework directive, and the others are vertical (specific) amendments to more general current

²²⁶ The EC Commission's Info92 data base does not yet show the Netherlands as having implemented directives 92/39 (plastics materials), and 92/115 (extraction solvents). However, the Government of the Netherlands reports that it had implemented the directives as of June 30, 1993. The Info92 data base also does not show directive 91/238 (Identifications of foodstuff lots) as implemented by Luxembourg. The Government of Luxembourg indicates that this directive has been implemented.

Table 3-28

Processed foods and kindred products: List of measures with implementation dates before Sept. 1, 1993

Measure	Title
GENERAL LEGISLATION	
85/591-Dir.	Sampling and analysis of foodstuffs (framework)
89/397-Dir.	Official control of foodstuffs (framework)
93/5-Dir.	Scientific examination of food questions
93/315-Reg.	Community procedures for contaminants (enacts COM(91)523)
ADDITIVES	
85/585-Dir.	Preservatives (amends 64/54-Dir)
86/102-Dir.	Emulsifiers (amends 74/329-Dir)
88/344-Dir.	Extraction solvents used in the production of foodstuffs
88/388-Dir.	Standards for flavorings for foodstuffs
89/107-Dir.	Food additives in foodstuffs (framework)
89/393-Dir.	Emulsifiers (amends 74/329-Dir)
90/612-Dir.	Criteria of purity for emulsifiers (amends 78/663-Dir)
92/4-Dir.	Criteria of purity for emulsifiers (amends 78/663-Dir)
92/115-Dir.	Extraction solvents (amends 88/344-Dir)
MATERIALS IN CONTACT WITH FOODSTUFFS	
85/572-Dir.	Simulants used for testing plastic materials
89/109-Dir.	Materials in contact with foodstuffs (framework)
90/128-Dir.	Plastic materials (implements 88/108-Dir)
92/15-Dir.	Regenerated cellulose film (amends 83/229-Dir)
92/39-Dir.	Plastics materials (amends 90/128-Dir)
LABELING, PRESENTATION, AND ADVERTISING	
85/10-Dir.	Volume of prepackaged liquids (amends 75/106-Dir)
86/197-Dir.	Labeling alcoholic content (extends framework 79/112-Dir)
87/250-Dir.	Labeling of alcoholic beverages
88/315-Dir.	Labeling of prices for food products
88/316-Dir.	Volume of prepackaged liquids (amends 75/106-Dir)
89/395-Dir.	Labeling, presentation etc. (amends framework 79/112-Dir)
89/676-Dir.	Volume of prepackaged liquids (amends 75/106-Dir)
FOOD FOR PARTICULAR NUTRITIONAL USES	
89/398-Dir.	Food for part. nutri. uses (framework, replaces 77/94-Dir)
QUICK-FROZEN FOOD	
89/108-Dir.	Frozen foodstuffs (framework)
92/1-Dir.	Monitoring transport/storage temp. (implements 89/108-Dir)
92/2-Dir.	Control of temperatures (implements 89/108-Dir)
FOODSTUFF LOTS	
89/396-Dir.	Identifying foodstuff lot (framework)
91/238-Dir.	Indications identifying foodstuff lots (amends 89/396-Dir)
92/11-Dir.	Indications identifying foodstuff lots (amends 89/396-Dir)
PRODUCT QUALITY	
92/2081-Reg.	Geographic indications of origin (supplements 79/112-Dir)
92/2082-Reg.	Certificates of specific character (supplements 79/112-Dir)
PRODUCT-SPECIFIC (VERTICAL) LEGISLATION	
Tobacco:	
89/622-Dir.	Labeling of tobacco products
90/239-Dir.	Maximum tar yield of cigarettes (amends 87/720-Dir-phase 1)
Spirit Drinks:	
89/1576-Reg.	Rules on definition and description of spirit drinks
89/3773-Reg.	Transitional measures for spirit drinks (implements 89/1576-Reg)
90/1014-Reg.	Spirit drinks (implements 89/1576-Reg)
90/1759-Reg.	Spirit drinks (amends implementing measure 89/3773-Reg)
90/3207-Reg.	Spirit drinks (amends implementing measure 89/3773-Reg)
91/1180-Reg.	Definition of spirit drinks (amends implementing 90/1014-Reg)
91/1781-Reg.	Spirit drinks (amends implementing measure 90/1014-Reg)
92/3280-Reg.	Rules on the definition of spirit drinks (amends 89/1576-Reg)
92/3458-Reg.	Spirit drinks (amends implementing measure 90/1014-Reg)

Table 3-28—Continued

Processed foods and kindred products: List of measures with Implementation dates before Sept. 1, 1993

Measure	Title
Coffee and chicory extracts: 85/573-Dir.	Coffee and chicory extracts, harmonizing labeling/packaging
Fruit juices and similar products: 89/394-Dir.	Fruit juices and similar products (amends 75/726-Dir)
Fruit jams, jellies and marmalades, and chestnut puree: 88/593-Dir.	Jams, jellies, marmalades, and chestnut puree (amends 79-693-Dir)

Source: Compiled by USITC from official sources issued by the Commission of the European Communities.

Table 3-29

Processed foods: Percent of EC 92 legislation Implemented

	Measures applicable	Number of derogations outstanding	Actual Implementations by EC member states	Percent Implemented
Agric.-processed foods	48	0	474	82.29
General legislation	4	0	32	66.67
Additives	9	0	80	74.07
Materials	5	0	40	66.67
Labeling, etc.	7	0	83	98.81
Spec. nutritional uses	1	0	10	83.33
Quick frozen food	3	0	18	50.00
Foodstuffs lot number	3	0	29	80.56
Product quality	2	0	24	100.00
Product specific	14	0	158	94.05

Source: Compiled by USITC from official sources issued by the Commission of the European Communities.

directives. The problems in drafting a directive on coloring agents and proposals on the use of sweeteners and miscellaneous additives to be used in foodstuffs also stem in part from the "positive list" approach.

One example of the implementation problems stemming from the "positive list" approach is the preparation of traditional foodstuffs, such as British mushy peas and kippers and Strasbourg sausage, which require the use of materials either not contained in the approved lists of additives or colorings, or not specified in the lists for that particular use. On the other end of the spectrum, some countries have complained that their "traditional" products by custom may not contain any additives or colorings, including those listed as approved by the EC (for example, sweeteners in German beer).²²⁷ To keep exemptions

for "traditional" products from becoming loopholes for continued trade barriers, the European Parliament in May 1993, called on the EC Commission to define "traditional" products.²²⁸ Furthermore, there is a growing recognition of the need for better and more frequent monitoring of food additives by member-state authorities.²²⁹

Implementation has also been slow on two Directives on Frozen Foodstuffs (92/1 and 92/2). The Directives on Frozen Foodstuffs had deadlines of July 1, 1993, and are believed to be slowed only by the usual pace of national legislative processes. The

²²⁷ The desire to protect traditional products is also evident in implementing the regulation on geographic indications of origin. Italy reports that the administrative rules needed to implement the regulation are currently under discussion, but action has been slowed by the need to consider special interests. U.S. Department of State telegram, "Request for Assistance in Connection with USITC Section 332 study on Member State Implementation of 1992-Related Directives," message reference No. 17288, prepared by U.S. Embassy, Rome, Oct. 4, 1993.

²²⁸ Food additives have also posed problems in the application of Community rules at the national level. For example, Italy, Greece, and France were all found to be in violation of the Treaty because their national laws on authorized additives did not provide mechanisms for future authorization of currently-prohibited additives. ECJ, judgment in joined cases C-13/91 and C-113/91, judgments of July 1992 in cases C-95/89, C-293/89 and C-344/90. France and Italy have taken temporary measures to make their national regulations compatible after 1988 rulings by the Court of Justice against their ban of pasta not made wholly from durum wheat. EC Commission, *Tenth Annual Report*, p. 24.

²²⁹ *European Report*, No. 1880, July 31, 1993.

original framework directive (89/108) has been implemented by all member states.

Despite the problem areas mentioned above, the goal of free movement of foodstuffs by implementation of harmonized requirements has been substantially attained. Of the foodstuffs measures mentioned in the White Paper (6 framework directives, 11 amendments or modification directives, and 2 implementation directives), all except for the framework directive on sampling and analysis have been implemented by most member states.²³⁰

Because the principle of mutual recognition plays an important role in the foodstuffs area, however, the Sutherland report concluded that contradictions within the internal market continue that are "perceived as a distortion to competition and an impediment to investment." Foodstuff rules, particularly on labeling, dominate the infringement cases brought to the ECJ.²³¹

Major areas of foodstuff regulation are also still lacking complete EC guidelines, including labeling, standards of food hygiene, nutritional claims, food irradiation, and the marketing of novel foods, such as genetically engineered tomatoes. A directive supplementing 89/397 on Official Control of Foodstuffs by improving control procedures is close to adoption. Moreover, the EC Parliament has recommended consolidation of all vertical legislation associated with food hygiene within the next 3 years.

Chemicals and Related Products

The EC Council has adopted 41 directives in the 1992 integration program for chemicals and related products (appendix C). Of these directives, four do not have compulsory implementation dates. Of the 34 chemicals and related products directives for which the implementation deadline was September 1, 1993, or earlier (table 3-30), the rate of member-state implementation is 69 percent (table 3-31).

Although implementation in the area of chemicals and related products is thus only partially complete, the chemicals and related products category can be broken down into several subsectors that have widely different implementation records: cosmetics, detergents, fertilizers, dangerous substances, and laboratory practices. Of these subsectors, dangerous substances

and cosmetics contain the most directives. Member states have particularly lagged in implementing legislation on dangerous substances (18 directives, 51-percent implementation). Implementation of directives in the areas of cosmetics (10 directives, 85-percent implementation), detergents (1 directive, 92-percent implementation), fertilizers (3 directives, 97-percent implementation), and laboratory practices (2 directives, 88-percent implementation) has been at least substantial. The EC Commission has reported that in most cases where transposal has not occurred, the legislative process is "well on its way to completion."²³² Cables from U.S. posts confirm some recent transpositions.

In the area of dangerous substances and preparations,²³³ the measure most important to the United States relates to the export and import of certain dangerous chemicals (92/2455). It is the only measure relating to the EC market in dangerous substances and preparations that the EC Council enacted by a regulation, and is thus directly applicable. In addition to this regulation, the most significant directives require U.S. exporters of dangerous substances and preparations to implement changes in the EC classifications for their exports.

All member states have completely implemented directives relating to Labeling Materials Containing PCBs and PCTs (85/467) and relating to Restrictions on the Marketing and Use of Asbestos (85/610). Directive 89/678, the new approach to restrictions on the marketing and use of specified dangerous substances, transferred the responsibility for adaptation of the annexes to directive 76/769 from the EC Council to the EC Commission. Implementation at the member-state level is not compulsory, but Germany has notified the EC Commission of its implementing legislation.

The EC Commission granted a derogation on December 2, 1992, on the basis of article 100A.4, which excused Germany from compliance with EC directive 91/173 concerning marketing of dangerous substances, specifically PCP. Germany had requested

²³⁰ Framework directive 89/398 (Food for Particular Nutritional Uses) lacks implementation by the United Kingdom and Germany, and directives 88/315 (Labeling of Prices for Food Products) and 88/344 (Extraction Solvents Used in the Production of Foodstuffs) each lack implementation by one member state.

²³¹ High Level Group on the Operation of the Internal Market, report to the EC Commission, *The Internal Market After 1992: Meeting the Challenge*, Oct. 1992, p. 11.

²³² EC Commission, *Tenth Annual Report*, p. 31.

²³³ The White Paper included only the framework directive on the classification, labeling, and packaging of dangerous preparations and the old approach directives on materials containing polychlorinated biphenyls (PCBs), polychlorinated terphenyls (PCTs) or asbestos. The other measures reflected the adaptation to technical progress of previous legislation. The Committee on the Adaptation to Technical Progress of the Directives for the Elimination of Technical Barriers to Trade in Dangerous Substances and Preparations was set up to periodically review and revise Community directives in this field. Generally speaking, the EC Commission is authorized to issue directives towards that end upon receiving favorable advice from the committee.

Table 3-30
Chemicals: List of measures with implementation dates before Sept. 1, 1993

Measure	Title
COSMETICS	
86/179-Dir.	Cosmetic products (amends 76/768-Dir)
86/199-Dir.	Cosmetic products (amends 76/768-Dir)
87/137-Dir.	Cosmetic products (amends 76/768-Dir)
88/667-Dir.	Cosmetic products (amends 76/768-Dir)
89/174-Dir.	Cosmetic products (amends annexes to 76/768-Dir)
90/121-Dir.	Cosmetic products (adapts annexes to 76/768-Dir, 89/174-Dir)
90/207-Dir.	Checking the composition of cosmetic products
91/184-Dir.	Definitions for certain cosmetic products
92/8-Dir.	Laws adapting member states laws on cosmetic products
92/86-Dir.	Laws relating to cosmetic products
DETERGENTS	
86/94-Dir.	Minimum biodegradability of detergents
FERTILIZERS	
88/183-Dir.	Definition of liquid fertilizers
89/284-Dir.	Calcium, magnesium, sodium and sulphur content of fertilizer
89/530-Dir.	Trace (oligo) elements in fertilizer (boron, cobalt, copper)
DANGEROUS SUBSTANCES	
85/467-Dir.	Labeling of materials containing PCBs & PCTs (amends 76/769-Dir for the 6th time)
85/610-Dir.	Asbestos (amends 76/769-Dir for 7th time)
88/379-Dir.	Dangerous preparations (amended by 89/178-Dir and 90/492-Dir)
89/178-Dir.	Dangerous preparations (amends 88/379-Dir)
89/677-Dir.	Dangerous substances and preparations
90/492-Dir.	Dangerous preparations (amends 88/379-Dir for second time)
90/517-Dir.	Classification and packaging of dichloromethane
91/155-Dir.	System of information for dangerous preparations
91/157-Dir.	Batteries and accumulators containing dangerous substances
91/173-Dir.	Marketing of dangerous substances (pentachlorophenol)
91/325-Dir.	Laws on labelling dangerous substances
91/326-Dir.	Laws on labelling notified dangerous substances
91/338-Dir.	Laws on marketing dangerous substances (cadmium)
91/339-Dir.	Marketing of dangerous substances (halogenated bitoluenes)
91/410-Dir.	Laws on packaging of dangerous substances
91/632-Dir.	Laws on labelling of dangerous substances
92/37-Dir.	Laws on labelling of dangerous substances
92/2455-Reg.	Export and import of certain dangerous chemicals
LABORATORY PRACTICES	
88/320-Dir.	Good laboratory practices (amended by 90/18-Dir)
90/18-Dir.	Good laboratory practice (amends 88/320-Dir)

Source: Compiled by USITC from official sources issued by the Commission of the European Communities.

Table 3-31
Chemicals: Percent of EC 92 legislation Implemented

	Measures applicable	Number of derogations outstanding	Actual Implementations by EC member states	Percent Implemented
Chemicals	34	0	280	68.63
Cosmetic products	10	0	102	85.00
Detergents	1	0	11	91.67
Fertilizers	3	0	35	97.22
Dangerous substances	18	0	111	51.39
Laboratory practices	2	0	21	87.50

Source: Compiled by USITC from official sources issued by the Commission of the European Communities.

permission to retain its legislation banning PCP, claiming that the ban is not designed as a barrier to trade but to protect the environment. Denmark and the Netherlands have requested similar derogations, but the EC Commission has not yet made a decision in their cases. France filed a formal complaint and requested an annulment by the ECJ of the EC Commission's decision to grant the derogation in February 1993. France noted that no substitute for PCP exists for some applications.²³⁴

Commerce in dangerous substances is highly regulated, given the inherent high risk of such products to human and environmental health. The primary reason for failure to implement in this very sensitive area is difficulty reaching consensus among competent regulatory authorities and technical experts from the business and environmental communities. The EC Commission has begun infringement proceedings against a number of member states in the area of dangerous substances for failure to notify by issuing its standard article 169 letter.²³⁵ Germany has, however,

²³⁴ *European Report*, No. 1847 (Mar. 27, 1993), p. 8.

²³⁵ Of particular importance to U.S. exporters of dangerous substances and preparations, as well as those U.S. companies with production in the EC, are the proceedings against Belgium, Germany, Spain, Italy (article 169 letter Nos. 92/0829 and 92/0830, which Italy intends to resolve by enacting the 1993 Omnibus Community Laws Act and to which Italy responded to by enacting the Ministerial Administrative Act of March 16, 1993, respectively), Ireland, Portugal, and the United Kingdom for failure to notify the EC Commission of legislation adopting specified risk and safety advice phrases for the packaging of certain dangerous substances (EC Commission directives 91/325 and 91/326). The EC Commission has also issued article 169 letters in proceedings against Belgium, Germany, Spain, Luxembourg, and the United Kingdom for failure to notify the EC Commission of legislation adopting child-resistant fastenings, a tactile warning of danger, or both on the packaging of dangerous preparations for general use (EC Commission directives 90/35 and 91/410). Although Greece, Italy, Ireland, and Portugal have notified the EC Commission of their laws implementing directive 90/35, proceedings against these countries (Greece, Italy [article 169 letter No. 92/0832, which Italy intends to resolve by enacting the 1993 Omnibus Community Laws Act], Ireland, and Portugal) for infringement of directive 91/410 continue.

Further, neither Belgium, Germany, Denmark, Spain, France, Luxembourg, the Netherlands, Portugal, nor the United Kingdom has notified the EC Commission of national legislation establishing a system of information for dangerous preparations (MSDS), as required by directive 91/155. As of December 31, 1992, the EC accommodation to the Danish environmental ministry relating to the wording of the hazard classification of dichloromethane (EC Council directive 90/517) had not been implemented by Belgium, Spain, Italy (article 169 letter No. 92/0349 to which Italy responded by enacting the Ministerial Administrative Act of February 16, 1993), Ireland, Portugal or the United Kingdom. Some states, such as Denmark, the Netherlands, and Greece, are trying to implement these directives, while others are coping with a multitude of implementation demands competing for legislators' time.

recently implemented 17 individual directives pertaining to dangerous substances.²³⁶ Italy reports that it has already implemented directives 90/517 and 91/326. It plans to implement six directives as part of an omnibus bill expected to be passed in early 1994.²³⁷

The Cadmium Council, Inc., a trade association, is concerned about the lack of harmonization among the member states and with the United States, relating to laws (directive 91/338) on the marketing of products containing cadmium.²³⁸ None of the U.S. producers of transformer fluids that were contacted expressed concern about lack of harmonization for marketing of PCB substitutes in the EC (directive 91/337).

Two recently adopted directives on cosmetics are not scheduled for implementation until June of 1994 and 1995. Member-state implementation of EC 92 cosmetics legislation for which the implementation deadline has passed is substantial. No one directive is more significant than the others. Each is related to iterative changes adapting regulations set out for the cosmetics industry in directive 76/768 to technical progress. It is expected that all of those directives that have not yet been fully implemented will be implemented soon. However, the EC Commission reports that transposal of directive 76/768 itself "remains less than satisfactory."²³⁹

Application of the Cosmetics Directive has on occasion posed problems. In May, the ECJ struck down a French regulation requiring firms to submit information on their products in excess of the notification requirements of directive 76/768 as amended. Similar requirements by Greece were overturned by the Court in March 1992. Although a French official reportedly suggested that revisions to the directive passed in June 1993 will obviate the need to change French law, an EC Commission official disagreed.²⁴⁰ In addition, the EC Commission reports

²³⁶ U.S. Department of State telegram, "German Implementation of EC Directives," message reference No. 29046, prepared by U.S. Embassy, Bonn, Oct. 21, 1993.

²³⁷ The six directives are 91/173, 91/338, 91/339, 91/325, 91/410, and 91/632. U.S. Department of State telegram, message reference No. 017194, prepared by U.S. Embassy, Rome, Oct. 1, 1993.

²³⁸ W. Richard Bidstrup, letter to the Commission Re: ITC Review of Different Cadmium Standards, investigation No. 332-267 (Washington, DC: Cleary, Gottlieb, Steen & Hamilton, July 6, 1990) and Multinational Business Services, Inc., *The Cadmium Rule—Destroying Workers' Jobs to Protect Them?* (Washington, DC: The Cadmium Council, Inc., Sept. 1989).

²³⁹ EC Commission, *Tenth Annual Report*, p. 86.

²⁴⁰ *EuroWatch*, May 17, 1993, p. 7. Among other things, the French law requires information to be submitted in French, whereas the EC directive only requires that it be submitted in the official language of the originating member state.

that Spain and Portugal's national legislation is "still at odds with the directive."²⁴¹ The EC Commission attributes such problems to the "particularly sensitive" nature of cosmetics regulation generally.²⁴²

Directive 86/94, scheduled for implementation by December 17, 1989, concerns the minimum biodegradability of detergents. Although Italy has not yet fully implemented this measure, full implementation is expected in early 1994.

Member-state implementation of fertilizer legislation is virtually complete. These directives essentially adapt the original fertilizer directive, 76/116, to technical progress to incorporate tolerance limits for secondary nutrients, micronutrients (trace elements), and increasing preference toward fluid rather than solid fertilizer use. Two directives have been fully implemented. Although appendix C does not yet show Italy as having implemented directive 89/530, the Department for the Coordination of EC Policy With the Prime Minister's Office in Rome indicates that Italy has also implemented this directive by legislative decree of February 16, 1993.²⁴³

The substantially completed program in good laboratory practices (GLP) is composed of only two adopted directives. The initial directive, 88/320,

scheduled to be implemented by January 1, 1989, has been implemented in all member states except Spain. The second directive, 90/18, slated for implementation by July 1, 1990, amends the initial directive by incorporating the full text of Organisation for Economic Cooperation and Development (OECD) guidance documents on GLP to facilitate uniform interpretation by the member states in the formulation of each country's implementing legislation. These OECD guidance documents are referenced only in the initial directive. Since both directives (original with references, amendment with full text) are essentially the same, laws enacted by member states regarding GLP based on the referenced OECD guideline documents should not be affected significantly by the amendment. Thus, implementing directive 90/18 has not had high priority in several of the member states.

Pharmaceuticals

The original legislative program for pharmaceuticals as mapped out in the White Paper is complete, following adoption of all of the measures designed to remove or reduce most nontariff barriers for pharmaceuticals.²⁴⁴ These measures, shown in table 3-32, were drafted as part of EC efforts to promote freedom of movement of pharmaceuticals while ensuring consumers a high level of protection.

²⁴¹ EC Commission, *Tenth Annual Report*, p. 66.

²⁴² *Ibid.*

²⁴³ U.S. Department of State telegram, message reference No. 017194, prepared by U.S. Embassy, Rome, Oct. 1, 1993.

²⁴⁴ In total, 24 such measures have been adopted. Directives accounted for the majority of the legislation.

Table 3-32
Pharmaceuticals: List of measures with Implementation dates before Sept. 1, 1993

Measure	Title
87/19-Dir.	Approximates laws on the testing of proprietary medicines
87/20-Dir.	Testing of veterinary medicines
87/21-Dir.	Testing of proprietary medicines
87/22-Dir.	High technology medical products
89/105-Dir.	Transparency in medicines pricing & social security refunds
89/341-Dir.	Approximates provisions for proprietary medicines
89/342-Dir.	Immunological medicine of vaccines, toxins or serums
89/343-Dir.	Radio-pharmaceuticals
89/381-Dir.	Proprietary medicine derived from human blood or plasma
90/676-Dir.	Veterinary medicines
90/677-Dir.	Immunological veterinary medicines
90/2377-Reg.	Residue limits for veterinary medicines in foodstuffs
91/356-Dir.	Manufacturing practice for human medicinal products
91/412-Dir.	Veterinary medicinal products
91/507-Dir.	Laws on standards testing of medicinal products
92/18-Dir.	Pharmacotoxicological testing of veterinary medicine
92/25-Dir.	Wholesale distribution of medicinal products for human use
92/26-Dir.	Classification of medicinal products for human use
92/27-Dir.	Labeling of medicinal products for human use (leaflets)
92/28-Dir.	Advertising of medicinal products for human use
92/183-Dec.	Import of raw materials for pharmaceutical processing
92/187-Dec.	Import of raw materials for the pharmaceutical processing
92/1768-Reg.	Supplementary protection certificate for medicinal products
93/2309-Reg.	European Agency for Evaluation of Medicinal Products

Source: Compiled by USITC from official sources issued by the Commission of the European Communities.

Table 3-33
Pharmaceuticals: Percent of EC 92 legislation Implemented

	Measures applicable	Number of derogations outstanding	Actual Implementations by EC member states	Percent Implemented
Pharmaceuticals	24	0	228	79.17

Source: Compiled by USITC from official sources issued by the Commission of the European Communities.

The most important of these measures have been the legislative "package" that establishes the new authorization procedure for pharmaceuticals (three directives and a regulation: 93/39, 93/40, 93/41, and 2309/93, respectively);²⁴⁵ the directive establishing transparency guidelines for national pricing authorities and systems (89/105);²⁴⁶ and the regulation creating the supplementary protection certificate (SPC) to extend the effective patent life of a pharmaceutical product (regulation 1768/92).

Implementation is substantial: 79 percent of the legislation was implemented as of September 1993 (table 3-33). Many of the member states are implementing pharmaceutical measures by administrative order rather than by legislation, quickening the process.²⁴⁷ All of the important measures cited above have been implemented except for the legislative package addressing the new authorization procedure.²⁴⁸ Within the package,

²⁴⁵ The new authorization procedure combines a centralized authorization system (obligatory for biotechnology products but optional for other high-technology products) with a decentralized system. Under the centralized procedure, the Commission will grant authorizations after products are evaluated by the new European Agency for Evaluation of Medicinal Products. More conventional pharmaceutical products will be approved at the member-state level through the decentralized procedure. For additional background, see *Business Law Europe*, May 3, 1993, pp. 1-3.

²⁴⁶ Despite the new rules regarding transparency in making pricing decisions, disparate price control and reimbursement systems exist in almost all of the member states, generating widespread price differentiation within the EC. Member states have been very resistant to applying the price transparency directive in practice, an EC official responsible for pharmaceutical regulation stated in an interview with USITC staff on Oct. 5, 1993. Moreover, there is uncertainty about whether the EC will eventually address differences again. Many consider such decisions to be within the sovereign prerogative of the member states. Industry is concerned, however, that as long as the present differences continue a single market will not exist. See, for example, BEUC, press release, "No Single Market for Europe's Consumers on January 1, 1993," Dec. 17, 1992.

²⁴⁷ EC Commission official responsible for pharmaceutical regulation, interview by USITC staff, Oct. 5, 1993.

²⁴⁸ The SPC was automatically implemented in January 1993, 6 months after publication in the *Official Journal*, and the transparency directive has been implemented in every member state.

adopted in June 1993, only the regulation 2309/93 was applicable as of August 12, 1993. This regulation establishes the European Agency for Evaluation of Medicinal Products, although a sitting decision has yet to be made.²⁴⁹ The implementation deadline for the three other directives in the package is 1995. Implementation of these directives may be made somewhat easier by the fact that the criteria for authorization will continue to be governed by prior EC legislation.²⁵⁰

Two other directives have implementation deadlines that fall past the cut-off date for our calculations. The directives 92/73 and 92/74 call for the legitimization and registration of homeopathic products for either human or veterinary use and are scheduled to be implemented by December 31, 1993. Some sources believe, however, that EC-wide implementation of these directives could be delayed, citing the perceived ongoing political sensitivity of activist groups towards homeopathic medicines in certain countries. Although several member states accept homeopathic products (Germany, France and Spain), others are reportedly reluctant to authorize the use of homeopathic products on a national basis (Denmark, Netherlands, the United Kingdom, and Ireland).²⁵¹

Germany and Portugal have implemented the fewest of the directives (66 percent); Belgium, Italy and Luxembourg the most (92-96 percent).²⁵²

²⁴⁹ Sources warn that the projected startup date of the agency (early 1995) might be delayed if a site for the agency is not selected at least 18 months prior to 1995. "United Kingdom to Try to Lure New Agency to Establish Residence in London," *EuroWatch*, Apr. 19, 1993, p. 5.

²⁵⁰ Specifically, directive 65/65 as last amended by directive 92/27 and directive 75/319 and 75/318.

²⁵¹ EC Commission staff, interview by USITC staff, Brussels, Oct. 5, 1993.

²⁵² Application of certain directives by Belgium and Italy has recently been subject to complaint. In June, the ECJ struck down a Belgian decree requiring medicines imported from other member states to undergo further examination (Case C-373/92, *Commission v. Belgium*, June 8, 1993.) Italy's drug industry association, Farmindustria, has asked the EC Commission to challenge actions taken by the Italian Health Ministry on prescription drug prices. Among other things, the association argues that the action may contradict the pricing rules set forth in directive 89/105. *Eurowatch*, June 14, 1993.

Although these implementation rates are based on information found in EC records in appendix C, representatives of several member states, including Spain, report that the member states have actually implemented more directives than cited. Germany expects to implement 10 directives on medicinal products by yearend 1993, which would raise Germany's implementation rate to almost 85 percent.²⁵³ Although EC records show that Spain has implemented only 71 percent, a representative of the Spanish Ministry of Health stated that all of the directives except for four have been implemented (about 83 percent). The representative suggested that EC records may not show many of these directives as being implemented because information regarding implementation must first be reported to the Foreign Ministry of Spain, which then notifies the EC Commission. The EC Commission then verifies for compliance. Additionally, according to the representative, transposition of some of the directives has taken longer because a "disproportionate share" of the outstanding directives is highly technical.²⁵⁴

Several sources said that the relatively slow progress in implementation of the remaining directives is explained by the "unusually tight deadline" of about 12 months to incorporate "relatively complicated" technical texts into national law (particularly given the relatively recent adoption of the single-market authorization procedure).²⁵⁵ For example, Germany reports that the detailed nature of the rules and the need to cross-reference old laws are slowing implementation, while differences of interpretation with the EC Commission are holding up progress on some directives.²⁵⁶ Other reasons cited include cultural differences in how implementation is approached on a national basis, a generally slow legislative process,²⁵⁷ preoccupation with the ongoing resolution of "fluid" issues such as the harmonization of regulatory standards,²⁵⁸ and potential codification of the directives.

²⁵³ U.S. Department of State telegram, "German Implementation of EC Directives," message reference No. 29046, prepared by U.S. Embassy, Bonn, Oct. 21, 1993.

²⁵⁴ Spanish Ministry of Health (Ministerio de Sanidad y Consumo) officials, interview by USITC staff, Madrid, Sept. 23, 1993.

²⁵⁵ EC Commission, *Tenth Annual Report*, p. 29.

²⁵⁶ One source cites the "unanticipated time and staff requirements" that have been needed to establish the "substantial legal changes" associated with implementation. U.S. Department of State telegram, "USITC Section 332 Study," message reference No. 24118, prepared by U.S. Embassy, Bonn, Sept. 3, 1993.

²⁵⁷ See chapter 2 for further discussion on this issue.

²⁵⁸ The EC has entered into a trilateral effort to harmonize testing of medicinal products with the United States and Japan in an effort to reduce global research costs.

Sources are mixed in their opinions as to whether the delay in finalizing the details of the authorization package should be linked with the delay in the development of testing guidelines. Whereas one source stated that the testing guidelines would be influenced strongly by the provisions of the final authorization procedure, an EC Commission official stated that testing requirements are linked to administrative guidelines rather than to legislation and, as such, stand alone.²⁵⁹

Different approaches by member states to disease control (for example, eradication versus vaccination) and the time needed to put in place required recordkeeping systems have been cited as a reason for delays in the harmonization of veterinary medicine regulations.²⁶⁰ Similarly, delays in conducting required inspections are holding up transposition of directive 92/25 on wholesale distribution. Implementation of directives on blood products, vaccines, and homeopathic medicines also depend on the revision of the list of medicinal products on the market (European Pharmacopeia), which is not expected to be completed before yearend. Problems in transposing and applying directives on vaccines for human use have arisen due to different traditions and criteria among the member states regarding the timing for inoculations. Furthermore, French political resistance had slowed implementation of the Blood Products Directive (though it is now implemented there.)²⁶¹

Separately, member states are believed to be reluctant to progress with implementation in light of continuing changes and uncertainty associated not only with the authorization procedure but with the creation of the single market itself. Additional changes are possible if the pharmaceutical directives need to be codified, merging existing legislation into one text. Industry sources also anticipate that an attempt will be made to create legal definitions for certain terms that occur throughout the directives. It is likely that this could cause some friction since multiple definitions are said to exist for many of the terms, a situation that in itself could explain some of the difficulty in transposing them.

²⁵⁹ EC Commission staff, interview by USITC staff, Brussels, Oct. 5, 1993.

²⁶⁰ U.S. Department of State telegram, "USITC Section 332 Study," message reference No. 24118, prepared by U.S. Embassy, Bonn, Sept. 3, 1993.

²⁶¹ EC Commission official responsible for pharmaceutical regulation, interview by USITC staff, Oct. 5, 1993.

Medical Devices

The Active Implantable Medical Device (AIMD) Directive is the first of three directives intended to harmonize various member-state standards and conformance procedures for medical devices and to establish a single regulatory approval system for such equipment. The other two directives, the Medical Device (MDD) and In vitro Diagnostic Device (IVD) Directives are relatively broader in scope but will not take effect before 1995.²⁶² Though the AIMD directive went into effect on January 1, 1993,²⁶³ the implementation date for member states to transpose the directive into national law was July 1, 1992. As shown in table 3-34 and appendix C, as of September 1, 1993, five member states had transposed the AIMD directive into their national law, for a 42-percent implementation rate (table 3-35). Based on this information, member-state implementation of EC medical equipment legislation is substantially incomplete.

German transposition of the AIMD directive has been delayed as officials in that country attempt to draft legislation that will transpose both the AIMD and the MDD Directives into a single law.²⁶⁴ The German

Government, however, has advised that the provisions of the AIMD Directive will be informally accepted as law until formal transposition takes place.²⁶⁵ Because the directive closely mirrors existing German requirements, timely transposition is not viewed as being as critical in Germany as it is in countries that have little or no regulatory experience with respect to medical devices. Germany, in fact, has appointed its notified bodies in advance of formal transposition of the AIMD directive and has allowed them to assess manufacturers' quality systems and products against the requirements of the directive itself.²⁶⁶

France and the Netherlands²⁶⁷ are reportedly close to transposing the directive. Delays in France have resulted from the timing of Parliament sessions and the emergence of legislative issues of higher priority.²⁶⁸ The country was expected to adopt new medical device regulations soon. Similar to those in Germany, the new regulations would transpose both the AIMD and the recently adopted MDD Directives into law at the same time. However, differing from the German

²⁶² The Medical Device Directive (*Council Directive 93/42/EEC of 14 June 1993 concerning medical devices OJ L 169, Vol. 36, July 12, 1993, pp. 1-43*) was adopted on June 14, 1993, and will take effect on Jan. 1, 1995, with a 3-year transition period ending Dec. 31, 1997. Work on the In Vitro Diagnostics Directive (IVD) is expected to be officially proposed by the end of 1993. Some officials believe that the implementation date for the IVD Directive may be delayed until 1997.

²⁶³ There is a 2-year transition period for the AIMD directive lasting until December 31, 1994, in which manufacturers can either continue to meet the existing national requirements to put their devices on the market or declare conformity to essential requirements directly after obtaining third-party approval from a notified body.

²⁶⁴ Representative, International Association of Medical Prosthesis Manufacturers, telephone interview with USITC staff, Brussels, Sept. 16, 1993; EC official, telephone interviews with USITC staff, Brussels, Sept. 17, and 23, 1993; and German notified body official, telephone interview with USITC staff, Aug. 30, 1993.

²⁶⁵ Although EC officials consider the German approach of transposition to be irregular and to be in technical contravention of EC law, they will probably allow Germany to transpose in this manner, because in other respects Germany is advanced beyond other countries in actually approving the marketing of active implantable medical devices. EC official, telephone interviews with USITC staff, Brussels, Sept. 17, and 23, 1993.

²⁶⁶ "Have Your Active Implantable Medical Devices (AIMDs) Assessed Now!—Short-Cut to the CE mark," *Clinica*, Nov. 11, 1992, p. 7.

²⁶⁷ Representative, KEMA (Dutch testing house), and representative, International Association of Medical Prosthesis Manufacturers, telephone interviews with USITC staff, Amsterdam and Brussels, Sept. 16, 1993; and EC official, telephone interviews with USITC staff, Brussels, Sept. 17, and 23, 1993.

²⁶⁸ Letter, Sept. 3, 1993 to USITC staff from president, Ela Medical, Paris, France; EC official, Brussels, telephone interviews with USITC staff, Sept. 17, and 23, 1993; and "Have Your Active Implantable Medical Devices (AIMDs) Assessed Now!—Short-Cut to the CE Mark," *Clinica*, Nov. 11, 1992, p. 7.

Table 3-34

Medical devices: List of measures with Implementation dates before Sept. 1, 1993

Measure	Title
90/385-Dir.	Active implantable medical devices

Source: Compiled by USITC from official sources issued by the Commission of the European Communities.

Table 3-35

Medical devices: Percent of EC 92 legislation Implemented

	Measures applicable	Number of derogations outstanding	Actual Implementations by EC member states	Percent Implemented
Medical devices	1	0	5	41.67

Source: Compiled by USITC from official sources issued by the Commission of the European Communities.

Government, the French Government has not appointed notified bodies that can approve marketing of active implantable devices in advance of transposition. The transposition delays in France reportedly prevented manufacturers of pacemakers and other active implantable medical devices that had obtained CE marks for their products in other countries, such as Germany and the United Kingdom, from receiving reimbursement for their products under the French social security system on a timely basis.²⁶⁹ However, pressure from industry led the French health ministry to agree in early autumn of 1993 to allow reimbursement for CE-marked products as if they had been approved under the old French medical device approval system.

The Belgian Government is expected to publish its law transposing the AIMD directive towards the end of 1993. A spokesman for the Cabinet in that country indicated in September 1993 that the Belgian text for transposition had yet to be finalized and would not be published until the Government had selected a notified body competent with respect to the directive.²⁷⁰ Ireland is expected to transpose the AIMD Directive by the end of 1993 or the beginning of 1994, within the context of a general medical devices law, which will also incorporate the MDD Directive.²⁷¹

Spain and Greece are further behind in the transposition process due to the lack of previous legislative or regulatory experience in this area and to the fact that the AIMD Directive has less priority than other legislative issues facing these countries. Few or no firms in these countries manufacture active implantable medical devices. Denmark, Italy, Luxembourg, Portugal and the United Kingdom have all transposed the directive.

²⁶⁹ Some industry officials have alleged that France's reimbursement requirements have resulted in barriers to trade for manufacturers of CE-marked active implantable medical devices. France is reportedly the only country where such problems have been encountered to date. The EC Commission, however, has made it clear that it will strictly enforce article 30 of the Treaty of Rome which rules against nontariff barriers to trade. According to an EC administrator, the Commission "will ensure that the directives are not bypassed by 'mushrooming' national specifications" relating to social security. "Active Implantable Medical Device (AID) Manufacturers Hit Snag in France," *Clinica*, Sept. 1, 1993, p. 1.

²⁷⁰ "Belgium to Publish Active Implantable Medical Device (AID) Law Before Year End 1993," *Clinica*, Sept. 20, 1993, p. 1.

²⁷¹ "The International Association of Medical Prosthesis Manufacturers (IAPM) reports to Commission on Active Implantable Medical Device (AID) Law Deviations," *Clinica*, June 9, 1993, p. 10.

As of September 1, 1993, there were eight notified bodies competent with respect to the AIMD directive.²⁷² Germany had six of those while Spain and the United Kingdom had one each. The Dutch Government reportedly was about to notify two Netherlands-based testing houses as notified bodies.²⁷³ An EC official indicated that Portugal and Italy were also close to certifying notified bodies.²⁷⁴ However, the active implantable device industry is reportedly opposed to consideration being given by the Belgian Government to Belgium's Hygiene and Epidemiology Institute for notified body status due to lack of experience with active implantable devices.²⁷⁵ A Cabinet spokesman of the Belgian Government admitted that the institute lacked know-how in this area and would probably need to subcontract if appointed.²⁷⁶ Similar problems have reportedly slowed down the appointment of notified bodies in other EC countries.²⁷⁷

U.S. and European medical industry officials indicated that several of the German notified bodies had already approved a number of active implantable medical devices for marketing in the EC by placing the CE mark on them. Many pacemaker firms, consequently, were using Germany as a base for gaining EC-wide marketing approval for their devices.²⁷⁸ The British Standards Institution, the notified body in the United Kingdom, also began approving active implantable devices by late spring of 1993.²⁷⁹

In early 1993, some manufacturers of active implantable medical devices reported reluctance among some hospital purchasers to buy CE-marked

²⁷² Publication for information of the list of notified bodies within the meaning of Article 11 of Council Directive 90/385/EEC, OJ, No. C 209 (Aug. 3, 1993), p. 8.

²⁷³ EC official, telephone interviews with USITC staff, Brussels, Sept. 17, and 23, 1993.

²⁷⁴ Ibid.

²⁷⁵ U.S. and European medical industry officials, telephone interviews with USITC staff, Sept. 16, 17, and 23, 1993.

²⁷⁶ "Belgium to Publish Active Implantable Medical Device (AID) Law Before Year End 1993," *Clinica*, Sept. 20, 1993, p. 1.

²⁷⁷ Ibid.

²⁷⁸ Representative of U.S. pacemaker company, Minneapolis, MN, telephone interview with USITC staff, Aug. 17, 1993; representative, International Association of Medical Prosthesis Manufacturers, telephone conversation with USITC staff, Brussels, Sept. 16, 1993; and official of the U.S. Department of Commerce, Office of European Community Affairs, telephone conversation with USITC staff, Aug. 17, 1993.

²⁷⁹ "Teletronics Pacing Systems Receives First CE Marking Under Active Implantable Medical Devices Directive (AIMD) from British Standards Institution," *Clinica*, June 9, 1993, p. 4.

51 devices, rather than those bearing the marks of nationally recognized certification bodies.²⁸⁰ However, a major trade association representing active implantable device producers indicated in August 1993 that it was satisfied with actions taken by health ministries in Belgium, the Netherlands, and Germany, to ensure that buyers in those countries understood the value of the CE mark.

EC officials indicate that 1 of 39 standards proposed for the AIMD Directive has been completed by CEN/CENELEC.²⁸¹ The completed standard is a general document that deals with the essential requirements needed to comply with the AIMD Directive. These general requirements deal with types of risks and safety issues in placing medical devices on the EC market. The remaining standards will address more specific requirements of particular active implantable medical devices, such as cardiac pacemakers, defibrillators, and drug infusion devices. EC and notified body officials believe it will take several years to complete the remaining standards.²⁸² These officials point out that although completion of these standards will facilitate the approval of active implantable medical devices for marketing in the EC, they are not absolutely necessary for such approval.

Motor Vehicles

Under the EC 92 integration program, the EC is harmonizing member-state technical requirements for motor vehicles and developing a single EC approval procedure. Known as "whole-type approval," it will replace member states' national technical, testing, and certification standards with European ones, and allow free movement of vehicles throughout the Community. Prior to the EC 92 program, models or prototypes of motor vehicles had to undergo an approval procedure in each country, and member states were not required to accept the test results of other member states' designated testing facilities. The EC 92 program also addresses environmental concerns by setting noise and gaseous emissions limits.

Harmonization of motor vehicle technical standards is a key element of the whole-type approval scheme. Finalization of all the directives had long been delayed because three of the vehicle standards

directives on windshields, tires, and weights and dimensions, had not been approved, and the adopted standards directives were optional. Vehicle producers were not required to meet the technical standards of the adopted directives because they could simply meet national technical standards in individual member states. The three directives that were not approved were blocked by France, which was concerned that approval of all directives would result in increased imports, particularly from Japan.

The EC has adopted 52 motor vehicle-related standards out of a total of 70 proposed for the EC 92 program (appendix C). Outstanding legislation mainly relates to two- and three-wheeled motor vehicles. Forty-five were due for transposition by September 1, 1993 (table 3-36). Of these, 21 were implemented by all member states by September 1993. With an overall implementation rate of 81 percent (table 3-37), this aspect of the EC 92 program has been substantially completed. Information from the EC Commission and from EC member states indicates that the implementation rate may actually be much higher. Germany, Luxembourg, and the Netherlands all claim to have implemented directives that the EC Commission indicates are still not implemented. In addition, the EC Commission office responsible for automotive harmonization claims that certain directives have been implemented in numerous countries even though the Info92 data base as shown in appendix C does not yet reflect this. The affected directives are 91/225 (Roadworthiness), 92/24 (Speed Limitation Devices), 92/62 (Steering Equipment), 92/21 and 91/60 (Weights and Dimensions), 91/226 (Spray-suppression Systems), 92/114 (External Projections), 91/542 (Emissions), 92/97 (Sound Level and Exhaust Systems). If these directives have been implemented in the 31 cases identified, then the overall implementation rate for motor vehicle standards is 86 percent. The fact that some member states are electing to simply refer to the highly detailed EC directive in their domestic legislation is both helping the implementation process along and avoiding problems in improper transposition.²⁸³

Delays in implementing some directives are primarily a result of procedural factors as discussed more fully in chapters 1 and 2. Luxembourg's lack of interest (it does not make cars or most car parts) has made implementation of most motor vehicle directives a low priority (except those on roadworthiness).²⁸⁴

²⁸⁰ "Health Ministries Educate Buyers About CE Mark," *Clinica*, Aug. 23, 1993, p. 1.

²⁸¹ Director, Secretary General's Office, CEN, letter to USITC staff, Oct. 20, 1993.

²⁸² EC official, telephone interviews with USITC staff, Brussels, Sept. 17, and 23, 1993; and representatives of a German notified body and a Dutch standards body, Aug. 30, 1993.

²⁸³ EC Commission, *Tenth Annual Report*, p. 33.

²⁸⁴ Representative, Chambre de Commerce (Luxembourg), interview by USITC staff, Sept. 15, 1993.

Table 3-36

Motor vehicles: List of measures with implementation dates before Sept. 1, 1993

Measure	Title
TYPE APPROVAL	
87/358-Dir.	Type approval procedures for vehicles and trailers
87/403-Dir.	Type approval procedures for motor vehicles and trailers
92/53-Dir.	Laws on type-approval of motor vehicles
ROADWORTHINESS TESTS	
88/449-Dir.	Road worthiness tests
91/225-Dir.	Motor vehicle roadworthiness tests
92/55-Dir.	Roadworthiness tests for motor vehicles (exhaust emissions)
SAFETY	
86/217-Dir.	Requirements for tire-pressure gauges
88/194-Dir.	Braking devices of vehicles and their trailers
88/321-Dir.	Rear view mirrors of motor vehicles
88/366-Dir.	Driver field of vision
89/277-Dir.	Direction indicator lamps
89/278-Dir.	Installation of lighting and light-signaling devices
89/297-Dir.	Lateral protection of certain vehicles and their trailers
89/459-Dir.	Tread depth of tires of vehicles and their trailers
89/516-Dir.	End-outline marker lamps and front, rear, stop lamps
89/517-Dir.	Headlamps and incandescent electric filament lamps
89/518-Dir.	Rear fog lamps
91/422-Dir.	Laws on braking devices of motor vehicles
92/22-Dir.	Safety glass for motor vehicles and trailers
92/23-Dir.	Tires and their fitting for motor vehicles and trailers
92/24-Dir.	Speed limitation devices of motor vehicles
92/62-Dir.	Steering equipment for motor vehicles and their trailers
WEIGHTS, DIMENSIONS AND CHARACTERISTICS	
86/360-Dir.	Weights, dimensions and technical characteristics of road vehicles (amends 85/3)
86/364-Dir.	Weights, dimensions and technical characteristics of road vehicles (amends 85/3)
88/195-Dir.	Engine power of motor vehicles
88/218-Dir.	Weights, dimensions for refrigerated road vehicles
89/338-Dir.	Weights, dimensions and technical characteristics of road vehicles (amends 85/3)
89/461-Dir.	Authorized dimensions for articulated vehicles
91/60-Dir.	Maximum authorized dimensions for road trains
91/226-Dir.	Motor vehicle spray-suppression systems
91/662-Dir.	Interior fittings (steering devices) of motor vehicles (amends 74/297)
92/7-Dir.	Weights and dimensions of road vehicles
92/21-Dir.	Masses and dimensions of category M1 motor vehicles
92/114-Dir.	External projections of certain motor vehicles
ENVIRONMENT	
84/424-Dir.	Sound level of motor vehicles
88/76-Dir.	Gaseous emissions from passenger car engines
88/77-Dir.	Gaseous emissions from diesel engines
88/436-Dir.	Emission of particle pollutants from diesel engines
89/458-Dir.	Gaseous emissions from motor vehicles below 1,400 cc
89/491-Dir.	Sound level of motor vehicles
91/441-Dir.	Laws against air pollution by motor vehicles
91/542-Dir.	Laws against gaseous pollutants from diesel engines
92/97-Dir.	Sound level and exhaust system of motor vehicles (amends 70/157)
MOTORCYCLES AND RECREATIONAL CRAFT	
87/56-Dir.	Sound level & exhaust system of motorcycles (amends 78/1015)
89/235-Dir.	Sound level and exhaust systems of motorcycles (amends 78/1015)

Source: Compiled by USITC from official sources issued by the Commission of the European Communities.

Table 3-37
Motor vehicles: Percent of EC 92 legislation implemented

	Measures applicable	Number of derogations outstanding	Actual Implementations by EC member states	Percent implemented
Motor vehicles	45	0	435	80.56
Type approval	3	0	32	88.89
Roadworthiness	3	0	14	38.89
Safety	16	0	166	86.46
Weights, etc.	12	0	108	75.00
Environment	9	0	91	84.26
Recreational craft	2	0	24	100.00

Source: Compiled by USITC from official sources issued by the Commission of the European Communities.

U.S. and EC motor vehicle industry officials expect all directives to be implemented soon by the member states.²⁸⁵ Italy reports that several directives (92/7, 92/21, 92/24, and 92/62) are part of an omnibus bill to be passed in early 1994.²⁸⁶

Failure to implement all the directives on schedule does not appear to have any effect on the type approval process for several reasons. Most importantly, under directive 92/53, which provides the framework for the whole-type approval process for passenger automobiles and light trucks, member states apply whole-type approval only at the request of the manufacturer, and manufacturers retain the option of seeking national-type approval (to harmonized EC or national standards) until December 31, 1995. It is only after December 31, 1995, that whole-type approval to the EC requirements will be mandatory. Furthermore, officials of U.S. automakers with production and sales operations in the EC note that under the directive member states must accept any product type approved to harmonized EC requirements in lieu of their own national ones. Industry sources report that no country has ever refused to accept approval to a requirement set forth in an EC directive after it has entered into force.

The motor vehicle directives can be broadly classified into six subcategories, as shown in table 3-37. Among the six subcategories, those directives relating to roadworthiness have the lowest implementation rate (39 percent). This subcategory is not considered by manufacturers to be essential to the EC 92 program because it involves vehicles in use, and manufacturers produce vehicles that will meet the standards while in use.²⁸⁷

Implementation of all other subcategories of motor vehicle directives is at least substantial, with an

implementation rate of between 73 percent and 100 percent. Perhaps the most important subcategory is for directives relating to type approval, the primary objective of EC 92. There are only three directives in the subcategory, and the implementation rate is 89 percent. However, four member states—Germany, France, Luxembourg, and Portugal—have not implemented the most important Directive, 92/53, Laws on Type-Approval of Motor Vehicles. Even though Luxembourg has not implemented the important type-approval directive 92/53, it has already granted two EC vehicle type approvals to the directive, and is in the process of granting two more such approvals.²⁸⁸

Directives relating to the impact of motor vehicles on the environment also have a high implementation rate (84 percent). Directive 92/97, Sound Level and Exhaust Systems of Motor Vehicles, has not been implemented by any member state, but the directive is not essential to the EC 92 program. Directive 91/542, Laws Against Gaseous Pollutants from Diesel Engines, has not been implemented by France, Luxembourg, or Netherlands. The directive is relatively important to the EC 92 program because of the technical nature of controlling motor vehicle emissions.

Safety-related directives have an implementation rate of 86 percent. Most of the 16 safety-related directives have been implemented by all member states, although 2 directives have been implemented by few or none of the member states. The directives with low implementation rates are for Tread Depth of Tires (89/459), Braking Devices (91/422), Speed Limitation Devices (92/24), and Steering Equipment (92/62). Failure to implement these directives does not pose a significant barrier to the EC 92 program since most if not all vehicles currently meet the technical requirements set forth in these directives and there is no indication that approval problems will occur.

²⁸⁵ Written answers to questions submitted by USITC staff to U.S. automaker, Oct. 1993; USITC staff interview with an official of the American Automobile Manufacturers Association (AAMA), Sept. 24, 1993.

²⁸⁶ Ibid.

²⁸⁷ Written answers to questions submitted by USITC staff to U.S. automaker, Oct. 1993.

²⁸⁸ Ibid.

Among directives affecting motor vehicle weights, dimensions, and characteristics, the implementation rate is 75 percent. Among the 12 directives in this subcategory, 1 of the directives (92/7) has been implemented by only 2 member states, and another (92/114) has not been implemented by any member state. Neither directive is considered important to the EC 92 program, and the low implementation rate should not pose problems for whole-type approval.²⁸⁹

The final subcategory for motor vehicle directives is motorcycles and recreational craft. There are only two directives for this subcategory, both of which relate to sound levels and exhaust systems of motorcycles. Both directives have been implemented by all member states. However, as noted above, additional laws in this area are expected.

²⁸⁹ Ibid.

Other Machinery and Construction Products

Thirty-eight directives covering other machinery, including one directive covering construction products, have been identified as being adopted by the EC Commission since 1986 and scheduled for transposition by September 1 (table 3-38).²⁹⁰ The

²⁹⁰ Two directives have recently been adopted that are not being considered for analysis since their implementation dates are later than September 1, 1993. These are directive 92/42 relating to the energy efficiency of hot-water boilers using liquid fuels and directive 93/44, amending the Machine Safety Directive. Directive 93/44 expands the scope of the Machine Safety Directive to include safety components that are placed on the market separately and provide a transition period for safety components and machinery for the lifting or moving of persons.

Table 3-38
Other machinery: List of measures with Implementation dates before Sept. 1, 1993

Measure	Title
NOISE	
86/662-Dir.	Noise from hydraulic diggers
87/252-Dir.	Sound power level of lawnmowers
87/405-Dir.	Permissible sound-power level of tower cranes
88/180-Dir.	Permissible sound-power level of lawnmowers
88/181-Dir.	Permissible sound-power level of lawnmowers
89/514-Dir.	Noise emissions from hydraulic excavators
ENERGY	
92/75-Dir.	Labeling of energy consumption of household appliances
SAFETY AND APPROXIMATION OF LAWS	
86/295-Dir.	Construction plant
86/296-Dir.	Construction plant
86/297-Dir.	Power take-offs of tractors
86/298-Dir.	Rollover protection structures - narrow-wheel tractors
86/312-Dir.	Electrically-operated lifts
86/415-Dir.	Controls of tractors
86/663-Dir.	Self-propelled industrial trucks
87/402-Dir.	Rollover protection structures of tractors
87/404-Dir.	Simple pressure vessels
88/297-Dir.	Type-approval of wheeled tractors
88/410-Dir.	Characteristics of tractors (amends 74/151)
88/411-Dir.	Steering equipment of tractors (amends 75/321)
88/412-Dir.	Maximum speed of tractors (amends 74/152)
88/413-Dir.	Roll-over protection of tractors (amends 79/662)
88/414-Dir.	Doors and windows of tractors (amends 80/720)
88/465-Dir.	Driver's seat on wheeled tractors (amends 78/764)
88/571-Dir.	Electrical equipment used in explosive atmospheres
89/173-Dir.	Characteristics of tractors (windscreens and glazing)
89/240-Dir.	Self-propelled industrial trucks
89/392-Dir.	Safety requirements for machines
89/680-Dir.	Roll-over protection structures—tractors (amends 77/536)
89/681-Dir.	Protection structures - tractors (amends 87/402)
89/682-Dir.	Rear-mounted roll-over protection (amends 86/298)
89/686-Dir.	Personal protective equipment
90/384-Dir.	Non-automatic weighing instruments
90/396-Dir.	Gas appliances
90/486-Dir.	Electrically operated lifts
90/487-Dir.	Electrical equipment used in explosive atmospheres
90/488-Dir.	Simple pressure vessels (amends 87/404)
91/368-Dir.	Mobile machinery and lifting appliances (amends 89/392)
CONSTRUCTION EQUIPMENT	
89/106-Dir.	Construction products

Source: Compiled by USITC from official sources issued by the Commission of the European Communities.

legislative agenda for this sector is thus virtually complete with the exception of a far-reaching directive on pressure equipment still under consideration.²⁹¹ A significant number of the directives covering machinery are amendments to previous vertical legislation on products such as tractors, industrial trucks, and lawnmowers. Most of the directives covered herein were listed in the EC Commission White Paper.

The most important directives are the new approach directives, particularly those on Machine Safety (89/392 as amended by 91/368 and 93/44) and Construction Products (89/106). Both are far reaching in scope and potential effects, and have keenly interested U.S. industry associations.²⁹²

Overall, the implementation of directives in the other machinery (including the Construction Products Directive) category is virtually complete, with legislation by the member states being passed for 93 percent of these directives (table 3-39). In the area of noise reduction, 99 percent of the directives are implemented. Only France has not reported legislation for directive 88/181. In the area of safety and type-approval, 95 percent of the directives are implemented. Transposition of new approach directives concerning Machine Safety (89/392 and 91/368), Personal Protective Equipment (89/686), Nonautomatic Weighing Machines (90/384), and Electrical Equipment for Use in Explosive

Atmospheres (88/571 and 90/487) are awaiting action by a few member states. Implementation of the Directive on Electrically Operated Lifts (86/312) is also lagging. The directive was amended in June to add supplementary requirements for people-moving devices. In the area of energy, implementation is negligible because the only directive in this category, 92/75 on energy labeling of household appliances, had the recent implementation deadline of July 1, 1993. Only the Netherlands has transposed this directive. Implementing legislation on Construction Products (89/106) is 83 percent complete, with only two member states lagging in transposing the directive.

The lack of member-state transposition in this sector has occurred principally in Greece and Italy, and to a lesser extent in Portugal, Luxembourg, Ireland, Belgium, and the Netherlands (appendix C). However, the rate of implementation may be higher than the 95 percent reported above because some member states claim that they have passed national legislation, but the EC Commission has not publicly reported these laws. A major directive, the Machine Safety Directive (89/392), has not been adopted by Greece,²⁹³ Italy,²⁹⁴ and Portugal. The Construction Products Directive (89/106) has not been adopted by Belgium and

²⁹³ However, according to Greece, it has implemented directive 89/392 (machine safety) by a Presidential decree signed in September 1993 and Directive 89/686 (Personal Protective Equipment) by a ministerial decision in 1993. U.S. Department of State telegram, "USITC Section 332 Study on EC Member State Implementation of 1992 Directives—Greece," message reference No. 010578, prepared by U.S. Embassy, Athens, Oct. 1, 1993.

²⁹⁴ Implementation of the Machine Safety Directive is reportedly included as part of the Italian 1993 Omnibus Bill for consideration in early 1994. U.S. Department of State telegram, "Italy: Request for Assistance in Connection with USITC Section 332 Study on EC Member State Implementation of 1992 Directives," message reference No. 017194, prepared by the U.S. Embassy, Rome, Italy, Oct. 1, 1993.

²⁹¹ See *Proposal for a Council Directive on the Approximation of the laws of the Member States Concerning Pressure Equipment*, COM (93) 319 final—SYN 462, OJ No C 246, Sept. 9, 1993, pp. 1-36. The directive is being followed closely by the American Boiler Manufacturers' Association.

²⁹² The Association for Manufacturing Technology, the Air-Conditioning and Refrigeration Institute, and the National Electrical Manufacturers' Association, among others.

Table 3-39
Other machinery: Percent of EC 92 legislation implemented

	Measures applicable	Number of derogations outstanding	Actual Implementations by EC member states	Percent Implemented
Machinery	38	0	425	93.20
Noise	6	0	71	98.61
Energy	1	0	1	8.33
Safety	30	0	343	95.28
Construction equipment	1	0	10	83.33

Source: Compiled by USITC from official sources issued by the Commission of the European Communities.

Greece.²⁹⁵ U.S. industry officials well-informed about EC standards development do not know why these countries have not adopted these directives.²⁹⁶

The majority of the new approach directives in the other machinery and construction products category have been implemented by the member states. Table 3-40 shows EC progress in developing CEN standards for these directives compared with the number of notified bodies, the deadline for adoption of the directive by member states and the end of the transition period. At this time, the numbers of ratified and planned standards differ widely. Further amendments extending the transition period are not out of the question, if CEN has difficulty developing and disseminating the required number of standards.

²⁹⁵ Greece has prepared a draft Presidential decree on the Construction Products Directive. U.S. Department of State telegram, "USITC Section 332 Study on EC Member State Implementation of 1992 Directives—Greece," message reference No. 010578, prepared by U.S. Embassy, Athens, Oct. 1, 1993.

²⁹⁶ Don MacKay, manager, International Standards, Air Conditioning & Refrigeration Institute, telephone interview by USITC staff, Sept. 22, 1993; Charles A. Carlsson, safety director, AMT—The Association for Manufacturing Technology, telephone interview by USITC staff, Sept. 22, 1993.

The implementation of the Construction Products Directive (89/106), unlike the other new approach directives, relies on defining the major requirements of products (six interpretive documents), the development of Eurocodes (EC regional building codes that will replace national standards), harmonized standards, and European Technical Approvals (ETAs). The six interpretive documents cover the following areas: (1) safety in case of fire; (2) mechanical resistance and stability; (3) hygiene, health, and the environment, including a list of substances legally banned or restricted; (4) safety in use; (5) protection against noise; and (6) energy economy and heat retention. An ETA is issued for products that have no existing or planned standards that may be submitted to an authorized body for "technical approval."

An ETA, valid for 5 years after issuance, permits the manufacturer to affix the CE mark. No supplier can legally place a CE mark on his product under the provisions of the directive until there is either a harmonized standard or ETA available. Currently, technical approvals issued by the European Union of Agreement (UEATC) are being honored until ETAs are

Table 3-40
Certain New Approach directives: Number of notified bodies, planned and ratified standards, deadline for adoption of directives by member states, and transition periods

Directive	Notified bodies ¹	Planned standards ²	Ratified standards as of Oct. 4, 1993 ²	Deadline for adoption by member states	End of transition period
		Number			
87/404—Simple pressure vessels	73	42	17	July 1, 1991	July 1, 1992
89/106—Construction products	0	206	10	June 27, 1991	10 years
89/392—Machine safety, static machines	29	229	15	Jan. 1, 1992	Dec. 31, 1994
89/686—Personal protective equipment	25	180	61	Dec. 31, 1991	June 30, 1995
90/384—Nonautomatic weighing instruments	196	1	1	July 1, 1992	Jan. 1, 2003
90/396—Gas appliances ...	14	66	10	Jan. 1, 1992	Dec. 31, 1995
91/368—Machine safety, lifting and mobile machines	29	46	0	Jan. 1, 1992	Dec. 31, 1995 ³

¹ Commission of the European Communities, *Memo for the Attention of Senior Officials for Standardization*, spring 1993.

² Director, Secretary General's Office, CEN, letter to USITC staff, Oct. 20, 1993.

³ Amending directive 93/44 provides a transition period until December 31, 1995 for rollover and falling object protection equipment and industrial trucks, and extends the transition period for safety components and machinery for lifting or moving persons until December 31, 1996. *OJ L 175*, July 19, 1993, p. 18.

Source: Compiled by the staff of the U.S. International Trade Commission from the EC's *Official Journal*, except as noted.

issued.²⁹⁷ The issuing body of ETAs, the European Organization for Technical Approvals, was officially established in October 1990.

Until the interpretive documents are agreed upon and published, CEN/CENELEC cannot develop harmonized standards, and ETAs cannot be issued. In July 1993, the English-language texts of the interpretive documents were adopted by the EC Standing Committee on Construction, with adoption in all member-state languages expected in October 1993. Publication of these documents in the *Official Journal* would soon follow.²⁹⁸ Before the directive can be used commercially, two issues must be resolved: (1) developing an early solution to the assessment of materials reaction to fire; and (2) establishing requirements for the attestation of conformity to support the use of the CE mark for individual products. In addition, the EC Commission has issued 33 provisional mandates for standards to CEN and CENELEC, covering most of the standardization requirements under the Construction Products Directive.²⁹⁹ The Eurocodes program is scheduled to be completed by 1997-98; however, according to one U.S. industry official, the development of Eurocodes is proceeding slowly.

The process of developing harmonized standards for the Construction Products Directive may be quickening, as EC officials work to develop standards within the International Standards Organization (ISO). ISO standards would be accepted by the EC and CEN, in lieu of developing separate standards by CEN. By eliminating extra standard development effort, CEN officials are using their time more efficiently.³⁰⁰

Telecommunications

The White Paper did not contain specific proposals related to the telecommunications sector. However, the White Paper emphasized the importance of new technologies, particularly information technologies, and underscored the notion that the establishment of an internal market would require the development of trans-European communications networks operating on

common standards. The EC Commission formally acknowledged the vital role of telecommunications in 1987 with a Green Paper advocating the transformation of the fragmented EC telecommunications networks and markets.³⁰¹ A subsequent EC Council resolution set forth an EC telecommunications action plan similar in intent and scope to that of the White Paper.³⁰²

The EC telecommunications single-market program consists of 22 major directives, decisions, and recommendations that have been adopted by the EC Council (see appendix C).³⁰³ Still to be adopted, however, are directives on open network provision (ONP) for voice telephony, integrated services digital network (ISDN), and data communications, Green Papers on the public communications network infrastructure and mobile communications, and directives on mutual recognition of telecommunications service provision licenses and data protection regulations.³⁰⁴ The EC Commission recently set a target date of 1998 for full liberalization of the EC telecommunications industry.³⁰⁵

Of the directives for which the implementation date has passed (table 3-41), the member states have achieved an implementation rate of 59 percent (table 3-42). Based on this information, member-state implementation of EC telecommunications legislation is partial. However, the directives that constitute the foundation of the single market for telecommunications—Competition in Telecommunications Services and Terminal Equipment (90/388 and 88/301), Mutual Recognition of Terminal Equipment (86/361), Liberalization of Network Access (90/387), and Pan-European Mobile Communications (87/372)—have a combined member-state implementation rate of 93 percent. With the exception of the Broadcast Directive (89/552), the implementation problems surrounding the other directives are of a technical rather than a substantive nature given that telecommunications is a relatively new area of EC

²⁹⁷ Mary Saunders, U.S. Department of Commerce, International Trade Administration, "Is There A Single EC Market for Construction Products?," *Europe Now*, Jan. 1993, p. 3. The UEATc was established in 1978 to facilitate trade in construction products through a series of bilateral agreements between national member bodies. Greece and Luxembourg have not yet established programs.

²⁹⁸ British Department of the Environment, Construction Policy Directorate, *Euronews Construction*, Aug. 1993, pp. 2-3.

²⁹⁹ Saunders, p. 3.

³⁰⁰ MacKay.

³⁰¹ *Toward a Dynamic European Economy: Green Paper on the Development of the Common Market for Telecommunications Services and Equipment*, COM (87) 290 final, June 30, 1987.

³⁰² *Council Resolution on the Development of the Common Market for Telecommunications and Services up to 1992*, OJ No. C 257, Oct. 4, 1988.

³⁰³ The EC Council uses decisions for such matters as allocation of radio frequencies on the spectrum, which are considered more sensitive from a national sovereignty perspective because they indirectly affect military and police activity. EC Commission official, interview by USITC staff, Oct. 6, 1993.

³⁰⁴ Jennifer Schenker, "EC Commission To Issue a Green Paper on Network Infrastructure in 1996," *Communications Week*, Apr. 19, 1993.

³⁰⁵ "EC Commission Sets 1998 Deadline for Full Opening of Telecom Market," *Eurowatch*, May 3, 1993, p. 1.

Table 3-41
Telecommunications: List of measures with Implementation dates before Sept. 1, 1993

Measure	Title
TERMINAL EQUIPMENT AND STANDARDS	
86/361-Dir	Telecommunications terminal equipment
88/301-Dir	Competition in telecommunications terminal equipment
89/336-Dir	Electromagnetic compatibility (radio interferences)
91/263-Dir	Mutual conformity of telecommunications terminal equipment
92/31-Dir	Laws on electromagnetic compatibility (amends 89/336-Dir)
NETWORK SERVICES	
90/387-Dir	Open network provisions (ONP) for internal telecom market
90/388-Dir	Competition in markets for telecommunication services
92/44-Dir	Application of open network provision to leased lines
WIRELESS COMMUNICATIONS TECHNOLOGIES	
87/372-Dir	Frequency bands for pan-European mobile telephones
90/544-Dir	Frequency bands for land-based public radio paging
91/287-Dir	Frequency band for digital cordless telecomm (DECT)
SATELLITE COMMUNICATIONS AND TELEVISION BROADCASTING	
89/552-Dir	Pursuit of television broadcasting activities
92/38-Dir	Standards for satellite broadcasting of television signals
OTHER TELECOMMUNICATIONS	
91/396-Dec	Standard EC-wide emergency call number

Source: Compiled by USITC from official sources issued by the Commission of the European Communities.

Table 3-42
Telecommunications: Percent of EC 92 legislation Implemented

	Measures applicable	Number of derogations outstanding	Actual Implementations by EC member states	Percent Implemented
Telecommunications	14	0	99	58.93
Terminal equipment	5	0	39	65.00
Network services	3	0	23	63.89
Wireless communications	3	0	22	61.11
Satellite communications and television broadcasting	2	0	3	12.50
Other telecommunications	1	0	12	100.00

Source: Compiled by USITC from official sources issued by the Commission of the European Communities.

legislation. The following discussion deals with directives in descending order, with those experiencing the most serious transposition delays considered first.

None of the member states had implemented the Satellite Broadcasting Standards Directive, 92/38, by the November 20, 1992 deadline. Several factors contributed to this delay. Prior to the Council's adoption of this directive in May 1992, there was considerable debate among the member states as to whether the EC should adopt the partially digital MAC broadcasting standard or develop a fully digital standard and this issue remained unresolved after adoption. The United Kingdom advocated the latter option and vetoed proposals to establish an EC fund for the development of HDTV programming based on the EC MAC standard. The United Kingdom, Luxembourg, Ireland, Spain, and Denmark also voiced

concerns about the increased equipment costs likely to result from imposition of the EC MAC standard.³⁰⁶ Given these unresolved concerns and the lack of EC funding for program development, the member states apparently refrained from transposing the Satellite Broadcasting Standards Directive into national legislation. In May 1993, this controversy ended in a compromise whereby the member-state telecommunications ministers agreed to abandon the MAC standard in favor of the fully digital U.S. HDTV standard,³⁰⁷ and the Council prepared a draft

³⁰⁶ "The Race Toward Control of the HDTV European Market Continues," *EC-US Business Report*, Oct. 1, 1991, p. 10.

³⁰⁷ "EC Agrees on HDTV Strategy; UK Balks at the Price," *Electronics*, May 24, 1993, p. 7.

resolution calling on the EC Commission to revise the May 1992 directive.³⁰⁸

According to EC statistics in appendix C, only Belgium and Denmark have implemented the ONP Leased Lines Directive (92/44). However, according to the U.S. Mission to the EC in Brussels, France, Germany, and the Netherlands have also notified the EC Commission of national implementing measures.³⁰⁹ Implementation problems in the other member states include debate in the United Kingdom as to which service providers must comply with directive provisions and the lack of a national arbitration process for user complaints in Greece.³¹⁰ Taking into account the recent member-state notifications, the telecommunications sector implementation rate rises to 61 percent.

Appendix C shows that five member states have transposed the Telecommunications Terminal Equipment (TTE) Directive (91/263). However, full implementation has been delayed due to the lack of the Common Technical Regulations (CTRs) used to determine compliance with the essential requirements of the TTE directive. The EC Commission had anticipated that the standards and notified bodies would be in place by the November 6, 1992, directive implementation deadline.³¹¹ However, of the 18 TTE CTRs expected, only the two CTRs for GSM, the EC cellular communications standard, have been approved.³¹² In addition, only seven member states have informed the EC Commission of the institutions designated to carry out the testing procedures outlined in the directive.³¹³ Belgium has introduced a temporary scheme for the approval of TTE equipment after the ECJ found it in violation of the treaty (Case 18/88, *RTT v. GB-Inno-BM*), pending the establishment of a specialized agency for that purpose. To prevent further delays, the EC Commission is encouraging member states to use the notified bodies in other countries in the absence of similar institutions in their own member states.³¹⁴

³⁰⁸ EC Commission officials, interview by USITC staff, Brussels, Oct. 5, 1993.

³⁰⁹ Official at the U.S. Mission to the European Communities, interview by USITC staff, Brussels, Oct. 6, 1993.

³¹⁰ Jennifer Schenker, "ONP Delayed," *Communications Week International*, June 14, 1993, pp. 1-4.

³¹¹ Official at the U.S. Mission to the European Communities, interview by USITC staff, Brussels, Oct. 4, 1993.

³¹² EC Commission officials, interview by USITC staff, Brussels, Oct. 4, 1993.

³¹³ Official at the U.S. Mission to the European Communities, interview by USITC staff, Brussels, Oct. 4, 1993.

³¹⁴ EC Commission officials, interview by USITC staff, Brussels, Oct. 4, 1993.

Because many of the CTRs are unavailable, national standards and type approvals will continue to apply for the certification of equipment being placed on the EC market. The system established by the first TTE directive, 86/361, providing for mutual recognition of test results, will remain valid as long as the equipment continues to comply with the conditions under which it was approved. Appendix C shows that only Belgium has not implemented the first TTE directive.

Questions about the scope of the TTE directive and its relationship to those on EMC and low-voltage equipment have already arisen. Although EC Commission officials have suggested that TTE equipment with various options or modifications should not have to be retested for every configuration, it noted that the member states may have different interpretations. Electrical equipment such as fax machines may well need to satisfy the requirements of all three directives.³¹⁵

Member-state implementation has been low for the public radio paging and DECT Directives, 90/544 and 91/287 respectively, due to delays in the implementation of the Second TTE Directive and the development of the necessary CTRs. Without the CTRs, the equipment through which DECT and radio paging services are provided cannot be designed and produced. Thus, it appears that the member states were reluctant to clear and reserve the frequency bands designated in the directives when it became apparent that the services would not be introduced by the December 31, 1992, deadlines imposed by the accompanying recommendations.³¹⁶ However, the European Telecommunications Standards Institute (ETSI) is expected to approve the CTRs for DECT by the end of 1993.³¹⁷ The CTR for radio paging is expected in April 1994, at the earliest.³¹⁸

The original Electromagnetic Compatibility (EMC) Directive, 89/336, required member states to adopt implementing legislation by July 1, 1991, and to apply its provisions from January 1, 1992. However, due to member-state delays in designating notified testing

³¹⁵ U.S. Department of State telegram, "Approvals for TTE and EMC directives," message reference No. 10752, prepared by U.S. Mission to the EC, Brussels, Sept. 14, 1993.

³¹⁶ *Council Recommendation on the coordinated introduction of pan-European land-based public radio paging in the Community*, OJ No. L 310, Nov. 9, 1990, p. 28; and *Council Recommendation on the coordinated introduction of digital European cordless telecommunications (DECT) into the Community*, OJ No. L 144, June 8, 1991, p. 47.

³¹⁷ EC Commission officials, interview by USITC staff, Brussels, Oct. 4, 1993.

³¹⁸ Mary Saunders, "TTE Directive," *European Community Quarterly Review*, Apr. 1993, p. 2.

bodies, the Council adopted an amended EMC directive, 92/31. The amendment extended the implementation deadline to October 28, 1992 and established a transition period to December 31, 1995. According to EC statistics in appendix C, five member states have implemented 92/31; the U.S. Mission to the EC in Brussels indicates that Portugal and Italy have also implemented the directive.³¹⁹ The EC Commission has officially recognized 11 EMC reference standards for information technology equipment,³²⁰ but more standards are being developed and appropriate standards have not yet been finalized for other products. Furthermore, some difficulties in matching products to CENELEC standards is occurring. CENELEC has apparently decided on the general principle that the intended use and function of the equipment should determine which EMC standard applies.³²¹

Member state implementation of the Broadcast Directive, 89/552, was to have occurred by October 3, 1991. During 1992, the EC Commission initiated infringement proceedings against the 12 member states, 3 of which, Denmark, Italy, and Greece, subsequently notified the EC Commission of the necessary national implementing measures.³²² Member-state implementation of this directive typically requires the involvement of several ministries, including the Ministries of Justice and Culture, thus lengthening the transposition process.³²³ In addition, the politically sensitive nature of the audiovisual sector led to considerable debate within the member states (and between them and the United States), resulting in delays in transposing the directive into national law.³²⁴

In Spain, for example, the broadcast industry believes that the directive allows for too high a percentage of non-Spanish broadcasting, and thus, offers insufficient protection for the Spanish industry.³²⁵ Belgium has expressed similar misgivings

about the Broadcast Directive.³²⁶ In 1991 and 1993, the EC Commission issued two reasoned opinions on Belgium's refusal to allow a French television station to transmit commercials targeted at Belgium's French-speaking citizens. The EC Commission ruled that this action violated the directive provision guaranteeing the reception of television broadcasts from other EC countries.³²⁷

Other implementation delays have resulted from some member states' contentions that the EC powers do not extend into the realm of "cultural affairs." Germany, for example, considers the directive to be a recommendation rather than a directive, particularly regarding the minimum European-content provision.³²⁸ Denmark voiced similar criticisms, but implemented the directive because the EC Council and EC Commission presented declarations that the "European content" obligation was of a political character, thus weakening its legally binding character.³²⁹

Denmark, at 79 percent, has the highest overall telecommunications sector implementation rate. Belgium, the Netherlands, Luxembourg, Greece and Spain have implemented only 50 percent of the telecommunications sector directives. One reason for this situation may be reluctance on the part of these member states' telecommunication administrations to fully liberalize telecommunications, knowing the relatively small size of their public telecommunications networks and the economic importance of the telecommunications monopoly for domestic employment and government revenues.³³⁰

Miscellaneous

The EC Council has adopted four miscellaneous directives associated with the EC 1992 program for which transposition was due by September 1, 1993 (table 3-43). Member states have transposed 54 percent of the national legislation necessary (table 3-44), which indicates that implementation of miscellaneous sector legislation is partial.

³¹⁹ U.S. Department of State telegram, "Electromagnetic Compatibility," message reference No. 09548, prepared by U.S. Mission to the EC, Brussels, Aug. 11, 1993.

³²⁰ U.S. Department of Commerce official, telephone interview by USITC staff, Washington, Oct. 19, 1993.

³²¹ U.S. Department of State telegram, "CENELEC Standards for the Electromagnetic Compatibility (EMC) Directive," message reference No. 10274, prepared by U.S. Mission to the EC, Brussels, Sept. 1, 1993.

³²² EC Commission, *Tenth Annual Report*, "Audiovisual Media," p. 38.

³²³ Spanish Government officials, interview by USITC staff, Madrid, Sept. 23, 1993.

³²⁴ For further background see USITC, "Case Study in Implementation: the Broadcast Directive," USITC, *EC Integration: Fourth Followup*, USITC publication 2501, Apr. 1992, p. 3-8.

³²⁵ *Ibid.*

³²⁶ USITC, "Case Study in Implementation: the Broadcast Directive," *EC Integration: Fourth Followup*, USITC publication 2501, Apr. 1992, p. 3-10.

³²⁷ "Broadcasting: Second Warning to Belgium Over TFI Affair," *European Report*, Sept. 4, 1993.

³²⁸ U.S. Department of State telegram, "Media Policy in the FRG," message reference No. 27030, prepared by U.S. Embassy, Bonn, Sept. 28, 1993.

³²⁹ Danish Government officials, interview by USITC staff, Copenhagen, Sept. 30, 1993.

³³⁰ Official at the U.S. Mission to the European Communities, interview by USITC staff, Brussels, Oct. 4, 1993.

Table 3-43
List of miscellaneous measures with implementation dates before Sept. 1, 1993

Measure	Title
88/378-Dir.	Safety of toys
90/219-Dir.	Contained use of genetically modified micro-organisms
90/220-Dir.	Deliberate release of genetically modified organisms
90/314-Dir.	Package travel, package holidays, and tours

Source: Compiled by USITC from official sources issued by the Commission of the European Communities.

Table 3-44
Miscellaneous: Percent of EC 92 legislation Implemented

	Measures applicable	Number of derogations outstanding	Actual Implementations by EC member states	Percent Implemented
Miscellaneous	4	0	26	54.17

Source: Compiled by USITC from official sources issued by the Commission of the European Communities.

A very different picture of the extent of implementation emerges upon consideration of each directive separately. All member states have communicated implementing legislation to the EC Commission concerning the new approach directive 88/378 on safety of toys (see appendix C). The Toy Safety Directive is unique in that many of the necessary standards were adopted by the time the directive became effective in January 1990. CEN created reference standards for toy safety and formally identified them in 1989 in the *Official Journal*. Thereafter, the EC published lists of notified testing bodies in member states able to certify that a manufacturer's toy products conform to the essential requirements of the directive. Reportedly, all except two member states have notified testing bodies.³³¹

However, questions have arisen concerning the interpretation by certain member states of the scope of the directive. For example, Germany was cited for reportedly obstructing freedom of movement of toys by stipulating that certain types of plastic must conform to provisions of German food legislation.³³² Industry sources identified enforcement of directive provisions as yielding the greatest difference among the member states, but stated that industry efforts resulted in annulments of certain questionable enforcement actions.³³³

Problems with implementation of the directive have also stemmed from varying acceptance by certain member states of the adequacy of manufacturers'

self-certification, which is one of the methods by which a manufacturer may show conformity with the directive. Additionally troubling to member states were numerous instances of CE-marked toys found not to comply with the essential safety requirements of the directive, despite the presumption of conformity signified by display of the CE mark. During the period 1990-92, the EC Commission received 63 notifications by member states concerning measures taken to withdraw certain nonconforming toys from the market or prevent others from reaching the market.³³⁴ The EC Commission, after having considered whether the measures were justified, informed other member states. A further concern is that three of five toy safety standards previously adopted by CEN to which manufacturers must demonstrate conformity are under revision. Other standards are in process or anticipated. Nevertheless, noting that "the approved certification bodies are now working effectively," the EC Commission has concluded that experience with application of the Toy Safety Directive demonstrates that the new approach has been successful in this field.³³⁵

Directive 90/314 on package travel, package holidays, and tours was to have been implemented December 31, 1992. Based on information that only 2 of 12 member states had implemented the directive by September 1, 1993,³³⁶ the status of implementation is substantially incomplete. Information from industry and EC sources indicated that an additional member state, the Netherlands, implemented the

³³¹ British Toy & Hobby Association, facsimile letter to USITC staff, Oct. 18, 1993.

³³² *Written Question No. 3076/92...Dec. 14, 1992 [on implementation of the toys directive in Germany]*, OJ No. C 162 (June 14, 1993), p.3.

³³³ British Toy & Hobby Association, facsimile letter.

³³⁴ *Joint answer to Written Questions Nos. 168/93 to 170/93...May 11, 1993 [on CE mark and toy safety]*, OJ No. C 202 (July 26, 1993), pp. 13-14.

³³⁵ EC Commission, *Tenth Annual Report*, p. 66.

³³⁶ *Ibid.*

directive in 1993.³³⁷ Implementation is not complete for a variety of reasons, chief among which are the widely varied extent to which individual member states regulate the travel industry; the conflicts faced by certain member states such as Belgium and Italy in considering whether to renounce previously ratified international conventions on travel contracts in order to adopt new legislation conforming to the directive; confusion over interpretations of provisions in the directive dealing with financial security against insolvency; and the fragmented industry involved with tourism.³³⁸ Additionally, diverse perceptions in member states led to varying interpretations on the extent of regulation necessary or appropriate to implement the directive.³³⁹ Article 169 letters were sent in early 1993 to all countries that had not transposed the directive.³⁴⁰

Two directives adopted in April 1990 that center on Contained Use of Genetically Modified Micro-organisms (90/219) and Deliberate Release of Genetically Modified Organisms (90/220) were to have been implemented by October 23, 1991. As of September 1, 1993, implementation was partial at 58 percent for both directives. Member states failing to notify implementing measures received article 169 letters in connection with both of these directives in 1992. Nevertheless, in the same year, the EC Commission regarded progress towards implementation as considerable, noting that the requisite competent authorities for both directives had been appointed in all except three member states; that formal and informal meetings of competent authorities and other national experts had been held to render decisions and guidance as called for; that specific legislation to transpose the directives was either adopted, at an advanced stage of decision making, or in final stages of preparation in all member states; and that the EC Commission had already received notifications of release of genetically modified organisms into the environment as called for in the subject directive.³⁴¹

³³⁷ European Tour Operators Association official, telephone interview by USITC staff, Oct. 15, 1993; and EC Delegation, Washington, DC, facsimile to U.S. Department of Commerce official, resulting from telephone interview by USITC staff, Aug. 31, 1993.

³³⁸ The Economist Intelligence Unit, Travel and Tourism Analyst, "Legal Liabilities in the European Travel Trade: The EC Package Travel Directive, Part 1," No. 1 (1993), pp. 81-97.

³³⁹ European Tour Operators Association official, telephone interview by USITC staff, Oct. 15, 1993.

³⁴⁰ EC Commission, *Tenth Annual Report*, p. 367.

³⁴¹ Answer to Written Question No. 908/91...May 17, 1991 [on implementation of the two Council Directives on genetically modified organisms], OJ No. C 209 (Aug. 15, 1992), p. 5.

Generic

The EC Council has adopted eight measures that were slated to be transposed by September 1, 1993, and extend beyond and complement sector-specific measures (table 3-45). Implementation of six of these generic measures was to occur prior to 1991 (see appendix C). Member-state implementation of the eight measures is substantial, at 90 percent (table 3-46). However, a comparable number of important initiatives either are scheduled for implementation in 1994 (see appendix C) or have yet to be adopted.

Directive 83/189, held to be particularly important to facilitating the free flow of goods throughout the EC, requires member states and national standards institutes to inform the EC Commission of draft technical regulations and voluntary national standards and allows the EC Commission and other member states to comment on them prior to their formal adoption. The deadline for implementing the directive was March 1984, but implementation was insubstantial as of September 1, 1993, having been transposed by only five member states. That directive was amended by directive 88/182, which has been fully implemented. Even though directive 83/189 has not been widely transposed, the information procedure itself is apparently operational in all member states. The EC Commission has proposed to further amend the directive to provide more time for member states to review drafts and expand the scope to consumer and environmental protection measures not currently included.³⁴² In addition, the EC Commission would only need to be notified if the proposed regulations result in significant changes to national standards.³⁴³

Implementation of directive 85/374, dealing with liability for defective products, is substantial. Only two member states—France and Spain—have not yet implemented the directive. The ECJ held in case C-293/91 on January 13, 1993, that France had failed to fulfill its obligation to implement the Product Liability Directive. The problem is said to be that the directive requires considerable modifications to current French regulations.³⁴⁴ According to principles established in the 1991 *Francovich* judgment, France could be found subsidiarily liable for damages occurring after the deadline for implementation and before actual transposition, if an injured party were

³⁴² Answer to Written Question No. 3024/92...Dec. 14, 1992 [on technical standards notification procedure], OJ No. C 137 (May 15, 1993), pp. 17-18.

³⁴³ "Standards and Testing: Parliament OKs Commission Proposal On Technical Standards Notification," *EuroWatch*, May 31, 1993, pp. 3, 5.

³⁴⁴ French Government official, interview by USITC staff, Sept. 29, 1993.

Table 3-45
List of generic measures with implementation dates before Sept. 1, 1993

Measure	Title
83/189-Dir.	Information procedures for technical standards and regulations
85/374-Dir.	Liability for defective products
87/357-Dir.	Mislabeled products that endanger health and safety
88/182-Dir.	Extension of information procedures for technical standards/regulations
88/314-Dir.	Labeling of prices for nonfood products
90/352-Dec.	Exchange of information on dangers of consumer goods
92/400-Dec.	Standards institutions annexed to Council Directive 83/189
93/339-Reg.	Product safety: imports from third countries

Source: Compiled by USITC from official sources issued by the Commission of the European Communities.

Table 3-46
Generic: Percent of EC 92 legislation implemented

	Measures applicable	Number of derogations outstanding	Actual Implementations by EC member states	Percent Implemented
Generic	8	0	86	89.58

Source: Compiled by USITC from official sources issued by the Commission of the European Communities.

not able to obtain relief from the producer on account of France's failure to transpose the directive.³⁴⁵ In Spain, the Ministry of Justice was said to have primary competence, but the Ministries of Industry and Health are also involved. Draft legislation reportedly is under consideration.³⁴⁶

For those member states that have implemented it, however, there are substantial differences in the scope of their domestic law coverage and how they have chosen to handle several other matters. Luxembourg covers all agricultural products while Belgium excludes them. The remaining member states exclude raw agricultural products but include processed ones. All member states except Luxembourg permit a defense based on the state of the art. Germany, Greece, and Portugal impose an overall limit on liability amount, whereas the remaining member states do not.³⁴⁷ The directive is slated for review at the end of 1995, in light of experience.

Generic directive 87/357 dealing with mislabeled products that endanger health and safety has been transposed by all member states. Implementation of 88/314 centering on labeling of prices for nonfood

products was virtually complete by September, 1993 inasmuch as all member states except Spain had transposed the directive into national legislation. The two ministries involved in the implementation of this directive, Health and Industries, are said to disagree over aspects of the directive.³⁴⁸ Upon resolution of the differences between the two ministries, the directive is to be implemented by royal decree. Another important measure for ensuring public safety is EC Council regulation 93/339, which covers conformity with the rules on product safety in the case of goods imported from third countries. It is directly binding on all member states.

Although the implementation rate for generic measures is relatively high, some important measures have not passed their implementation deadlines. For example, directive 92/59 dealing with general product safety deserves special mention because it is a crucial supplement to product specific rules. Scheduled to be implemented by mid-1994, the directive requires that all new, used, or reconditioned products placed on the EC market be safe under normal or reasonable foreseeable conditions of use, and obligates manufacturers and suppliers to inform consumers about inherent product risks, to monitor product safety, and to cooperate with actions taken regarding products found to be dangerous. Member states and the EC Commission must adopt emergency measures to

³⁴⁵ "France found in Violation for Failure to Transpose the Product Liability Directive," *Business Law Europe*, Feb. 22, 1993.

³⁴⁶ Spanish Government officials, interviews by USITC staff, Sept. 23, 1993.

³⁴⁷ For an analysis, see, William Coffey, "Implementation of Product Liability Directive Progresses," *European Market Law Report*, Jan. 1993, pp. 1-5.

³⁴⁸ Spanish Government officials, interviews by USITC staff, Sept. 23, 1993.

prevent, restrict, or impose conditions on the marketing or use of a product that poses a serious or immediate risk to health and safety.

Directive 93/13, aimed at negating the detrimental effects of unfair terms in consumer contracts,³⁴⁹ is not scheduled to be implemented until December 31, 1994. The directive is not believed to require substantial changes in the laws of most member states and is expected to result in better cross-border access to justice for consumers, one of the recommendations of the Sutherland report.³⁵⁰ Additionally, implementation is scheduled for July 1, 1994, regarding directive 93/68, which amends 12 new approach standards directives in order to simplify and make consistent the provisions with regard to use of CE marks. The accompanying decision 93/465 establishes conformity assessment procedures and rules for affixing the CE-mark on affected products.

Further generic measures currently under EC Commission consideration include proposed directives concerning comparative advertising and amending directive 84/450 concerning misleading advertising; liability of suppliers of services; and protection of purchasers in contracts relating to the utilization of immovable property on a time-share basis.

Environment

The White Paper did not contain a specific section for proposals relating to the environment. However, many of the internal market measures handled by the EC Commission and European Parliament bodies responsible for environmental policy are trade related, and likewise, measures handled by other bodies often have environmental implications.³⁵¹ For example, auto emissions standards historically have been dealt with as internal market standards, but they are handled by the European Parliament's environmental committee.³⁵² The 1987 Single European Act (SEA) added to the Treaty of Rome a new title on the environment, which mandated that: "Environmental protection shall be a component of the Community's other policies."³⁵³

Table 3-47 lists generic cross-sector environmental measures that were enacted after issuance of the White Paper that were due to be transposed by September 1.

³⁴⁹ Council Directive 93/13...on unfair terms in consumer contracts, OJ L 95 (Apr. 21, 1993).

³⁵⁰ "Consumer Affairs Council: EC Ministers Reach Agreement on Unfair Clauses in Contracts," *European Report*, Mar. 3, 1993, Internal Market, p. 10.

³⁵¹ DG XI staff, meeting with USITC staff, Brussels, June 7, 1990; European Parliament staff member, meeting with USITC staff, Brussels, June 6, 1990.

³⁵² European Parliament staff member, meeting with USITC staff, Brussels, June 6, 1990.

³⁵³ EEC Treaty, pt. 3, title VII, art. 130r, par. 2.

The list also includes one directive—that governing environmental impact assessments (EIAs)—that was enacted shortly before the White Paper and which continues to have potential significance for business concerns. Table 3-48 shows that implementation of the applicable environmental measures is 82 percent complete. However, this rate credits implementation by all 12 member states of 2 decisions setting specific industry criteria under the Eco-label regulation, but does not account for the many industry sectors that have no set criteria. Not counting these two decisions, the implementation rate is 80 percent and implementation is substantial.

These figures should be viewed with caution, however. Although the implementation rate in appendix C is rather high, the environmental area continues to head the list of sectors that the Community has found member states to be in infringement due to improper application.³⁵⁴ Furthermore, the rate calculated may be artificially high because some environmental measures appear elsewhere in this chapter, in sector-specific tables. For example, directives 91/157, 91/325, 91/326, and 91/410, which fall under the auspices of the environmental bodies of the EC Commission and European Parliament, are listed under the Dangerous Substances category of chemical standards. The poor implementation rate of that category in large part reflects the poor implementation of these environmentally based directives. The Air Pollution Directives listed under motor vehicle standards are also environmentally based, but implementation of these directives is fairly good.

In addition, an increasing number of new environmental initiatives, such as eco-label and the conventions adopting international environmental treaties, have been adopted as self-implementing regulations rather than as directives. The implementation rate therefore assumes implementation by all 12 member states of these regulations, even though this does not necessarily mean that all member states have in fact taken all measures required by the regulations. For example, the eco-label regulation officially took effect on June 30, 1993, but as of that date only six member states—Denmark, Germany, France, Luxembourg, the Netherlands, and the United Kingdom—had actually set up the necessary national authorization committees called for by the regulation.³⁵⁵ In addition, as noted above, as of September 1, 1993, the EC Commission and national experts had established eco-label criteria for only two

³⁵⁴ EC Commission, *Tenth Annual Report*, annex I.

³⁵⁵ *Eurowatch*, June 14, 1983, p. 7.

Table 3-47

Environment: List of measures with implementation dates before Sept. 1, 1993

Measure	Title
85/337-Dir.	Environmental impact assessment
86/279-Dir.	Transfrontier shipment of hazardous waste
88/540-Dec.	Concluding the Vienna Convention and Montreal Protocol
88/610-Dir.	Major accident hazards (Seveso)
88/3322-Reg.	Control of production and importation of CFCs and halons
89/369-Dir.	Pollution from new municipal waste incineration plant
89/427-Dir.	Air quality limits for sulphur dioxide/particulates
89/429-Dir.	Municipal waste-incineration plants
90/313-Dir.	Freedom of access to information on the environment
90/415-Dir.	Limits on discharges of dangerous substances
90/533-Dir.	Marketing of plant protection products of active substances
91/156-Dir.	Waste framework directive (amends 75/442-Dir.)
91/244-Dir.	Conservation of wild birds (amends 79/409-Dir.)
91/271-Dir.	Urban waste water treatment
91/594-Reg.	Substances that deplete the ozone layer
92/880-Reg.	Community eco-label award scheme
92/1970-Reg.	Convention on international trade in endangered species
92/2157-Reg.	Protection of EC forests against atmospheric pollution
93/430-Dec.	Eco-label criteria: washing machines
93/431-Dec.	Eco-label criteria: dishwashers

Source: Compiled by USITC from official sources issued by the Commission of the European Communities.

Table 3-48

Environment: Percent of EC 92 legislation implemented

	Measures applicable	Number of derogations outstanding	Actual implementations by EC member states	Percent implemented
Environment	20	1	196	82.01

Source: Compiled by USITC from official sources issued by the Commission of the European Communities.

product categories (dishwashers and washing machines) of the many that may carry the logo.

Member states do in fact usually transpose most of the obligations of the environment directives, although slowly.³⁵⁶ According to the EC Commission, the delays flow mainly from administrative problems.³⁵⁷

One directive not yet implemented by many of the member states (91/244) amends an existing directive concerning wild bird protection (79/409). The earlier directive itself has been highly controversial and the subject of many infringement proceedings against member states for improper implementation or application.³⁵⁸ In addition, this directive has encountered opposition from member-state hunting lobbies, which question matters such as the opening and closing dates for wild-bird-hunting seasons.³⁵⁹ It

is therefore not surprising that only four member states—Spain, Portugal, Greece, and Italy—have implemented the new directive.

Two other directives that show low implementation rates had relatively recent implementation deadlines. The deadline for implementation of the Urban Waste Water Directive, 91/271, was June 30, 1993, and the deadline for implementation of the new Waste Framework Directive, 91/156, was April 1, 1993. Only four member states—Denmark, Ireland, Luxembourg, and Portugal—have implemented these two directives. In addition to having recent deadlines, both of these directives address controversial matters that will require new legislation in some member states. Compliance with directives concerning waste and water has been notoriously costly and troublesome for member states, as shown by the numerous EC infringement proceedings and other challenges in the EC courts. For example, the British environment minister has noted that compliance with the EC Drinking Water Directive will cost the United Kingdom billions of dollars in new treatment processes and other measures.³⁶⁰

³⁵⁶ EC Commission, *Tenth Annual Report*, p. 97.

³⁵⁷ Ibid.

³⁵⁸ Ibid., pp. 100, 276.

³⁵⁹ Representative of BEUC, interview by USITC staff, Brussels, Oct. 5, 1993; EC Commission, *Tenth Annual Report*, p. 120.

³⁶⁰ *EuroWatch*, Oct. 4, 1993.

Two other directives that several member states have been slow to implement are those numbered 90/415 and 90/313. The former regulates the discharges of dangerous substances into the aquatic environment, and transposition may be delayed in some member states that would need significant changes in national laws to list specific limit values for the covered substances. For example, Portugal's failure to implement this directive may result from a general delay in issuance of a Portuguese ministerial decree setting limits and guidance values for dangerous substances.³⁶¹

Directive 90/313 concerns freedom of access to information on the environment. In some member states, the delay in transposal is due to the need to promulgate new legislation in order to introduce a new right to information on the environment.³⁶² For example, transposal of the directive into Spain's national law entailed extensive changes to traditional Spanish administrative procedures.³⁶³

Greece has the worst implementation record, followed by Italy and then Germany. It is difficult, however, to rank the records of the remaining member states, given that some have implemented the more recent directives but have failed to transpose longstanding directives. Other member states with good records have not yet implemented some combination of the newly effective and more controversial directives.

Denmark has implemented applicable directives except the one concerning wild birds, discussed above. Portugal has implemented all except directive 90/415. Belgium, France and the Netherlands have implemented all applicable directives except the Wild Birds Directive and the two recently effective directives.

Although the official EC records indicate that Luxembourg has not notified the EC Commission that it has transposed the Wild Birds Directive 91/244, Luxembourg Government records indicate that Luxembourg has implemented that directive.³⁶⁴ The only other directive not implemented by Luxembourg is directive 85/377 on EIAs. Although Luxembourg is the only member state that has not notified the EC Commission of transposal of that directive, the EC Commission has brought actions for improper implementation and improper application against several other member states.³⁶⁵ The EC

Commission has recognized that this directive is among those posing "the trickiest problems of transposal."³⁶⁶

According to official EC records, Spain has implemented all applicable directives except the recently effective directives and directive 90/313. Information from the Spanish Government, however, indicates that Spain has in fact implemented directive 90/313.³⁶⁷ The United Kingdom has implemented all except the Wild Birds Directive, the recently effective directives, and directive 90/415. Ireland has implemented all except Wild Birds, and directives 90/313 and 90/415. The EC Commission is pursuing talks with Irish authorities regarding the earlier Wild Birds Directive,³⁶⁸ that presumably could affect transposal of the new directive.

Germany has not implemented the recently effective directives, the Wild Birds Directive, or directives 90/313, or 90/415. Although one official source (Info92) indicates that Germany also has not implemented directive 86/279, the EC Commission's *Tenth Annual Report* indicates that Germany has definitely implemented the directive. German Government officials have suggested that the implementation problems arising from unification and the distribution of authority between the central government and the Länder are particularly acute with respect to environmental legislation.³⁶⁹

Greece has implemented only four of the applicable environment directives that require transposal into national law, and Italy has implemented only six. Neither Greece nor Italy has implemented directive 89/427, but according to an EC Commission official, member states need only implement this directive if they choose to use a particular method (the gravimetric or beta-ray method) for measuring pollutants.³⁷⁰ It is possible that Greece and Italy have not opted to use this method. The EC Commission has noted an acute air-pollution problem in Greece, and that Greece has still not even notified the EC Commission of plans to improve air quality under directives issued in the early 1980s.³⁷¹ With respect to directive 90/313, an existing general Greek law needs the addition of specific measures to implement the directive.³⁷²

³⁶⁶ Ibid., p. 100.

³⁶⁷ Telefax from Spanish Government official to USITC staff, Nov. 10, 1993. According to this information, directive 90/313 was transposed into Spanish law on November 27, 1992 (Ley 30/92, 26-november-1992 (BOE No. 285, 27-november-92).

³⁶⁸ EC Commission, *Tenth Annual Report*, p. 121.

³⁶⁹ German Government official, telephone conversation with USITC staff, Oct. 29, 1993; U.S. Department of State telegram, "German Environmental Policy," message reference No. 26748, prepared by U.S. Embassy, Bonn, Sept. 1993.

³⁷⁰ Telefax from EC Mission to the EC to USITC staff, Nov. 9, 1993.

³⁷¹ EC Commission, *Tenth Annual Report*, p. 115.

³⁷² Ibid., p. 114.

³⁶¹ EC Commission, *Tenth Annual Report*, p. 128.

³⁶² Ibid., p. 104.

³⁶³ Ibid., p. 116.

³⁶⁴ (RGD) 21.4.93, *Directives MARCHE INTERIEUR transposées* (Sept. 14, 1993).

³⁶⁵ EC Commission, *Tenth Annual Report*, pp. 105 and 308.

APPENDIX A
REQUEST LETTER

RECEIVED

88 OCT 13 21:01

OFFICE OF THE SECRETARY
DOCKET/USIC

Congress of the United States
Washington, DC 20515

October 11, 1988

DOCKET

DOCKET NUMBER
1469
Office of the Secretary U.S. International Trade Commission

OFFICE OF THE CHAIRMAN

88 OCT 13 P12:46

The Honorable Anne Brunsdale
Acting Chairman
U.S. International Trade Commission
500 E Street, S.W.
Washington, D.C. 20436

Dear Madam Chairman:

A development of major international importance and of increasing interest to the House Committee on Ways and Means and the Senate Committee on Finance is the economic integration of the European Community (EC) into a single market, scheduled to be in place by the end of 1992. The form and content of the policies, laws, and directives removing economic barriers and restrictions and harmonizing practices among the EC member states may have a significant impact on U.S. trade and investment and on U.S. business activities within Europe, overall and in particular sectors. The process of creating a single market may also affect progress and results in the ongoing Uruguay Round of GATT multilateral trade negotiations.

In order to provide a basic understanding of these developments, their significance, and possible effects, on behalf of the Committees we are requesting that the U.S. International Trade Commission conduct an investigation under section 332(g) of the Tariff Act of 1930 to provide objective factual information on the EC single market and a comprehensive analysis of its potential economic consequences for the United States.

The Commission's report should focus on the following aspects of the proposed single market, in particular:

1. The anticipated changes in laws, regulations, policies, and practices of the EC and individual member states that may affect U.S. exports to the EC and U.S. investment and business operating conditions in Europe, such as changes in customs requirements and procedures, government procurement practices, investment policies, services directives, and tax systems. The analysis should include consideration of the relationship and differences between policies and principles, such as sectoral reciprocity, proposed for the EC single market and current EC or

The Honorable Anne Brunsdale
October 11, 1988
Page 2

member state obligations and commitments under bilateral or multi-lateral agreements and codes to which the United States is a party.

2. The likely impact of such changes on major sectors of U.S. exports to the EC, such as agricultural trade and telecommunications.

3. An assessment of whether particular elements of the single market may be trade liberalizing or trade discriminatory with respect to third countries, particularly the United States.

4. The relationship and possible impact of the single market exercise on the Uruguay Round of GATT multilateral trade negotiations.

We understand that the European Community intends to accomplish its goal of a unified market through the adoption of some 286 Internal Market Directives, which currently are in various stages of preparation, and that a text is not yet available to the public for approximately one-fourth of the proposed directives.

Given the great diversity of topics which these directives address, and the fact that the remaining directives will become available on a piecemeal basis, the Commission should provide the requested information and analysis to the extent feasible in an initial report by July 15, 1989, with follow-up reports as necessary to complete the investigation as soon as possible thereafter. Shortly after receipt of this letter, Commission staff should consult with staffs of our Committees to agree on the topics to be covered in the initial report.

In preparing these reports, the Commission should seek views and input from the private sector. The Commission should also cooperate with and utilize existing information available from U.S. Government agencies to the fullest extent possible.

Sincerely yours,



Lloyd Bentsen
Chairman
Committee on Finance



Dan Rostenkowski
Chairman
Committee on Ways and Means

APPENDIX B
FEDERAL REGISTER

[332-267]

The Effects of Greater Economic Integration Within the European Community on the United States

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and scheduling of hearing.

SUMMARY: Following receipt on October 13, 1988 of a request from the Committee on Ways and Means of the United States House of Representatives and the Committee on Finance of the United States Senate, the Commission instituted investigation No. 332-267 under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to provide objective factual information on the EC single market and a comprehensive analysis of its potential economic consequences for the United States. The Committee requested that the Commission investigation focus in particular on the following:

1. The anticipated changes in laws, regulations, policies, and practices of the EC and individual member states that may affect U.S. exports to the EC and U.S. investment and business operating conditions in Europe, such as changes in customs requirements and procedures, government procurement practices, investment policies, service directives, and tax systems. The Committees requested that the analysis include consideration of the relationship and differences between policies and principles, such as sectoral reciprocity, proposed for the EC single market and current EC or member state obligations and commitments under bilateral or multilateral agreements and codes to which the United States is a party.

2. The likely impact of such changes on major sectors of U.S. exports to the EC, such as agricultural trade and telecommunications.

3. An assessment of whether particular elements of the single market may be trade liberalizing or trade discriminatory with respect to third countries, particularly the United States.

4. The relationship and possible impact of the single market exercise on the Uruguay Round of GATT multilateral trade negotiations.

The Committees requested that the Commission provide the requested information and analysis to the extent feasible in an initial report by July 15, 1989, with follow up reports as necessary.

EFFECTIVE DATE: December 13, 1988.

FOR FURTHER INFORMATION CONTACT:

For information on other than the legal aspects of the investigation contact either Mr. John J. Gersic at 202-252-1342, or Mr. David R. Konkel at 202-252-1451.

For information on legal aspects of the investigation contact Mr. William W. Gearhart at 202-252-1091.

PUBLIC HEARING: A public hearing in connection with the investigation will be held in the Commission Hearing Room, 800 E Street SW., Washington, DC, beginning at 9:30 a.m. on April 11, 1989, and continuing as required on April 12, 1989. All persons shall have the right to appear by counsel or in person, to present information, and to be heard. Persons wishing to appear at the public hearing should file requests to appear and should file prehearing briefs (original and 14 copies) with the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436, not later than 5:00 p.m., March 28, 1989. Post-hearing briefs may be submitted no later than April 26, 1989.

WRITTEN SUBMISSIONS: In lieu of or in addition to appearances at the public hearing, interested persons are invited to submit written statements concerning the investigation. Written statements should be received by the close of business on April 26, 1989. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be available for inspection by interested persons. All submissions should be addressed to the Secretary at the Commission's office in Washington, DC. Hearing impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202)-252-1810.

By order of the Commission.

Issued: December 13, 1988.

Kenneth R. Mason,

Secretary.

[FR Doc. 88-28291 Filed 12-20-88; 8:45 am]

BILLING CODE 7000-05-01

(332-267)

**Effects of Greater Economic
Integration Within the European
Community on the United States**

Agency: United States International
Trade Commission.

ACTIOE: Scheduling of followup reports.

SUMMARY: Following receipt on October 13, 1988, of a request from the Committee on Ways and Means of the United States House of Representatives and the Committee on Finance of the United States Senate, the Commission instituted investigation No. 332-267 under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to provide objective factual information on the EC single market and a comprehensive analysis of its potential economic consequences for the United States. The Commission requested that the Committees provide the requested information and analysis to the extent feasible in an initial report by July 15, 1989, with followup reports as necessary to complete the investigation. Notices of institution of the investigation and scheduling of a hearing was published in the Federal Register of December 21, 1988 (53 FR 51328).

The report on the initial phase of the investigation was sent to the Committees on Monday, July 17, 1989; copies of the report "The Effects of Greater Economic Integration within the European Community on the United States" (Investigation 332-267, USITC Publication 2204, July 1989) may be obtained by calling 202-252-1800 or from the Office of the Secretary, U.S. International Trade Commission, 600 E St. SW., Washington, DC 20438. Requests can also be faxed to 202-252-2168.

Followup reports will be issued approximately every 6 months. Each will summarize the previous report and EC

single market directives that become available after the cutoff date of the previous report. The followup reports will have a format similar to the original report.

EFFECTIVE DATE: September 11, 1989.

FOR FURTHER INFORMATION CONTACT:

For further information on other than the legal aspects of the investigation contact Mr. John J. Gerke at 202-252-1342. For further information on the legal aspects of the investigation contact Mr. William W. Gearhart at 202-252-1091.

WRITTEN SUBMISSIONS: Interested

persons are invited to submit written statements concerning the investigation. Written submissions to be considered by the Commission for the second report should be received by the close of business on November 30, 1989.

Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.5 of the Commission's Rules of Practice and Procedure (19 CFR 201.5). All written submissions, except for confidential business information, will be available for inspection by interested persons. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

Hearing impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1610.

Issued: September 13, 1989.

By order of the Commission.

Kenneth R. Mason,

Secretary.

(FR Doc. 89-22310 Filed 9-19-89; 8:45 am)

MAILING CODE 7989-04-4

[332-267]

The Effects of Greater Economic Integration Within the European Community on the United States

AGENCY: United States International Trade Commission.

ACTION: Scheduling of public hearing and deadline for submissions in connection with second follow-up report.

SUMMARY: The Commission has commenced work on the second of a series of follow-up reports updating its initial report issued in July 1989 in connection with investigation No. 332-267, *The Effects of Greater Economic Integration Within the European Community on the United States*. The reports were requested under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) by the House Committee on Ways and Means and the Senate Committee on Finance in a letter received on October 13, 1988. Notice of the institution of the investigation and scheduling of a public hearing was published in the *Federal Register* of December 21, 1988 (53 FR 51328), and notice of the procedure to be followed in follow-up reports was published in the *Federal Register* of September 20, 1989 (54 FR 38751).

The second follow-up report will follow a format similar to that of the earlier reports. However, the second follow-up report will contain, in addition, new chapters on R & D and technology and an analysis of the impact of EC integration efforts on three U.S. industries—automobile, telecommunications, and chemicals/pharmaceuticals. Persons having an interest in these areas or industries in particular, or any of the matters covered by the reports, may be interested in participating in the Commission's June 21, 1990, public hearing and/or in making written submissions in accord with the procedures set forth below.

The report on the initial phase of the investigation was sent to the Committees on Monday, July 17, 1989. The first follow-up report was sent to the Committees on Friday, March 30, 1990. Copies of either the initial report, *The Effects of Greater Economic Integration Within the European Community on the United States* (Investigation 332-267, USITC Publication 2204, July 1989) or the first follow-up report (Investigation 332-267, USITC Publication 2268, March 1990) may be obtained by calling 202-252-1809, or from the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Requests can also be faxed to 202-252-2186.

The second follow-up report will be sent to the Committees on September 28, 1990.

EFFECTIVE DATE: March 23, 1990.

FOR FURTHER INFORMATION CONTACT:

For further information on other than the legal aspects of the investigation contact Mr. John J. Gersic at 202-252-1342. For information on the legal aspects of the investigation contact Mr. William W. Gearhart at 202-252-1091.

PUBLIC HEARING: A public hearing in connection with the investigation will be held in the Commission Hearing Room, 500 E Street SW., Washington, DC, beginning at 9:30 a.m. on June 21, 1990. All persons shall have the right to appear by counsel or in person, to present information, and to be heard. Persons wishing to appear at the public hearing should file requests to appear and should file prehearing briefs (original and 14 copies) with the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436, not later than 5 p.m., June 7, 1990. Post-hearing briefs may be submitted no later than July 5, 1990.

WRITTEN SUBMISSIONS: In lieu of or in addition to appearances at the public hearing, interested persons are invited

to submit written statements concerning the investigation. Written submissions to be considered by the Commission for the second follow-up report should be received by the close of business on July 6, 1990. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be available for inspection by interested persons. All submissions should be addressed to the Secretary at the Commission's office in Washington, DC.

Hearing impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810.

By order of the Commission.

Issued: March 26, 1990.

Kenneth R. Mason,

Secretary.

[FR Doc. 90-7709 Filed 4-3-90; 8:45 am]

BILLING CODE 7020-02-M

INTERNATIONAL TRADE COMMISSION

The Effects of Greater Economic Integration Within the European Community on the United States

AGENCY: International Trade Commission.

ACTION: Scheduling of deadline for submissions in connection with the third followup report.

SUMMARY: The Commission has commenced work on the third in a series of followup reports updating its initial report issued in July 1980 in connection with investigation No. 332-287, "The Effects of Greater Economic Integration Within the European Community on the United States." The reports were requested under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) by the House Committee on Ways and Means and the Senate Committee on Finance in a letter received on October 11, 1980. Notice of the institution of the investigation and scheduling of a public hearing was published in the Federal Register of December 21, 1980 (54 FR 51122), and notice of the procedure to be followed in followup reports was published in the Federal Register of September 20, 1980 (54 FR 36731).

The report on the initial phase of the investigation was sent to the Committees on Monday, July 17, 1980. The first followup report was sent to the Committees on Friday, March 20, 1981, and the second followup report was sent on September 24, 1980. Copies of either the initial report "The Effects of Greater Economic Integration Within the European Community on the United States" (investigation 332-287, USITC Publication 2204, July 1980), the first followup reports (investigation 332-287, USITC Publication 2208, March 1980), or the second followup report (investigation 332-287, USITC Publication 2316, September 1980) may be obtained by calling 302-253-1882, or from the Office of the Secretary, U.S.

International Trade Commission, 600 E Street SW., Washington, DC 20538. Requests can also be faxed to 202-253-2188.

The third followup report will be sent to the Committees on March 28, 1981.

EFFECTIVE DATE: October 5, 1980.

FOR FURTHER INFORMATION CONTACT: For further information on other than the legal aspects of the investigation contact Mr. John J. Carvic at 202-252-1342. For information on the legal aspects of the investigation contact Mr. WILLIAM W. Gearhart at 202-252-1081.

WRITTEN SUBMISSIONS: Interested persons are invited to submit written statements concerning the investigation. Written submissions to be considered by the Commission for the third followup report should be received by the close of business on January 11, 1981. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be available for inspection by interested persons. All submissions should be addressed to the Secretary at the Commission's office in Washington, DC.

Hearing impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810.

Issued: October 16, 1980.

By order of the Commission.

Kenneth R. Merona.

Secretary.

(FR Doc. 80-25106 Filed 10-23-80; 8:45 am.)

STANDARD CODE 388-0-2

[Investigation No. 332-267]**Effects of Greater Economic Integration Within the European Community on the United States**

AGENCY: United States International Trade Commission.

ACTION: Deadline for submissions in connection with the fourth followup report.

SUMMARY: The Commission has commenced work on the fourth in a series of followup reports updating its initial report issued in July 1989 in connection with investigation No. 332-267, The Effects of Greater Economic Integration Within the European Community on the United States. The reports were requested under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) by the House Committee on Ways and Means and the Senate Committee on Finance in a letter received on October 13, 1988. Notice of the institution of the investigation and scheduling of a public hearing was published in the Federal Register of December 21, 1988 (53 FR 51328), and notice of the procedure to be followed in followup reports was published in the Federal Register of September 20, 1989 (54 FR 38751).

The report on the initial phase of the investigation was sent to the Committees on July 17, 1989. Followup reports were sent to the Committees on March 30, 1990, September 28, 1990, and March 29, 1991. Copies of the reports, The Effects of Greater Economic Integration Within the European Community on the United States, may be obtained by calling 202-252-1800, or from the Office of the Secretary, U.S. International Trade Commission, 500 E

Street SW., Washington, DC 20438. Requests can also be faxed to 202-252-2186.

The fourth followup report will be sent to the Committees on April 30, 1992. **EFFECTIVE DATE:** April 23, 1991.

FOR FURTHER INFORMATION CONTACT:

For further information on the investigation contact Ms. Kim Frankena at (202) 252-1265 or Ms. Joanne Guth at 202-252-1264.

WRITTEN SUBMISSIONS: Interested persons are invited to submit written statements concerning the investigation. Written submissions to be considered by the Commission for the fourth followup report should be received by the close of business on December 12, 1991. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be available for inspection by interested persons. All submissions should be addressed to the Secretary at the Commission's office in Washington, DC.

Hearing impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810.

Issued: May 20, 1991.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 91-12700 Filed 5-29-91; 8:45 am]

BILLING CODE 7030-02-M

(Investigation No. 332-267)

**The Effects of Greater Economic
Integration Within the European
Community on the United States**

AGENCY: United States International
Trade Commission.

ACTION: Deadline for submissions in
connection with the fifth followup
report.

SUMMARY: The Commission has commenced work on the fifth in a series of followup reports updating its initial report issued in July 1989 in connection with investigation No. 332-267. The Effects of Greater Economic Integration Within the European Community on the United States. The reports were requested under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) by the House Committee on Ways and Means and the Senate Committee on Finance in a letter received on October 13, 1988. Notice of the institution of the investigation and scheduling of a public hearing was published in the Federal Register of December 21, 1988 (53 FR 51322), and notice of the procedure to be followed in followup reports was published in the Federal Register of September 20, 1989 (54 FR 38751).

The report on the initial phase of the investigation was sent to the Committees on July 17, 1989. Followup reports were sent to the Committees on March 30, 1990, September 28, 1990, March 29, 1991, and April 30, 1992. Copies of the reports, The Effects of Greater Economic Integration Within the European Community on the United States, may be obtained by calling 202-205-1807, or from the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20438. Requests can also be faxed to 202-205-2188.

The fifth followup report will be sent to the Committees on April 30, 1993.
EFFECTIVE DATE: September 24, 1992.

FOR FURTHER INFORMATION CONTACT:

For further information on the investigation contact Ms. Joanne Guth at 202-205-3284.

WRITTEN SUBMISSIONS: Interested persons are invited to submit written statements concerning the investigation. Written submissions to be considered by the Commission for the fifth followup report should be received by the close of business on December 11, 1992. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be available for inspection by interested persons. All submissions should be addressed to the Secretary at the Commission's office in Washington, DC.

Hearing impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

Issued: October 1, 1992.

By order of the Commission.

Paul Bardos,

Acting Secretary.

[FR Doc. 92-24339 Filed 10-6-92; 8:45 am]

BILLING CODE 7030-03-01

[Investigation No. 332-267]

The Effects of Greater Economic Integration Within the European Community, On the United States, Sixth Followup Report: The Status of Implementation

AGENCY: United States International Trade Commission.

ACTION: Deadline for submissions in connection with the sixth followup report.

SUMMARY: The Commission has commenced work on the sixth in a series of followup reports in connection with investigation No. 332-267, The Effects of Greater Economic Integration Within the European Community on the United States. The reports were requested under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) by the House Committee on Ways and Means and the Senate Committee on Finance in a letter received on October 13, 1988. Notice of the institution of the investigation and scheduling of a public hearing was published in the Federal Register of December 21, 1988 (53 FR 51328), and notice of the procedure to be followed in followup reports was published in the Federal Register of September 20, 1989 (54 FR 38751).

The sixth followup report will focus exclusively on the status of member-state implementation of legislation adopted by the European Community in connection with its EC 1992 integration program. The goal is to complete the Commission's wrapup of the Community's progress in attaining its single market objectives by identifying the extent to which the necessary legal steps have been taken to translate EC-level legislation into member-state law. Where problems are evident, the Commission will seek to ascertain their causes.

The Commission anticipates sending the sixth followup report to the Committees on December 17, 1993.

EFFECTIVE DATE: July 15, 1993.

FOR FURTHER INFORMATION CONTACT: For further information on the investigation contact Ms. Joanne Guth at 202-205-3264.

Written Submissions

Interested persons are invited to submit written statements concerning the investigation. Written submissions to be considered by the Commission for the sixth followup report should be received by the close of business on September 17, 1993. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on

separate sheets of paper, each marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be available for inspection by interested persons. All submissions should be addressed to the Secretary at the Commission's office in Washington, DC.

Hearing impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

Issued: July 19, 1993.

By order of the Commission.

Donna R. Keenleyside,

Secretary.

[FR Doc. 93-17505 Filed 7-22-93; 8:45 am]

BILLING CODE 7020-03-P

APPENDIX C
LIST OF EC 1992 INITIATIVES ADDRESSED IN
THIS INVESTIGATION

APPENDIX C

LIST OF EC 92 INITIATIVES CONSIDERED IN THIS INVESTIGATION

Key to Abbreviations and Symbols Used in Appendix

EC initiative:

Reg = Regulation (binding and directly applicable throughout the EC without any national implementing measures)
Dir = Directive (binding on member states as to the result to be achieved and requires national implementing measures)
Dec = Decision (binding on and applicable to member states or persons addressed and generally requires no national implementing measures)
Rec = Recommendation (a nonbinding request to member states or individuals)
Res = Resolution (a nonbinding pronouncement by Commission institutions indicative of preferred policy direction)
Doc = Convention (binding on signatories following ratification and deposition of instrument of ratification by final signatory)

Member-state implementation:

B = Belgium	FR = France	L = Luxembourg
G = Germany	GR = Greece	NL = Netherlands
DK = Denmark	IT = Italy	P = Portugal
S = Spain	IR = Ireland	UK = United Kingdom

A = Directly applicable to member states.
I = Implementing measures notified by member state to the EC Commission.
D = Derogation (e.g. exemption from implementation deadline).
- = National implementation measure is not required or applicable.
R = Ratified (concerning conventions).
N = Not notified as implemented under or incorporated into national law.
NAMS = Not addressed to member states (decisions requesting cooperation with the EC Commission, or addressed to individuals, firms, or entities other than member-state governments).
U = Unavailable (primarily legislation unavailable in most recent version of Community Legislation in Force).
[date] Publication date in the Official Journal where implementation date was unavailable in the text of the legislation.

*Note: Regulations and decisions addressed to particular or to all member states are directly applicable, typically upon publication, by a given date, or contingent on action to be carried out by the member state in response. Directives are to be implemented, that is transposed into national law, by the given implementation date. Other legislation, such as some decisions, recommendations, and resolutions, typically provide guidelines or procedures for carrying out policy that is not usually dependent on any specific date.

Sources of the EC Commission:

The implementation status of adopted initiatives was obtained exclusively from the following sources produced by the Commission of the European Communities:

> = INFO92 database on information regarding the completion of the internal market;
+ = Tenth Annual Report on the Monitoring of the Application of Community Law 1992, COM(93)320 final, Apr. 28, 1993;
* = CELEX database on documentation of Community law.

*Note: Legislative information coming from INFO92 was believed to be the most up-to-date and was therefore given preference above other sources. Failing an INFO92 source, which covers the original 282 measures as they evolved from the 1985 Single Market White Paper as well as some follow-on measures, preference was given to the Tenth Report as the most current source. CELEX was given the third-choice preference, although information from the Tenth Report could often be supplemented with dates or other information found in CELEX. Some information not source-marked as from one of these three sources has been derived from the Seventh Report of the Commission to the Council and the European Parliament concerning the implementation of the White Paper on the completion of the Internal Market, COM(92)383 final, Sep. 2, 1992, and preceding editions.

Table C-1.
List of EC initiatives on considered in this investigation

Initiative	Description	Member state implementation												Implementation Date
		B	G	DK	S	FR	GR	IT	IR	L	NL	P	UK	
<u>Public Procurement</u>														
88/295-Dir....>	Award of public-supply contracts.....	I	N	I	N	I	N	I	I	I	N	I	I	01/01/89.
89/440-Dir....>	Award of public-works contracts.....	I	N	I	I	I	I	I	I	I	N	I	I	07/19/90.
89/665-Dir....>	Review of public-supply & -works contracts (remedies).....	N	N	I	I	I	I	I	I	I	N	I	I	12/21/91.
90/531-Dir....>	Procurement procedures for utilities (excluded sectors)....	I	N	I	D	I	D	N	I	I	N	D	I	07/01/92.
92/13-Dir....>	Remedies in the utilities sector.....	N	N	N	D	N	D	I	I	N	N	D	I	01/01/93.
92/50-Dir....>	Procedures for the award of public service contracts.....	N	N	N	N	N	N	N	I	N	N	N	N	07/01/93.
93/36-Dir.....*	Award of public-supply contracts (consolidated).....	U	U	U	U	U	U	U	U	U	U	U	U	06/14/94.
93/37-Dir.....*	Award of public-works contracts (consolidated).....	U	U	U	U	U	U	U	U	U	U	U	U	06/14/93.
93/38-Dir.....*	Procurement procedures for utilities (services and 90/531).	U	U	U	D	U	D	U	U	U	U	D	U	07/01/94.
<u>Internal Energy Market</u>														
90/377-Dir....>	Transparency of gas and electricity prices.....	I	I	I	N	I	N	I	I	I	I	I	I	07/01/91.
90/547-Dir....>	Transit of electricity through transmission grids.....	I	I	I	N	I	I	I	I	I	I	I	I	07/01/91.
91/296-Dir....>	Transit of natural gas through the major systems.....	I	N	I	N	N	I	N	I	N	I	N	I	01/01/92.

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Table C-1.
List of EC initiatives on considered in this investigation--continued

Initiative	Description	Member state implementation												Implementation Date
		B	G	DK	S	FR	GR	IT	IR	L	NL	P	UK	
Customs														
FREE MOVEMENT OF GOODS														
85/347-Dir....>	Duty-free allowance for fuel in bus tanks.....	N	I	N	I	I	I	I	I	I	N	I	N	10/01/85.
85/1900-Reg....>	Single Administrative Document (import/export forms).....	A	A	A	A	A	A	A	A	A	A	A	A	Applicable 01/01/88.
85/1901-Reg....>	Single Administrative Document (external trade).....	A	A	A	A	A	A	A	A	A	A	A	A	Applicable 01/01/88.
86/1797-Reg....>	Abolition customs presentation charges (postal fees).....	A	A	A	D	A	A	A	A	A	A	D	A	Applicable 01/01/88.
86/3690-Reg....>	TIR Convention (eliminates customs formalities).....	A	A	A	A	A	A	A	A	A	A	A	A	Applicable 07/01/87.
87/1674-Reg....>	Transit procedure simplification (guarantee waivers).....	A	A	A	A	A	A	A	A	A	A	A	A	Applicable 07/01/88.
88/4283-Reg....>	Introduction of common border posts ("banalisation").....	A	A	A	A	A	A	A	A	A	A	A	A	Applicable 07/01/89.
89/526-Dec....*	International Convention on the Frontier Control of Goods.	-	-	-	-	-	-	-	-	-	-	-	-	Impl. not compulsory
89/604-Dir....>	Exemption for permanent imports of personal property.....	I	I	I	I	I	I	I	N	I	I	I	I	07/01/90.
89/1292-Reg....*	Movement of goods for temporary use in another state.....	A	A	A	A	A	A	A	A	A	A	A	A	Applicable 07/01/89.
90/474-Reg....>	Abolishes lodgement of the transit advice note.....	A	A	A	A	A	A	A	A	A	A	A	A	Applicable 07/01/90.
90/504-Dir....*	Release of goods for free circulation.....	N	N	N	I	N	N	N	N	N	N	N	I	01/01/93.
90/1716-Reg....*	Persons liable for payment of a customs debt.....	A	A	A	A	A	A	A	A	A	A	A	A	Applicable 08/18/88.
90/2561-Reg....*	Customs warehouses (operation; simplified procedures).....	A	A	A	A	A	A	A	A	A	A	A	A	Applicable 01/01/92.
90/2920-Reg....*	Simplifies EC transit procedure (road-rail transit).....	A	A	A	A	A	A	A	A	A	A	A	A	Applicable 03/01/91.
90/3185-Reg....*	Outward processing.....	A	A	A	A	A	A	A	A	A	A	A	A	Applicable 04/04/90.
91/342-Dir....>	Inspection of goods carried between member states.....	N	I	I	I	N	N	N	I	I	I	N	N	09/01/91.
91/456-Reg....*	Common definition of the concept of the origin of goods...	A	A	A	A	A	A	A	A	A	A	A	A	Applicable 10/03/91.
91/477-Dir....>	Control of the acquisition and possession of weapons.....	N	N	I	I	I	N	I	N	I	N	N	I	01/01/93.
91/664-Reg....*	EEC-EFTA common transit procedure.....	A	A	A	A	A	A	A	A	A	A	A	A	Applicable 03/22/91.
91/717-Reg....>	Single Administrative Document (internal trade).....	A	A	A	A	A	A	A	A	A	A	A	A	Applicable 01/01/93.
91/718-Reg....>	Movement of goods within the Community.....	A	A	A	A	A	A	A	A	A	A	A	A	Applicable 03/29/91.
91/720-Reg....*	Customs control processing of goods.....	A	A	A	A	A	A	A	A	A	A	A	A	Applicable 03/29/91.
91/3648-Reg....>	Introduction of common border posts.....	A	A	A	A	A	A	A	A	A	A	A	A	Applicable 01/01/92.
91/3717-Reg....*	Goods to be processed by customs before circulation.....	A	A	A	A	A	A	A	A	A	A	A	A	Applicable 01/01/92.
92/525-Dec....*	Community border inspection posts for veterinary checks...	-	-	-	-	-	-	-	-	-	-	-	-	01/01/93.
92/579-Rec....*	Infrastr. to identify dangerous products at the border....	-	-	-	-	-	-	-	-	-	-	-	-	Impl. not compulsory
92/1214-Reg....*	Community transit simplifications (forms, documents, &c.).	A	A	A	A	A	A	A	A	A	A	A	A	Applicable 01/01/93.
92/1823-Reg....*	End of baggage control of persons in intra-EC transit.....	A	A	A	A	A	A	A	A	A	A	A	A	Applicable 01/01/93.
92/2453-Reg....*	Single Administrative Document (forms, computer versions).	A	A	A	A	A	A	A	A	A	A	A	A	Applicable 01/01/93.
92/2560-Reg....*	Community transit simplifications (guarantees, risks).....	A	A	A	A	A	A	A	A	A	A	A	A	Applicable 09/18/92.
92/2674-Reg....*	Info. on goods classification in customs nomenclature.....	A	A	A	A	A	A	A	A	A	A	A	A	Applicable 01/01/93.
92/2713-Reg....*	Movement of goods btw. certain parts of the Community.....	A	A	A	A	A	A	A	A	A	A	A	A	Applicable 01/01/93.
92/2913-Reg....*	Establishing the Community Customs Code.....	A	A	A	A	A	A	A	A	A	A	A	A	Applicable 01/01/94.
92/3001-Reg....*	Customs warehouses (extends 90/2561).....	A	A	A	A	A	A	A	A	A	A	A	A	Applicable 10/20/92.
92/3269-Reg....*	Provisions for goods export/reexport leaving the EC.....	A	A	A	A	A	A	A	A	A	A	A	A	Applicable 01/01/93.
92/3694-Reg....*	Single Administrative Document (statistical codes).....	A	A	A	A	A	A	A	A	A	A	A	A	Applicable 01/01/93.
93/339-Reg....*	Conformity of non-EC imports with product safety rules....	A	A	A	A	A	A	A	A	A	A	A	A	Applicable 03/17/93.

Table C-1.
List of EC initiatives on considered in this investigation--continued

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Table C-1.
List of EC initiatives on considered in this investigation--continued

Initiative	Description	Member state Implementation												Implementation Date
		B	G	DK	S	FR	GR	IT	IR	L	NL	P	UK	
Social Dimension														
88/364-Dir....+	Protection from certain chemicals and work activity.....	I	I	I	I	I	I	I	I	I	I	I	I	01/01/90.
88/383-Dec....*	Information on safety, hygiene, and health at work.....	A	A	A	A	A	A	A	A	A	A	A	A	Applicable 07/14/88.
89/391-Dir....+	Improvements in safety and health of workers at work.....	I	N	I	N	I	N	N	I	N	N	I	I	12/31/92.
89/654-Dir....+	Safety and health requirements at work.....	N	N	I	N	I	D	N	I	N	N	N	I	12/31/92.
89/655-Dir....+	Use of work equipment at work.....	N	N	I	N	N	N	N	I	N	N	N	I	12/31/92.
89/656-Dir....+	Use of personal protective equipment at work.....	N	N	I	N	N	N	N	I	N	N	N	I	12/31/92.
90/269-Dir....+	Handling heavy loads and risk of back injury.....	N	N	I	N	I	N	N	I	N	N	N	I	12/31/92.
90/270-Dir....+	Work with visual display units.....	N	N	I	N	I	N	N	I	N	I	N	I	12/31/92.
90/394-Dir....+	Exposure to carcinogens at work.....	N	N	N	N	N	N	N	N	N	N	N	I	12/31/92.
90/641-Dir....*	Protection of workers from ionising radiation.....	N	I	N	N	N	N	N	N	N	N	N	N	12/31/93.
90/679-Dir....*	Exposure to biological agents at work.....	N	N	N	N	N	N	N	N	N	N	D	N	11/28/93.
91/382-Dir....+	Exposure to asbestos at work (amends 83/477).....	I	N	I	N	I	N	N	N	N	I	N	I	01/01/93.
91/383-Dir....*	Worker safety and health for atypical work.....	N	N	I	N	N	N	N	I	N	N	N	I	12/31/92.
91/533-Dir....*	Proof of work contracts.....	N	N	N	I	N	N	N	N	N	N	N	N	06/30/93.
92/29-Dir....*	Minimum safety for medical treatments on board vessels.....	N	N	N	I	N	N	N	N	N	N	N	N	12/31/95.
92/56-Dir....*	Laws relating to collective redundancies.....	N	N	N	I	N	N	N	N	N	N	N	N	06/24/94.
92/57-Dir....*	Min. safety and health requirements at construction sites..	N	N	N	N	N	N	N	N	N	N	N	N	12/31/93.
92/58-Dir....*	Min. requirements for safety or health signs at workplace..	N	N	N	N	N	N	N	N	N	N	N	N	06/24/94.
92/85-Dir....*	Safety/health at work of pregnant or breastfeeding workers.	N	N	N	N	N	N	N	N	N	N	N	N	10/19/94.
92/91-Dir....*	Safety/health of workers in mineral-extracting industries..	N	N	N	N	N	N	N	N	N	N	N	N	11/03/94.

Table C-1.
List of EC initiatives on considered in this investigation--continued

Initiative	Description	Member state implementation												Implementation Date	
		B	G	DK	S	FR	GR	IT	IR	L	NL	P	UK		
Transport															
86/4055-Reg...>	Maritime transport.....	A	A	A	A	A	A	A	A	A	A	A	Applicable	01/01/87.	
86/4056-Reg...>	Maritime transport.....	I	N	I	I	N	I	N	-	N	I	I	Applicable	07/01/87.	
86/4057-Reg...>	Maritime transport.....	A	A	A	A	A	A	A	A	A	A	A	Applicable	07/01/87.	
86/4058-Reg...>	Maritime transport.....	A	A	A	A	A	A	A	A	A	A	A	Applicable	07/01/87.	
87/3975-Reg...>	Rules on competition in air transport.....	N	N	I	I	I	N	N	I	N	N	N	I	Applicable	01/01/88.
87/3976-Reg...>	Air transport (amended by 90/2344).....	A	A	A	A	A	A	A	A	A	A	A	Applicable	01/01/88.	
89/2299-Reg...*	Code of conduct for computerized reservation systems.....	A	A	A	A	A	A	A	A	A	A	A	Applicable	08/01/89.	
89/4060-Reg...>	End of controls in road and inland waterway transport.....	A	A	A	A	A	A	A	A	A	A	A	Applicable	07/01/90.	
90/3916-Reg...>	Measures to be taken in crisis in carriage of goods.....	A	A	A	A	A	A	A	A	A	A	A	Applicable	01/01/91.	
91/294-Reg...>	Operation of air cargo services.....	A	A	A	A	A	A	A	A	A	A	A	Applicable	02/11/91.	
91/670-Dir...>	Personnel licenses for functions in civil aviation.....	I	I	I	I	I	N	I	I	I	N	N	I	06/01/92.	
91/3921-Reg...>	Inland waterway cabotage for non-EC carriers.....	A	A	A	A	A	A	A	A	A	A	A	Applicable	01/01/93.	
91/3922-Reg...>	Harmonization of technical rules for air transport.....	A	A	A	A	A	A	A	A	A	A	A	Applicable	01/01/92.	
91/3925-Reg...>	Baggage controls on intra-Community air and sea service....	A	A	A	A	A	A	A	A	A	A	A	Applicable	01/01/93.	
92/684-Reg...>	Rules for carriage of passengers by coach and bus.....	A	A	A	A	A	A	A	A	A	A	A	Applicable	06/01/92.	
92/881-Reg...*	Access to the market in the carriage of goods by road.....	A	A	A	A	A	A	A	A	A	A	A	Applicable	01/01/92.	
92/2407-Reg...>	Licensing of air carriers.....	A	A	A	A	A	A	A	A	A	A	A	Applicable	01/01/93.	
92/2408-Reg...>	Access for Community air carriers to intra-EC air routes....	A	A	A	A	A	A	A	A	A	A	A	Applicable	01/01/93.	
92/2409-Reg...>	Fares and rates for air services.....	A	A	A	A	A	A	A	A	A	A	A	Applicable	01/01/93.	
92/2454-Reg...>	Conditions for non-resident road passenger transp. services	A	A	A	A	A	A	A	A	A	A	A	Applicable	01/01/96.	
92/3577-Reg...>	Principle of freedom to provide maritime cabotage services..	A	A	A	A	A	A	A	A	A	A	A	Applicable	01/01/93.	

Table C-1.
List of EC initiatives on considered in this investigation--continued

Initiative	Description	Member state implementation												Implementation Date
		B	G	DK	S	FR	GR	IT	IR	L	NL	P	UK	
Company Law														
68/151-Dir....>	Obligations of limited liability companies (1st Dir.).....	I	I	I	I	I	I	I	I	I	I	I	I	09/11/69.
77/91-Dir.....>	Formation and capital of public limited companies.....	I	I	I	I	I	I	I	I	I	I	I	I	12/16/78.
78/660-Dir.....>	Coordination of annual accounts.....	I	I	I	I	I	I	I	I	I	I	I	I	07/01/80.
78/855-Dir.....>	Domestic mergers of limited liability companies (3rd Dir.)	N	I	I	I	I	I	I	I	I	I	I	I	01/01/86.
82/891-Dir.....>	Division of public limited liability companies (6th Dir.).	N	I	I	I	I	I	I	I	-	I	I	I	01/01/86.
83/349-Dir.....>	Consolidated accounts.....	I	I	I	I	I	I	I	I	I	I	I	I	01/01/88.
84/253-Dir.....+	Audit of accounting documents.....	I	I	I	I	I	I	I	I	I	N	I	I	01/01/88.
85/2137-Reg....>	Regulation of European Economic Interest Groups.....	I	I	I	I	I	I	I	I	I	I	I	I	Applicable 07/01/89.
89/666-Dir.....>	Disclosure requirements for firms (11th Co. Law Dir.).....	N	I	I	I	I	N	I	N	I	I	I	I	01/01/92.
89/667-Dir.....>	Single-member private companies (12th Co. Law Dir.).....	N	I	I	N	I	N	I	N	I	I	I	I	01/01/92.
90/604-Dir.....>	Annual and consolidated accounts - exemptions for SMEs....	I	N	I	N	N	N	I	N	N	N	N	I	01/01/93.
90/605-Dir.....>	Annual and consolidated accounts - exemptions for SMEs....	I	N	I	N	N	N	N	N	N	N	N	N	01/01/93.
Competition Policy														
89/4064-Reg....>	Controls business concentrations (Merger regulation).....	A	A	A	A	A	A	A	A	A	A	A	A	Applicable 09/21/90.
93/151-Reg....*	Certain block exemptions from EC competition rules.....	A	A	A	A	A	A	A	A	A	A	A	A	Applicable 04/01/93.

Table C-1.
List of EC initiatives on considered in this investigation--continued

[illegible]

Table C-1.
List of EC initiatives on considered in this investigation--continued

Initiative	Description	Member state Implementation												Implementation Date
		B	G	DK	S	FR	GR	IT	IR	L	NL	P	UK	
Residual Quantitative Restrictions														
89/3365-Reg....*	Liberalisation of national quantitative restrictions.....	A	A	A	A	A	A	A	A	A	A	A	A	Applicable 11/13/89.
92/369-Reg....*	Rules for Import of textile products from third countries..	A	A	A	A	A	A	A	A	A	A	A	A	Applicable 02/21/92.
93/404-Reg....*	Common market organization for bananas.....	A	A	A	A	A	A	A	A	A	A	A	A	Applicable 07/01/93.

Table C-1.
List of EC initiatives on considered in this investigation--continued

Initiative	Description	Member state implementation												Implementation Date
		B	G	DK	S	FR	GR	IT	IR	L	NL	P	UK	
Intellectual Property														
87/54-Dir.....>	Legal protection of semiconductor products.....	I	I	I	I	I	I	I	I	I	I	I	I	11/07/87.
89/104-Dir.....>	Trademark harmonization.....	N	N	I	I	I	I	I	N	N	N	N	N	12/31/92.
91/250-Dir.....>	Legal protection of computer program.....	N	N	I	N	N	I	I	I	N	N	N	I	01/01/93.
92/100-Dir.....*	Rental and lending rights on intellectual property.....	N	N	N	N	N	N	N	N	N	N	N	N	07/01/94.
92/138-Res.....	Accession to the Paris Act of the Berne Convention.....	R	R	R	R	R	R	R	R	R	R	R	R	01/01/95.
92/138-Res.....	Accession to the Rome Convention.....	U	R	R	R	R	R	R	R	R	R	U	R	01/01/95.

Table C-1.
List of EC initiatives on considered in this investigation--continued

Initiative	Description	Member state implementation												Implementation Date
		B	G	DK	S	FR	GR	IT	IR	L	NL	P	UK	
<u>Agriculture - farm based</u>		<u>Standards</u>												
<u>ANIMAL HEALTH</u>														
85/320-Dir....	Classical swine fever and African swine fever.....	I	I	I	I	I	I	I	I	I	I	I	01/01/86.	
85/321-Dir....	African swine fever.....	I	I	I	I	I	I	I	I	I	I	I	01/01/86.	
85/322-Dir....	Classical swine fever and African swine fever.....	I	N	I	I	I	I	I	I	I	I	I	01/01/86.	
85/511-Dir....	Control of foot-and-mouth disease.....	I	I	I	I	I	I	I	I	I	I	I	01/01/87.	
86/649-Dec....	African swine fever in Portugal.....	-	-	-	-	-	-	-	-	-	I	-	Applicable [12/31/86]	
86/650-Dec....	African swine fever in Spain.....	-	-	-	N	-	-	-	-	-	-	-	Applicable 04/01/87.	
87/58-Dec....	Eradicating brucellosis, tuberculosis, and leukosis.....	-	-	-	I	-	-	-	-	-	I	-	Applicable 10/27/87.	
87/230-Dec....	Eradicating classical swine fever.....	A	A	A	A	A	A	A	A	A	A	A	Applicable 01/01/87.	
87/231-Dec....	Measures relating to swine fever.....	A	A	A	A	A	A	A	A	A	A	A	Applicable 12/31/87.	
87/486-Dir....	Measures to control classical swine fever.....	I	I	I	I	I	I	I	I	I	I	I	12/31/87.	
87/487-Dir....	Render and keep EC free from classical swine fever.....	I	N	I	I	I	I	I	I	I	N	I	Impl. 9/22/87 + 10-yr pgm.	
87/488-Dec....	Financial means for eradicating classical swine fever.....	A	A	A	A	A	A	A	A	A	A	A	Applicable [10/03/87]	
87/489-Dir....	Certain measures relating to swine fever.....	I	I	I	I	I	I	I	I	I	I	I	12/31/88.	
87/491-Dir....	Animal health problems in meat product trade (swine fever)...	I	I	I	I	I	I	I	I	I	I	I	01/01/88.	
88/406-Dir....	Bovine leukosis.....	I	I	I	I	I	I	I	I	I	I	N	07/01/90.	
88/407-Dir....	Trade in frozen semen.....	I	I	I	I	I	I	I	N	I	I	I	01/01/90.	
89/145-Dec....	Contagious bovine pleuropneumonia in Portugal.....	-	-	-	-	-	-	-	-	-	I	-	Applicable [02/25/89]	
89/556-Dir....	Trade in embryos of domestic bovine animals from outside EC.	I	I	I	I	I	I	N	N	I	I	I	01/01/91.	
90/120-Dir....	Amends 88/407.....	I	I	I	I	I	I	I	N	I	I	I	04/01/90.	
90/217-Dec....	Eradication of African swine fever in Sardinia.....	-	-	-	-	-	I	-	-	-	-	-	Applicable [05/08/90]	
90/242-Dec....	Eradication of brucellosis in sheep and goats.....	-	-	-	N	A	A	A	-	-	-	N	Applicable 09/01/90.	
90/422-Dir....	Enzootic bovine leukosis.....	I	I	I	I	I	I	I	I	I	I	I	10/01/90.	
90/423-Dir....	Control of foot-and-mouth disease.....	I	I	I	N	I	I	I	I	I	I	I	01/01/92.	
90/424-Dec....	Expenditure in the veterinary field.....	A	A	A	A	A	A	A	A	A	A	A	Applicable [08/18/90]	
90/425-Dir....	Veterinary and zootechnical checks in intra-EC trade.....	I	I	I	I	N	N	I	I	I	N	I	07/01/92.	
90/426-Dir....	Animal health - third-country imports of horses.....	I	I	I	I	N	I	N	I	I	I	I	01/01/92.	
90/429-Dir....	Semen of porcine species animals.....	I	I	I	I	I	I	N	N	I	I	I	12/31/91.	
90/495-Dec....	Eradication of infectious hemopoietic necrosis (IHN).....	I	N	N	N	I	N	N	N	N	N	I	N	Applicable 01/06/91.
90/539-Dir....	Trade in poultry and hatching eggs.....	I	I	I	I	I	I	N	I	I	I	I	01/01/92.	
90/678-Dec....	Recognizing certain territory as free of swine fever.....	A	A	A	A	A	A	A	A	A	A	A	Applicable 12/20/90.	
91/67-Dir....	Health conditions regarding aquaculture animals.....	I	N	I	N	N	N	I	N	N	I	N	I	01/01/93.
91/68-Dir....	Intra-EC trade in ovine and caprine animals.....	I	I	N	N	N	N	I	I	I	I	I	12/31/92.	
91/69-Dir....	Health conditions of intra-EC trade of ovine/caprine animals	I	I	N	N	N	N	I	I	I	I	N	I	12/31/92.
91/499-Dir....	Bovine brucellosis and leukosis.....	N	I	I	I	I	I	N	I	I	I	I	01/01/92.	
91/628-Dir....	Protection of animals during transport.....	N	I	I	N	N	N	I	N	I	I	I	01/01/93.	
92/40-Dir....	Avian influenza.....	N	N	I	N	N	N	N	N	I	I	I	N	01/01/93.
92/65-Dir....*	Animal health req. for imports of animals, semen, embryos...	N	N	N	N	N	N	N	N	N	N	N	N	01/01/94.
92/66-Dir....	Newcastle disease.....	N	N	I	N	N	N	N	N	I	I	N	N	10/01/93.
92/119-Dir....	Measures to combat animal disease.....	N	N	N	N	N	N	N	N	N	N	N	N	10/01/93.
92/471-Dec....*	Veterinary cert. of non-EC bovine embryo imports.....	A	A	A	A	A	A	A	A	A	A	A	Applicable [09/15/92]	

Table C-1.
List of EC initiatives on considered in this investigation--continued

[illegible]

Table C-1.
List of EC initiatives on considered in this investigation--continued

Initiative	Description	Member state implementation												Implementation Date
		B	G	DK	S	FR	GR	IT	IR	L	NL	P	UK	
<u>Standards--continued</u>														
<u>Agriculture - farm based--continued</u>														
<u>PLANT HEALTH</u>														
85/574-Dir....>	Organisms harmful to plants or plant products.....	I	I	I	I	I	I	I	I	I	I	I	I	01/01/87.
86/355-Dir....>	Ethylene oxide as a pesticide, as extended by 89/365.....	I	I	-	I	-	I	-	I	I	I	I	I	07/01/87.
86/362-Dir....>	Pesticide residues in cereals/foodstuffs from animals.....	I	I	I	I	I	I	I	I	I	I	I	I	06/30/88.
86/363-Dir....>	Pesticide residues on edible animal products.....	I	I	I	I	I	I	I	I	I	I	I	I	06/30/88.
87/153-Dir....>	Guidelines to assess additives in animal nutrition.....	I	I	I	I	I	I	I	I	I	I	I	I	12/31/87.
87/519-Dir....*	Pesticide residues on animal feedingstuffs.....	I	I	I	N	I	I	N	N	I	I	I	N	12/03/90.
88/298-Dir....>	Pesticide residues on fruit, vegetables, and cereals.....	N	I	I	I	I	I	I	I	I	I	I	I	01/01/89.
88/380-Dir....>	Marketing of seeds and catalog of plant species.....	I	I	I	I	N	I	I	I	N	I	I	I	07/01/92.
88/572-Dir....>	Organisms harmful to plants or plant products (wood).....	I	I	I	I	I	I	I	I	I	I	I	I	01/01/89.
89/186-Dir....>	Pesticide residues.....	I	I	I	I	I	I	I	I	I	I	I	N	08/01/89.
89/365-Dir....>	Ethylene oxide.....	I	I	-	I	-	I	-	I	I	I	I	I	12/31/89.
89/366-Dir....>	Marketing of seed potatoes.....	I	N	N	N	N	I	I	I	N	N	I	N	Impl. not compulsory
89/439-Dir....+	Protection fr. organisms harmful to plants or plant products.	I	I	I	I	I	I	I	I	I	I	I	I	01/01/90.
90/44-Dir....>	Marketing of compound feedingstuffs.....	I	I	I	I	I	I	I	I	I	I	I	I	01/22/92.
90/113-Dir....*	Organisms harmful to plants and plant products.....	N	N	N	N	N	I	I	N	N	N	I	N	Impl. not specified
90/168-Dir....>	Organisms harmful to plants and plant products.....	I	I	I	I	I	I	I	I	I	I	I	I	01/01/91.
90/214-Dir....*	Additives in feedingstuffs.....	I	I	I	I	I	I	I	I	I	I	I	I	11/30/90.
90/404-Dir....>	Seed potatoes.....	N	N	N	N	N	N	I	I	N	N	N	N	Impl. date unspecified
90/533-Dir....>	Plant protection.....	I	I	-	I	I	I	I	I	I	I	I	I	12/31/90.
90/642-Dir....>	Pesticide residues on fruit and vegetables.....	I	N	N	N	I	N	I	N	N	N	I	N	12/31/92.
91/27-Dir....>	Organisms harmful to plants/plant products (10th Dir).....	N	I	I	I	I	I	I	I	I	I	I	I	04/01/91.
91/132-Dir....>	Undesireable substances and products in animal nutrition....	I	I	I	I	I	I	I	I	N	I	I	I	08/01/91.
91/357-Dir....+	Labelling of compound feedingstuffs for animals.....	I	I	I	I	I	N	I	I	N	I	I	I	01/22/92.
91/414-Dir....>	Marketing of plant protection products.....	N	I	N	N	N	N	N	N	N	N	N	N	07/26/93.
91/508-Dir....+	Additives in feedingstuffs.....	I	I	I	I	I	I	I	I	N	I	I	I	11/30/92.
91/620-Dir....*	Annexes concerning additives in feedingstuffs.....	I	I	I	N	I	N	I	I	N	N	I	N	Impl. not specified
91/682-Dir....>	Ornamental plant propagating material and plants.....	I	N	N	N	N	N	I	N	N	N	I	N	12/31/92.
91/683-Dir....>	Organisms harmful to plant products.....	N	N	N	I	I	N	I	N	I	N	N	N	07/01/92.
91/2092-Reg....>	Organic production of foodstuffs.....	A	A	A	A	A	A	A	A	A	A	A	A	Applicable 07/22/91.
92/10-Dir....>	Organisms harmful to plants (amends 77/93).....	I	I	I	I	I	I	I	I	N	I	I	I	06/30/92.
92/33-Dir....>	Marketing of plant propagating material.....	I	N	N	N	N	N	N	N	N	N	I	N	12/31/92.
92/34-Dir....>	Marketing of fruit plant propagating material.....	I	N	N	N	N	N	N	N	N	N	I	N	12/31/92.
92/71-Dir....>	Phytosanitary inspection of EC consignments (amends 77/93)..	I	N	I	I	N	N	N	I	N	I	N	I	10/14/92.
92/88-Dir....>	Animal feedingstuffs.....	N	N	I	N	N	N	N	N	N	N	N	I	12/31/93.

Table C-1.
List of EC initiatives on considered in this investigation--continued

[illegible]

Table C-1.
List of EC initiatives on considered in this investigation--continued

Initiative	Description	Member state implementation												Implementation Date
		B	G	DK	S	FR	GR	IT	IR	L	NL	P	UK	
Standards--continued														
Agriculture - processed foods and kindred products														
GENERAL LEGISLATION														
85/591-Dir....	> Sampling and analysis of foodstuffs [framework].....	I	I	N	I	I	N	N	I	I	I	N	I	12/23/87.
89/397-Dir....	> Official control of foodstuffs [framework].....	I	I	I	I	I	I	I	I	I	I	I	I	09/20/90.
92/182-Dec....	* EEC and third-state cooperation on food science.....	-	-	-	-	-	-	-	-	-	-	-	-	NAMS
93/5-Dir.....	> Scientific examination of food questions.....	U	U	U	U	U	U	U	U	U	U	U	U	06/01/93.
93/43-Dir.....	* Hygiene of foodstuffs (supplements 89/397).....	U	U	U	U	U	U	U	U	U	U	U	U	12/14/93.
93/315-Reg....	* Community procedures for contaminants.....	A	A	A	A	A	A	A	A	A	A	A	A	Applicable 03/01/93.
ADDITIVES														
85/585-Dir....	> Preservatives (amends 64/54-Dir).....	I	I	I	I	I	I	I	I	I	I	I	I	12/31/86.
86/102-Dir....	> Emulsifiers (amends 74/329-Dir).....	I	I	I	I	I	I	I	I	I	I	I	I	03/26/88.
88/344-Dir....	> Extraction solvents used in the production of foodstuffs....	I	I	I	I	I	I	I	I	I	I	I	N	06/13/91.
88/388-Dir....	> Standards for flavorings for foodstuffs.....	I	I	I	I	I	I	I	I	I	I	I	I	06/22/91.
88/389-Dec....	* Inventory of source materials in flavorings (amends 88/388).	-	-	-	-	-	-	-	-	-	-	-	-	NAMS
89/107-Dir....	> Food additives in foodstuffs [framework].....	I	I	I	I	I	I	I	I	I	I	I	I	12/28/91.
89/393-Dir....	* Emulsifiers (amends 74/329-Dir).....	N	N	N	N	N	I	N	I	N	N	I	N	01/01/89.
90/612-Dir....	+ Criteria of purity for emulsifiers (amends 78/663).....	I	I	I	I	I	I	I	I	I	I	I	I	11/24/91.
91/71-Dir....	+ Flavorings for foodstuffs (implements 88/388-Dir).....	I	I	I	I	I	I	I	I	I	I	N	I	01/01/94.
92/4-Dir.....	* Criteria of purity for emulsifiers (amends 78/663).....	I	N	N	N	I	N	N	N	N	I	I	I	06/01/93.
92/115-Dir....	> Extraction solvents (amends 88/344-Dir).....	N	N	N	N	N	N	N	N	N	N	N	I	07/01/93.
MATERIALS IN CONTACT WITH FOODSTUFFS														
85/572-Dir....	> Simulants used for testing plastic materials.....	I	I	I	I	I	I	I	I	I	I	I	I	01/01/91.
89/109-Dir....	> Materials in contact with foodstuffs [framework].....	I	I	I	I	I	I	I	I	I	I	I	I	07/10/90.
90/128-Dir....	+ Plastic materials (implements 89/109).....	I	I	I	I	I	I	N	I	I	I	I	I	12/31/90.
92/15-Dir....	* Regenerated cellulose film (amends 83/229-Dir).....	N	N	N	N	N	N	N	N	N	I	N	N	06/30/93.
92/39-Dir....	+ Plastics materials (amends 90/128-Dir).....	N	N	I	N	I	N	N	N	I	N	N	I	12/31/92.
93/8-Dir.....	* Rules for testing plastic materials (amends 82/711-Dir)....	U	U	U	U	U	U	U	U	U	U	U	U	04/01/94.
93/9-Dir.....	* Plastic materials (amends 90/128-Dir).....	U	U	U	U	U	U	U	U	U	U	U	U	04/01/94.
LABELING, PRESENTATION, AND ADVERTISING														
85/10-Dir....	+ Volume of prepackaged liquids (amends 75/106).....	I	I	I	I	I	I	I	I	I	I	I	I	12/20/85.
86/197-Dir....	> Labeling alcoholic content (extends framework 79/112-Dir)...	I	I	I	I	I	I	I	I	I	I	I	I	05/01/89.
87/250-Dir....	+ Labeling of alcoholic beverages.....	I	I	I	I	I	I	I	I	I	I	I	I	05/01/89.
88/315-Dir....	> Labeling of prices for food products.....	I	I	I	N	I	I	I	I	I	I	I	I	06/07/90.
88/316-Dir....	> Volume of prepackaged liquids (amends 75/106-Dir).....	I	I	I	I	I	I	I	I	I	I	I	I	06/30/88.
89/395-Dir....	> Labeling, presentation etc. (amends framework 79/112-Dir)...	I	I	I	I	I	I	I	I	I	I	I	I	06/20/92.
89/676-Dir....	+ Volume of prepackaged liquids (amends 75/106-Dir).....	I	I	I	I	I	I	I	I	I	I	I	I	07/01/90.
90/496-Dir....	> Nutrition labeling for foodstuffs.....	I	N	I	I	N	I	I	N	I	I	N	N	10/01/93.
91/72-Dir....	+ Labeling emulsified fats (amends 79/112).....	I	I	I	I	I	I	I	I	I	I	I	I	01/01/94.

Table C-1.
List of EC initiatives on considered in this investigation--continued

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Table C-1.
List of EC initiatives on considered in this investigation--continued

Initiative	Description	Member state implementation											Implementation Date
		B	G	DK	S	FR	GR	IT	IR	L	NL	P	
<u>Standards</u> --continued													
<u>Agriculture - processed foods and kindred products</u> --continued													
<u>PRODUCT-SPECIFIC ("VERTICAL") LEGISLATION</u> --continued													
[Fruit jams, jellies and marmalades, and chestnut puree]													
88/593-Dir....>	Jams, jellies, marmalades, and chestnut puree (amends 79/693)	I	I	I	I	I	I	I	I	I	I	I	01/01/91.

Table C-1.
List of EC initiatives on considered in this investigation--continued

Initiative	Description	Member state implementation												Implementation Date
		B	G	DK	S	FR	GR	IT	IR	L	NL	P	UK	
Standards--continued														
Chemicals														
COSMETICS														
86/179-Dir....+	Cosmetic products (amends Dir 76/768).....	I	I	I	I	I	I	I	I	I	I	I	I	12/31/86.
86/199-Dir....+	Cosmetic products (amends Dir 76/768).....	I	I	I	I	I	I	I	I	I	I	I	I	12/31/86.
87/137-Dir....+	Cosmetic products (amends Dir 76/768).....	I	I	I	I	I	I	I	I	I	I	I	I	12/31/87.
88/667-Dir....+	Cosmetic products (amends Dir 76/768).....	I	I	I	I	I	I	I	I	I	I	I	I	12/31/89.
89/174-Dir....+	Cosmetic products (amends annexes to Dir 76/768).....	I	I	I	I	I	I	I	I	I	I	I	I	12/31/89.
89/679-Dir....+	Cosmetic products (amends Dir 76/768 for fifth time).....	-	-	-	-	-	I	-	I	-	-	-	-	Impl. not compulsory
90/121-Dir....+	Cosmetic products (adapts annexes to Dir 76/768, 89/174)....	I	I	I	I	I	I	I	I	I	I	I	I	12/31/90.
90/207-Dir....+	Checking the composition of cosmetic products.....	I	I	I	I	I	I	I	I	I	N	I	I	12/31/90.
91/184-Dir....+	Definitions for certain cosmetic products.....	N	I	I	I	I	I	I	I	N	I	N	I	12/31/91.
92/8-Dir.....+	Laws adapting member states laws' on cosmetic products.....	N	I	I	N	N	N	I	I	I	N	N	I	12/31/92.
92/86-Dir.....*	Laws relating to cosmetic products.....	I	N	N	I	N	N	I	I	N	N	N	N	06/30/92.
93/35-Dir.....*	Cosmetic products (amends Dir 76/768 for sixth time).....	U	U	U	U	U	U	U	U	U	U	U	U	06/14/95.
93/47-Dir.....*	Cosmetic products.....	U	U	U	U	U	U	U	U	U	U	U	U	06/30/94.
DETERGENTS														
85/xxx-Dec.....	Membership of the European Agreement on Detergents.....	-	-	-	-	-	-	-	-	-	-	-	-	Impl. not compulsory
86/94-Dir.....+	Minimum biodegradability of detergents.....	I	I	I	I	I	I	N	I	I	I	I	I	12/17/89.
89/542-Rec.....*	Labeling of detergents and cleaning products.....	-	-	-	-	-	-	-	-	-	-	-	-	Impl. not compulsory
FERTILIZERS														
88/183-Dir....+	Definition of liquid fertilizers.....	I	I	I	I	I	I	I	I	I	I	I	I	03/25/89.
89/284-Dir....+	Calcium, magnesium, sodium and sulphur content of fertilizer	I	I	I	I	I	I	I	I	I	I	I	I	04/17/90.
89/530-Dir....+	Trace (oligo) elements in fertilizer (boron, cobalt, copper)	I	I	I	I	I	I	N	I	I	I	I	I	03/18/91.
DANGEROUS SUBSTANCES														
85/467-Dir....+	Labeling of materials containing PCBs & PCTs (amends 76/769)	I	I	I	I	I	I	I	I	I	I	I	I	06/30/86.
85/610-Dir....+	Asbestos (amends 76/769).....	I	I	I	I	I	I	I	I	I	I	I	I	12/31/87.
88/379-Dir....+	Dangerous preparations; amended by 89/178 and 90/492.....	I	I	I	N	I	I	I	I	N	I	I	N	06/07/91.
89/178-Dir....+	Dangerous preparations (amends 88/379).....	N	I	I	N	I	I	I	I	N	I	I	N	12/01/90.
89/677-Dir....+	Dangerous substances and preparations.....	N	I	I	I	I	I	N	N	N	I	I	I	06/21/91.
89/678-Dir....+	Dangerous substances and preparations (amends 76/769).....	-	I	-	-	-	-	-	-	-	-	-	-	Impl. not compulsory.
90/492-Dir....+	Dangerous preparations (amends 88/379 for second time).....	N	N	I	N	I	I	I	I	N	I	I	N	06/01/91.
90/517-Dir....+	Classification and packaging of dichloromethane.....	N	I	I	N	I	I	N	N	I	I	N	N	06/07/91.
91/155-Dir....+	System of information for dangerous preparations.....	N	N	N	N	N	I	I	I	N	N	N	N	05/30/91.
91/157-Dir....+	Batteries and accumulators containing dangerous substances..	N	N	I	N	N	N	N	N	I	I	N	N	09/18/92.
91/173-Dir....+	Marketing of dangerous substances (pentachlorophenol).....	N	I	I	I	N	I	N	N	N	I	N	I	12/31/91.
91/325-Dir....+	Laws on labelling dangerous substances.....	N	N	I	N	I	N	N	N	I	I	N	N	06/08/91.
91/326-Dir....+	Laws on labelling notified dangerous substances.....	N	N	I	N	I	N	N	N	I	I	N	N	07/01/92.
91/338-Dir....+	Laws on marketing dangerous substances (cadmium).....	N	I	I	I	N	N	N	N	N	I	N	N	12/31/92.

Table C-1.
List of EC initiatives on considered in this investigation--continued

Initiative	Description	Member state implementation												Implementation Date
		B	G	DK	S	FR	GR	IT	IR	L	NL	P	UK	
<u>Standards--continued</u>														
<u>Chemicals--continued</u>														
<u>DAINGEROUS SUBSTANCES--continued</u>														
91/339-Dir....>	Marketing of dangerous substances (halogenated bitoluenes)...	N	I	I	I	N	I	N	N	N	I	N	I	06/18/92.
91/410-Dir....+	Laws on packaging of dangerous substances.....	N	N	I	N	I	N	N	N	N	I	N	N	08/01/92.
91/632-Dir....*	Laws on labelling of dangerous substances.....	N	N	N	I	I	N	N	N	I	N	N	N	07/01/93.
92/32-Dir....>	Classification of substances dangerous for the environment..	N	I	N	N	N	N	N	N	N	N	N	N	10/31/93.
92/37-Dir....*	Laws on labelling of dangerous substances.....	N	N	N	N	I	N	N	N	N	N	N	N	01/11/93.
92/2455-Reg....*	Export and import of certain dangerous chemicals.....	A	A	A	A	A	A	A	A	A	A	A	A	Applicable 11/28/92.
<u>LABORATORY PRACTICES</u>														
88/320-Dir....>	Good laboratory practices; amended by 90/18-Dir.....	I	I	I	N	I	I	I	I	I	I	I	I	01/01/89.
90/18-Dir....+	Good laboratory practice (amends 88/320-Dir).....	I	I	I	I	I	N	N	I	I	I	I	I	07/01/90.

Table C-1.
List of EC initiatives on considered in this investigation--continued

Initiative	Description	Member state implementation												Implementation Date
		B	G	DK	S	FR	GR	IT	IR	L	NL	P	UK	
<u>Standards--continued</u>														
<u>Pharmaceuticals and medical devices</u>														
<u>PHARMACEUTICALS</u>														
87/19-Dir.....>	Approximates laws on the testing of proprietary medicines..	I	I	I	I	I	I	I	I	I	I	I	I	07/01/87.
87/20-Dir.....>	Testing of veterinary medicines.....	I	I	I	I	I	I	I	I	I	I	I	I	07/01/87.
87/21-Dir.....>	Testing of proprietary medicines.....	I	I	I	I	I	I	I	I	I	I	I	I	07/01/87.
87/22-Dir.....>	High technology medical products.....	I	I	I	I	I	I	I	I	I	I	I	I	07/01/87.
87/176-Rec.....>	Test guidelines for marketing of proprietary medicines.....	-	-	-	-	-	-	-	-	-	-	-	-	Impl. not compulsory
89/105-Dir.....>	Transparency in medicines pricing & social security refunds	I	I	I	I	I	I	I	I	I	I	I	I	12/31/89.
89/341-Dir.....>	Approximates provisions for proprietary medicines.....	I	I	I	I	I	I	I	I	I	I	I	I	01/01/92.
89/342-Dir.....>	Immunological medicine of vaccines, toxins or serums.....	I	I	I	I	I	I	I	I	I	I	I	I	01/01/92.
89/343-Dir.....>	Radio-pharmaceuticals.....	I	I	I	I	I	I	I	I	I	N	I	I	01/01/92.
89/381-Dir.....>	Proprietary medicine derived from human blood or plasma....	N	I	I	I	I	I	I	I	I	I	I	I	12/31/92.
90/676-Dir.....>	Veterinary medicines.....	I	I	I	N	N	I	I	N	I	N	N	N	01/01/92.
90/677-Dir.....>	Immunological veterinary medicines.....	I	I	I	N	I	I	I	N	I	I	N	N	04/01/93.
90/2377-Reg...>	Residue limits for veterinary medicines in foodstuffs.....	A	A	A	A	A	A	A	A	A	A	A	A	Applicable 01/01/92.
91/356-Dir....+>	Manufacturing practice for human medicinal products.....	I	N	I	I	I	N	I	I	I	I	I	I	01/01/92.
91/412-Dir....*	Veterinary medicinal products.....	I	N	I	N	N	N	N	N	N	N	N	N	07/23/93.
91/507-Dir....+>	Laws on standards testing of medicinal products.....	I	N	I	N	N	I	I	N	I	I	I	I	01/01/92.
92/18-Dir.....*	Pharmacotoxicological testing of veterinary medicine.....	I	N	I	N	I	N	I	N	N	N	N	N	04/01/93.
92/25-Dir.....>	Wholesale distribution of medicinal products for human use.....	I	N	N	N	N	N	I	I	I	N	N	I	01/01/93.
92/26-Dir.....>	Classification of medicinal products for human use.....	I	N	N	I	N	I	I	I	I	N	I	I	01/01/93.
92/27-Dir.....>	Labeling of medicinal products for human use (leaflets)...	I	N	N	I	N	I	I	I	I	N	N	I	01/01/93.
92/28-Dir.....>	Advertising of medicinal products for human use.....	I	N	N	N	N	N	I	I	I	N	N	N	01/01/93.
92/73-Dir.....>	Provisions on homeopathic medicinal products.....	N	N	N	N	N	N	N	N	N	N	N	N	12/31/93.
92/74-Dir.....>	Provisions on homeopathic veterinary medicinal products....	N	N	N	N	N	N	N	N	N	N	N	N	12/31/93.
92/183-Dec....*	Import of raw materials for pharmaceutical processing.....	A	A	A	A	A	A	A	A	A	A	A	A	Applicable 07/01/92.
92/187-Dec....*	Import of raw materials for the pharmaceutical processing...	A	A	A	A	A	A	A	A	A	A	A	A	Applicable 07/01/92.
92/1768-Reg...>	Supplementary protection certificate for medicinal products.	A	A	A	A	A	A	A	A	A	A	A	A	Applicable 01/02/93.
93/39-Dir....*	Medicines.....	U	U	U	U	U	U	U	U	U	U	U	U	01/01/98.
93/40-Dir....*	Veterinary medicines.....	U	U	U	U	U	U	U	U	U	U	U	U	01/01/98.
93/41-Dir....*	Repeals 87/22 on high technology medicines.....	U	U	U	U	U	U	U	U	U	U	U	U	01/01/95.
93/2309-Reg...*	European Agency for Evaluation of Medicinal Products.....	A	A	A	A	A	A	A	A	A	A	A	A	Applicable 08/12/93.
<u>MEDICAL DEVICES</u>														
90/385-Dir....>	Active implantable medical devices.....	N	N	I	N	N	N	I	N	I	N	I	I	07/01/92.

Table C-1.
List of EC initiatives on considered in this investigation--continued

Initiative	Description	Member state implementation											Implementation Date	
		B	G	DK	S	FR	GR	IT	IR	L	NL	P		UK
Standards--continued														
Motor vehicles														
TYPE APPROVAL														
87/358-Dir....>	Type approval procedures for vehicles and trailers.....	I	I	I	I	I	I	I	I	I	I	I	10/01/88.	
87/403-Dir....>	Type approval procedures for motor vehicles and trailers...	I	I	I	I	I	I	I	I	I	I	I	10/01/88.	
92/53-Dir....>	Laws on type-approval of motor vehicles.....	I	N	I	I	N	I	I	I	N	I	N	I	12/31/92.
ROADWORTHINESS TESTS														
88/449-Dir....>	Road worthiness tests (see (89)6-Dir below).....	I	I	I	I	I	I	I	I	I	I	I	07/27/90.	
91/225-Dir....*	Motor vehicle roadworthiness tests.....	N	N	N	I	N	N	N	N	N	N	N	04/10/93.	
91/328-Dir....*	Roadworthiness tests for motor vehicles.....	I	N	N	I	N	N	N	N	I	N	N	12/31/98.	
92/54-Dir....*	Roadworthiness tests for motor vehicles (brakes).....	N	N	N	N	N	N	N	N	N	N	N	08/10/94.	
92/55-Dir....>	Roadworthiness tests for motor vehicles (exhaust emissions)	N	I	N	N	N	N	N	N	N	N	N	06/22/93.	
SAFETY														
86/217-Dir....>	Requirements for tyre-pressure gauges.....	I	I	I	I	I	I	I	I	I	I	I	11/30/87.	
88/194-Dir....>	Braking devices of vehicles and their trailers.....	I	I	I	I	I	I	I	I	I	I	I	10/01/88.	
88/321-Dir....>	Rear view mirrors of motor vehicles.....	I	I	I	I	I	I	I	I	I	I	I	01/01/89.	
88/366-Dir....>	Driver field of vision.....	I	I	I	I	I	I	I	I	I	I	I	10/01/88.	
89/277-Dir....>	Direction indicator lamps.....	I	I	I	I	I	I	I	I	I	I	I	09/30/89.	
89/278-Dir....>	Installation of lighting and light-signaling devices.....	I	I	I	I	I	I	I	I	I	I	I	09/30/89.	
89/297-Dir....>	Lateral protection of certain vehicles and their trailers..	I	I	I	I	I	I	I	I	I	I	I	10/30/89.	
89/459-Dir....>	Tread depth of tires of vehicles and their trailers.....	I	I	I	I	I	I	I	I	I	I	N	I	01/01/92.
89/516-Dir....>	End-outline marker lamps and front, rear, stop lamps.....	I	I	I	I	I	I	I	I	I	I	I	12/31/89.	
89/517-Dir....>	Headlamps and incandescent electric filament lamps.....	I	I	I	I	I	I	I	I	I	I	I	12/31/89.	
89/518-Dir....>	Rear fog lamps.....	I	I	I	I	I	I	I	I	I	I	I	12/31/89.	
91/422-Dir....>	Laws on braking devices of motor vehicles.....	N	N	I	I	I	I	I	I	I	I	N	10/01/91.	
92/6-Dir....>	Speed limitation devices of motor vehicles.....	I	N	N	N	N	N	N	N	I	N	N	10/01/93.	
92/22-Dir....>	Safety glass for motor vehicles and trailers.....	N	I	I	I	I	I	I	N	I	I	I	07/01/92.	
92/23-Dir....>	Tyres and their fitting for motor vehicles and trailers....	I	I	I	I	I	I	I	N	I	I	I	07/01/92.	
92/24-Dir....>	Speed limitation devices of motor vehicles.....	I	N	I	N	N	N	I	N	N	I	I	N	01/01/93.
92/62-Dir....>	Steering equipment for motor vehicles and their trailers...	N	N	N	N	N	N	N	N	N	N	N	01/01/93.	
WEIGHTS, DIMENSIONS AND CHARACTERISTICS														
86/360-Dir....>	Weights and dimensions of road vehicles (amends 85/3).....	I	I	I	I	I	I	I	I	I	I	I	01/01/92.	
86/364-Dir....>	Weights and dimensions of road vehicles (amends 85/3).....	I	I	I	I	I	I	I	I	I	I	I	08/07/87.	
88/195-Dir....>	Engine power of motor vehicles.....	I	I	I	I	I	I	I	I	I	I	I	04/01/88.	
88/218-Dir....>	Weights, dimensions for refrigerated road vehicles.....	I	I	I	I	I	I	I	I	I	I	I	01/01/89.	
89/338-Dir....>	Weights and dimensions of road vehicles (amends 85/3).....	I	I	I	I	I	I	I	I	I	I	I	01/01/93.	
89/460-Dir....*	Derogation for IR and UK regarding vehicle size.....	-	-	-	-	-	-	-	D	-	-	-	D	12/31/98.
89/461-Dir....>	Authorized dimensions for articulated vehicles.....	I	I	I	I	I	I	N	I	I	I	I	01/01/91.	
91/60-Dir....>	Maximum authorized dimensions for road trains.....	I	N	I	I	I	I	I	I	N	N	I	N	10/01/91.
91/226-Dir....>	Motor vehicle spray-suppression systems.....	I	N	I	I	I	I	N	I	I	I	I	04/10/92.	

Table C-1.
List of EC initiatives on considered in this investigation--continued

[illegible]

Table C-1.
List of EC initiatives on considered in this investigation--continued

Initiative	Description	Member state implementation												Implementation Date
		D	G	DK	S	FR	GR	IT	IR	L	NL	P	UK	
Standards--continued														
Other machinery														
NOISE														
86/594-Dir....>	Labeling household appliances for airborne noise emissions.	-	I	I	I	I	I	I	I	I	I	I	I	Impl. not compulsory
86/662-Dir....>	Noise from hydraulic diggers.....	I	I	I	I	I	I	I	I	I	I	I	I	12/30/88.
87/252-Dir....>	Sound power level of lawnmowers.....	I	I	I	I	I	I	I	I	I	I	I	I	01/01/88.
87/405-Dir....>	Permissible sound-power level of tower cranes.....	I	I	I	I	I	I	I	I	I	I	I	I	06/26/89.
88/180-Dir....>	Permissible sound-power level of lawnmowers.....	I	I	I	I	I	I	I	I	I	I	I	I	07/01/91.
88/181-Dir....>	Permissible sound-power level of lawnmowers.....	I	I	I	I	N	I	I	I	I	I	I	I	07/01/91.
89/514-Dir....>	Noise emissions from hydraulic excavators.....	I	I	I	I	I	I	I	I	I	I	I	I	01/01/90.
ENERGY														
92/42-Dir.....>	Efficiency rules for hot-water boilers using liquid fuels..	N	N	N	N	N	N	N	N	N	N	N	N	01/01/94.
92/75-Dir.....*	Labeling of energy consumption of household appliances.....	N	N	N	N	N	N	N	N	N	I	N	N	07/01/93.
SAFETY AND APPROXIMATION OF LAWS														
86/295-Dir....>	Construction plant.....	I	I	I	I	I	I	I	I	I	I	I	I	05/30/89.
86/296-Dir....>	Construction plant.....	I	I	I	I	I	I	I	I	I	I	I	I	06/02/89.
86/297-Dir....>	Power take-offs of tractors.....	I	I	I	I	I	I	I	I	I	I	I	I	11/26/87.
86/298-Dir....>	Rollover protection structures - narrow-wheel tractors.....	I	I	I	I	I	I	I	I	I	I	I	I	12/02/87.
86/312-Dir....>	Electrically-operated lifts.....	I	I	I	I	I	I	I	I	I	I	I	I	09/27/86.
86/415-Dir....>	Controls of tractors.....	I	I	I	I	I	I	I	I	I	I	I	I	10/01/87.
86/663-Dir....>	Self-propelled industrial trucks.....	I	I	I	I	I	I	I	I	I	I	I	I	01/01/89.
87/402-Dir....>	Rollover protection structures of tractors.....	I	I	I	I	I	I	I	I	I	I	I	I	06/26/89.
87/404-Dir....>	Simple pressure vessels.....	I	I	I	I	I	I	I	I	I	I	I	I	01/01/90.
88/297-Dir....>	Type-approval of wheeled tractors.....	I	I	I	I	I	I	I	I	I	I	I	I	12/01/88.
88/410-Dir....>	Characteristics of tractors (amends 74/151).....	I	I	I	I	I	I	I	I	I	I	I	I	09/30/88.
88/411-Dir....>	Steering equipment of tractors (amends 75/321).....	I	I	I	I	I	I	I	I	I	I	I	I	09/30/88.
88/412-Dir....>	Maximum speed of tractors (amends 74/152).....	I	I	I	I	I	I	I	I	I	I	I	I	09/30/88.
88/413-Dir....>	Roll-over protection of tractors (amends 79/662).....	I	I	I	I	I	I	I	I	I	I	I	I	09/30/88.
88/414-Dir....>	Doors and windows of tractors (amends 80/720).....	I	I	I	I	I	I	I	I	I	I	I	I	09/30/88.
88/465-Dir....>	Driver's seat on wheeled tractors (amends 78/764).....	I	I	I	I	I	I	I	I	I	I	I	I	09/30/88.
88/571-Dir....>	Electrical equipment used in explosive atmospheres.....	I	I	I	I	I	I	I	I	N	I	I	I	12/31/89.
89/173-Dir....>	Characteristics of tractors (windscreens and glazing).....	I	I	I	I	I	I	I	I	I	I	I	I	12/31/89.
89/240-Dir....>	Self-propelled industrial trucks.....	I	I	I	I	I	I	I	I	I	I	I	I	01/01/89.
89/392-Dir....>	Safety requirements for machines.....	I	I	I	I	I	N	N	I	I	I	N	I	01/01/92.
89/680-Dir....>	Roll-over protection structures--tractors (amends 77/536).. <td>I</td> <td>I</td> <td>I</td> <td>I</td> <td>I</td> <td>I</td> <td>I</td> <td>I</td> <td>I</td> <td>I</td> <td>I</td> <td>I</td> <td>01/02/91.</td>	I	I	I	I	I	I	I	I	I	I	I	I	01/02/91.
89/681-Dir....>	Protection structures - tractors (amends 87/402).....	I	I	I	I	I	I	I	I	I	I	I	I	01/02/91.
89/682-Dir....>	Rear-mounted roll-over protection (amends 86/298).....	I	I	I	I	I	I	I	I	I	I	I	I	01/02/91.
89/686-Dir....>	Personal protective equipment.....	I	I	I	I	I	N	I	N	I	N	I	I	12/31/91.
90/384-Dir....>	Non-automatic weighing instruments.....	I	I	I	I	I	N	I	I	I	I	N	I	07/01/92.
90/396-Dir....>	Gas appliances.....	I	I	I	I	I	I	I	I	I	I	I	I	07/01/91.
90/486-Dir....>	Electrically operated lifts.....	I	I	I	I	I	N	N	I	I	I	I	I	03/24/91.

Table C-1.
List of EC initiatives on considered in this investigation--continued

Initiative	Description	Member state implementation											Implementation Date	
		B	G	DK	S	FR	GR	IT	IR	L	NL	P		UK
		Standards--continued												
Other machinery--continued														
SAFETY AND APPROXIMATION OF LAWS--continued														
90/487-Dir....>	Electrical equipment used in explosive atmospheres.....	I	I	I	I	I	N	N	I	N	I	I	I	07/01/92.
90/488-Dir....>	Simple pressure vessels (amends 87/404).....	I	I	I	I	I	I	I	I	I	I	I	I	07/01/92.
91/368-Dir....>	Mobile machinery and lifting appliances (amends 89/392)....	I	I	I	I	I	N	N	I	I	N	I	I	01/01/92.
93/44-Dir.....*	Machinery safety.....	U	U	U	U	U	U	U	U	U	U	U	U	07/01/94.
CONSTRUCTION EQUIPMENT														
89/106-Dir....>	Construction products.....	N	I	I	I	I	N	I	I	I	I	I	I	06/27/91.

Table C-1.
List of EC initiatives on considered in this investigation--continued

Initiative	Description	Member state implementation											Implementation Date	
		B	G	DK	S	FR	GR	IT	IR	L	NL	P		UK
<u>Standards--continued</u>														
<u>Telecommunications</u>														
<u>TERMINAL EQUIPMENT AND STANDARDS</u>														
86/361-Dir....>	Telecommunications terminal equipment.....	N	I	I	I	I	I	I	I	I	I	I	07/24/87.	
87/95-Dec.....>	Standardization of information technology and telecom.....	N	N	N	N	N	N	N	N	N	N	I	N	Applicable 02/07/88.
88/301-Dir.....+	Competition in telecommunications terminal equipment.....	I	I	I	I	I	I	I	I	I	I	I	I	06/30/90.
89/336-Dir....>	Electromagnetic compatibility (radio interferences).....	N	N	I	N	I	N	N	N	I	I	I	I	07/01/91.
91/263-Dir....>	Mutual conformity of telecommunications terminal equipment.	N	I	I	N	I	N	I	N	N	N	N	I	11/06/92.
92/31-Dir....>	Laws on electromagnetic compatibility (amends 89/336).....	N	I	I	N	N	N	N	N	I	I	N	I	10/28/92.
<u>NETWORK SERVICES</u>														
90/387-Dir....>	Open network provisions (ONP) for internal telecom market..	I	I	I	I	I	I	I	I	N	I	N	01/01/91.	
90/388-Dir....>	Competition in markets for telecommunication services.....	I	I	I	I	I	I	N	I	I	I	I	I	12/31/92.
91/691-Dec.....*	Establishment of internal information services market.....	-	-	-	-	-	-	-	-	-	-	-	-	Impl. not compulsory.
92/44-Dir....>	Application of open network provision to leased lines.....	I	N	I	N	N	N	N	N	N	N	N	N	06/05/93.
<u>WIRELESS COMMUNICATIONS TECHNOLOGIES</u>														
87/371-Rec....>	Cellular digital land-based mobile communications.....	-	-	-	-	-	-	-	-	-	-	-	-	Impl. not compulsory
87/372-Dir....>	Frequency bands for pan-European mobile telephones.....	I	I	I	I	I	I	I	I	I	I	I	I	12/25/88.
90/343-Rec....>	Pan-European land-based public radio paging.....	-	-	-	-	-	-	-	-	-	-	-	-	Impl. not compulsory
90/344-Dir....>	Frequency bands for land-based public radio paging.....	I	N	N	N	N	N	I	I	N	N	I	I	10/18/91.
91/287-Dir....>	Frequency band for digital cordless telecomm. (DECT).....	I	N	N	I	N	N	N	I	N	N	I	I	12/31/91.
91/288-Rec....>	Introduction of digital cordless telecomm. (DECT).....	-	-	-	-	-	-	-	-	-	-	-	-	Impl. not compulsory
<u>SATELLITE COMMUNICATIONS AND TELEVISION BROADCASTING</u>														
86/529-Dir....>	Satellite broadcasting standards (92/38 to supercede).....	N	N	N	N	N	N	N	N	N	N	N	N	12/31/91.
89/337-Dec.....*	High Definition Television.....	-	-	-	-	-	-	-	-	-	-	-	-	NAMS
89/552-Dir....>	Pursuit of television broadcasting activities.....	N	N	I	N	N	I	I	N	N	N	N	N	10/03/91.
92/38-Dir....>	Standards for satellite broadcasting of television signals.	N	N	N	N	N	N	N	N	N	N	N	N	11/20/92.
<u>OTHER TELECOMMUNICATIONS</u>														
91/396-Dec.....*	Standard EC-wide emergency call number.....	A	A	A	A	A	A	A	A	A	A	A	A	Applicable 12/31/92.
92/264-Dec....>	Standard int. telephone access code in the Community.....	A	A	A	A	A	A	A	A	A	A	A	A	Applicable 12/31/92.

Table C-1.
List of EC initiatives on considered in this investigation--continued

[illegible]

Table C-1.
List of EC initiatives on considered in this investigation--continued

Initiative	Description	Member state implementation												Implementation Date
		B	G	DK	S	FR	GR	IT	IR	L	NL	P	UK	
<u>Standards--continued</u>														
<u>Miscellaneous</u>														
86/665-Rec....*	Standardized information in existing hotels.....	-	-	-	-	-	-	-	-	-	-	-	-	Impl. not compulsory
86/666-Rec....>	Protection of hotels against fire.....	-	I	I	I	I	-	-	I	-	I	I	I	Impl. not compulsory
88/378-Dir....>	Safety of toys.....	I	I	I	I	I	I	I	I	I	I	I	I	06/30/89.
90/219-Dir....+	Contained use of genetically modified micro-organism.....	I	I	I	N	I	N	N	I	N	I	N	I	10/23/91.
90/220-Dir....+	Deliberate release of genetically modified organisms.....	I	I	I	N	I	N	N	I	N	I	N	I	10/23/91.
90/314-Dir....+	Package travel, package holidays, and tours.....	N	N	N	N	I	N	N	N	N	N	N	I	12/31/92.
<u>Generic</u>														
83/189-Dir....>	Information procedures for technical standards and reg.s....	N	N	N	I	N	I	I	N	I	N	N	I	03/31/84.
85/374-Dir....+	Liability for defective products.....	I	I	I	N	N	I	I	I	I	I	I	I	08/07/88.
87/357-Dir....>	Mislabeled products that endanger health and safety.....	I	I	I	I	I	I	I	I	I	I	I	I	06/26/89.
88/182-Dir....>	Information procedures extended for technical standards....	I	I	I	I	I	I	I	I	I	I	I	I	01/01/89.
88/314-Dir....>	Labeling of prices for nonfood products.....	I	I	I	N	I	I	I	I	I	I	I	I	06/07/90.
90/352-Dec....*	Exchange of information on dangers of consumer goods.....	A	A	A	A	A	A	A	A	A	A	A	A	Applicable [07/06/90]
90/683-Dec....>	Modules for conformity assessment procedures.....	-	-	-	-	-	-	-	-	-	-	-	-	NAMS
91/561-Rec....*	Standardization of notices.....	-	-	-	-	-	-	-	-	-	-	-	-	Impl. not compulsory
92/59-Dir....>	General product safety.....	N	N	N	N	N	N	N	N	N	N	N	N	06/29/94.
92/400-Dec....*	Standards institutions annexed to Council directive 83/189.	A	A	A	A	A	A	A	A	A	A	A	A	Applicable [08/06/92]
93/13-Dir....*	Unfair terms in consumer contracts.....	U	U	U	U	U	U	U	U	U	U	U	U	12/31/94.
93/68-Dir....*	Amends "new approach" standards harmonization rules.....	U	U	U	U	U	U	U	U	U	U	U	U	07/01/94.
93/339-Reg....*	Product safety: Imports from third countries.....	A	A	A	A	A	A	A	A	A	A	A	A	Applicable 03/17/93.
93/465-Dec....>	Procedures affixing CE mark (repeals 90/683-Dec).....	-	-	-	-	-	-	-	-	-	-	-	-	NAMS

APPENDIX D
AGRICULTURE-FARM-BASED PRODUCTS:
LIST OF MEASURES WITH IMPLEMENTATION
DATES BEFORE SEPT. 1, 1993

Appendix D
Agriculture-farm-based products: List of measures with implementation dates before
Sept. 1, 1993

Measure	Title
ANIMAL HEALTH	
85/320-Dir.	Classical swine fever and African swine fever
85/321-Dir.	African swine fever
85/322-Dir.	Classical swine fever and African swine fever
85/511-Dir.	Control of foot-and-mouth disease
86/649-Dec.	African swine fever in Portugal
86/650-Dec.	African swine fever in Spain
87/58-Dec.	Eradicating brucellosis, tuberculosis, and leukosis
87/230-Dec.	Eradicating classical swine fever
87/231-Dec.	Measures relating to swine fever
87/486-Dir.	Measures to control classical swine fever
87/487-Dir.	Render and keep EC free from classical swine fever
87/488-Dec.	Financial means for eradicating classical swine fever
87/489-Dir.	Certain measures relating to swine fever
87/491-Dir.	Animal health problems in meat product trade (swine fever)
88/406-Dir.	Bovine leukosis
88/407-Dir.	Trade in frozen semen
89/145-Dec.	Contagious bovine pleuropneumonia in Portugal
89/556-Dir.	Trade in embryos of domestic bovine animals from outside EC
90/120-Dir.	Amends 88/407
90/217-Dec.	Eradication of African swine fever in Sardinia
90/242-Dec.	Eradication of brucellosis in sheep and goats
90/422-Dir.	Enzootic bovine leukosis
90/423-Dir.	Control of foot-and-mouth disease
90/424-Dec.	Expenditure in the veterinary field
90/425-Dir.	Veterinary and zootechnical checks in intra-EC trade
90/426-Dir.	Animal health - third-country imports of horses
90/429-Dir.	Semen of porcine species animals
90/495-Dec.	Eradication of infectious hemopoietic necrosis (IHN)
90/539-Dir.	Trade in poultry and hatching eggs
90/678-Dec.	Recognizing certain territory as free of swine fever
91/67-Dir.	Health conditions regarding aquaculture animals
91/68-Dir.	Intra-EC trade in ovine and caprine animals
91/69-Dir.	Health conditions of intra-EC trade of ovine/caprine animals
91/499-Dir.	Bovine brucellosis and leukosis
91/628-Dir.	Protection of animals during transport
92/40-Dir.	Avian influenza
92/471-Dec.	Veterinary cert. of non-EC bovine embryo imports
PUBLIC HEALTH	
85/323-Dir.	Health inspection of meat-production plants
85/324-Dir.	Health inspection of poultry-production plants
85/325-Dir.	Medical certification of people handling fresh meat
85/326-Dir.	Medical certification of people handling poultry meat
85/327-Dir.	Medical certification of people handling fresh meat
85/358-Dir.	Testing for prohibited hormone growth promoters
85/397-Dir.	Production and sale of heat-treated milk
86/469-Dir.	Examination of animals/fresh meat for antibiotic residues
88/146-Dir.	Prohibits hormone growth promoters in livestock
88/288-Dir.	Health problems in intra-Community trade in fresh meat
88/409-Dir.	Meat inspection
88/657-Dir.	Minced meat
88/658-Dir.	Health rules for intra-EC trade in meat products
89/227-Dir.	Health rules for imports of meat products from outside EC
89/384-Dir.	Milk
89/437-Dir.	Hygiene and health problems regarding egg products
89/610-Dec.	Reference methods and list of national reference labs
89/662-Dir.	Minced meat (amends 88/657)
90/44-Dir.	Marketing of compound feedingstuffs
90/167-Dir.	Production and trade in medicated feedingstuffs
90/667-Dir.	Animal feedingstuffs
91/266-Dir.	Health inspection of intra-EC trade in bovine/swine/meat
91/492-Dir.	Health conditions regarding molluscs
91/493-Dir.	Health conditions regarding fishery products
91/494-Dir.	Health rules for fresh poultry meat
91/495-Dir.	Game meat and rabbit meat

Appendix D—Continued

Agriculture-farm-based products: List of measures with implementation dates before Sept. 1, 1993

Measure	Title
PUBLIC HEALTH (continued)	
91/497-Dir.	Health rules for fresh meat
91/498-Dir.	Fresh meat: conditions for granting derogations
91/587-Reg.	Trade mechanism in beef and veal
91/681-Dir.	Feedingstuffs
91/684-Dir.	Egg products
92/5-Dir.	Meat trade
92/87-Dir.	Ingredients for feedingstuffs for animals other than pets
92/1980-Reg.	Marketing standards for poultrymeat
PLANT HEALTH	
85/574-Dir.	Organisms harmful to plants or plant products
86/355-Dir.	Ethylene oxide as a pesticide, as extended by 89/365
86/362-Dir.	Pesticide residues in cereals/foodstuffs from animals
86/363-Dir.	Pesticide residues on edible animal products
87/153-Dir.	Guidelines to assess additives in animal nutrition
87/519-Dir.	Pesticide residues on animal feedingstuffs
88/298-Dir.	Pesticide residues on fruit, vegetables, and cereals
88/380-Dir.	Marketing of seeds and catalog of plant species
88/572-Dir.	Organisms harmful to plants or plant products (wood)
89/186-Dir.	Pesticide residues
89/365-Dir.	Ethylene oxide
89/439-Dir.	Protection fr. organisms harmful to plants or plant products
90/44-Dir.	Marketing of compound feedingstuffs
90/113-Dir.	Organisms harmful to plants and plant products
90/168-Dir.	Organisms harmful to plants and plant products
90/214-Dir.	Additives in feedingstuffs
90/404-Dir.	Seed potatoes
90/490-Dir.	Amends annexes concerning organisms harmful to plants
90/506-Dir.	Amends annex IV concerning organisms harmful to plants
90/533-Dir.	Plant protection
90/642-Dir.	Pesticide residues on fruit and vegetables
91/27-Dir.	Organisms harmful to plants/plant products (10th Dir)
91/132-Dir.	Undesireable substances and products in animal nutrition
91/357-Dir.	Labelling of compound feedingstuffs for animals
91/414-Dir.	Marketing of plant protection products
91/508-Dir.	Additives in feedingstuffs
91/620-Dir.	Annexes concerning additives in feedingstuffs
91/682-Dir.	Ornamental plant propagating material and plants
91/683-Dir.	Organisms harmful to plant products
91/2092-Reg.	Organic production of foodstuffs
92/10-Dir.	Organisms harmful to plants (amends 77/93)
92/33-Dir.	Marketing of plant propogating material
92/34-Dir.	Marketing of fruit plant propogating material
92/71-Dir.	EC consignments subject to phytosanitary inspection (amends 77/93)
PUBLIC AND ANIMAL HEALTH	
88/289-Dir.	Imports of bovine animals, swine, and fresh meat
88/407-Dir.	Imports of frozen bovine semen (amended by 90/120-Dir)
88/657-Dir.	Health rules for minced meat and similar preparation
89/455-Dec.	Pilot projects for the control of rabies
89/608-Dir.	Application of legislation on veterinary matters
89/662-Dir.	Veterinary checks in intra-EC trade
90/425-Dir.	Veterinary checks
90/539-Dir.	Trade in poultry and hatching eggs
90/675-Dir.	Principles governing veterinary checks on EC imports
91/495-Dir.	Rabbit and game meat
91/496-Dir.	Veterinary checks (amends Dirs. 89/662, 90/425, 90/675)
92/60-Dir.	Veterinary checks in intra-Community trade in live animals
92/67-Dir.	Veterinary checks in intra-Community trade
92/424-Dec.	Identity checks on animals from third countries
92/438-Dec.	Computerization of veterinary import procedures

Appendix D—Continued**Agriculture-farm-based products: List of measures with implementation dates before Sept. 1, 1993**

Measure	Title
ZOOTECNICAL ASPECTS	
87/328-Dir.	Purebred animals of bovine species for breeding
88/661-Dir.	Zootecnical standards for porcine breeding animals
89/361-Dir.	Purebred breeding sheep and goats.
90/118-Dir.	Porcine breeders
90/119-Dir.	Porcine breeders
90/427-Dir.	Zootecnical/genealogical rules for trade in horses
90/428-Dir.	Trade in horses intended for competition
91/174-Dir.	Marketing of purebred animals
92/353-Dec.	Associations which maintain studbooks for registered equidae
92/354-Dec.	Coordination of stud-books for registered equidae

Source: Compiled by USITC from official sources issued by the Commission of the European Communities.