Opinion of the European Economic and Social Committee on ‘Developing a people-oriented, grassroots approach to internal market policy’ (own-initiative opinion)  
(2012/C 143/04)

Rapporteur: Mr Pegado LIZ

On 20 January 2011 the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an opinion on

Developing a people-oriented, grassroots approach to internal market policy (own-initiative opinion).

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 1 February 2012.

At its 478th plenary session, held on 22–23 February 2012 (meeting of 22 February), the European Economic and Social Committee adopted the following opinion by 118 votes to 3 with 8 abstentions.

"The arguments in favour of Europe are constantly evolving. Europe is a concept that has to be adapted to the evolution of political and economic circumstances."

(José Manuel Barroso, Expresso, 19 November 2011)

1. Introduction

1.1 We are now approaching the point where, according to Jacques Delors, the European single market should have been completed, free of barriers or any kind of obstacle, for two decades; this is the right time for organised civil society, represented by the EESC, to ask how far we have come and where we are headed.

1.2 Thinking about the internal market today, however, entails thinking again about the entire model of the European venture. There is every cause to wonder whether Europe – as conceived by some, who have striven so hard to build it, as others have attempted gradually to dismantle it over the last 60 years – will still exist in 2050 as a model of freedom and a beacon of culture, championing peace, advocating fraternity between peoples and equality between people, in a world free of discrimination and barriers. This was the question posed recently by Commissioner Barnier in an eloquent speech to Humboldt University.

1.3 This is all the more true at a time of particular upheaval, as Europe struggles with a stubborn crisis that is systemic rather than cyclical, and is not only economic and financial, but also a crisis of social and cultural values, from which the broad swathe of interests represented at the EESC sees no obvious way out.

1.4 We are facing a crisis of jobs. The situation is such that Europe can no longer guarantee jobs for its citizens. The only way out of this predicament is through the creation of growth and the main instrument for achieving such growth must be the full accomplishment of the internal market.

1.5 Civil society quite legitimately has questions regarding the ability of the present EU institutional model as shaped by the Lisbon Treaty to handle this crisis; it doubts that the current economic and financial model is capable of effective and appropriate self-regulation and is greatly concerned at the lack of consistent and effective regulatory measures as well as at the proliferation of isolated and contradictory decisions from all sides; it wonders how stricter and more effective control over the financial system can be achieved, in view of the successive stock market crashes with all the inevitably ensuing social and economic damage; it fears that the deep-rooted symptoms of the crisis, given the imminent danger of world recession, suggest that the European model in its current form may collapse. Civil society is therefore calling on its current leaders to show the necessary ambition and vision to successfully regenerate the European economic and social model in keeping with the values and principles enshrined in the Treaty.

1.6 It was thus especially gratifying that in parallel with the drafting of the present opinion, the EFTA Consultative Committee deemed it necessary to draw up an opinion on the same topic and that it was possible to confer with them at a joint meeting in Oslo (1).

2. The internal market: what is it, and what is it for?

2.1 The idea of a “common market” was already couched in the original text in terms of a key instrument for a harmonious development of economic activities, a continuous and balanced expansion, an increase in stability, and accelerating raising of the standard of living and closer relations between the States belonging to it (Article 2). The internal market was designed from the outset not as a stand-alone policy or a simple free trade area like EFTA, but as one part of an overall strategy.

2.2 The outlines of what was to become the internal market policy were thus defined, a policy quite rightly considered by some to be the “jewel in the crown” of European policy. It was to be “progressively established” over a transitional period of twelve years (Article 8), subject to a maximum of 15 years from the entry into force of the Treaty.

(1) See the joint conclusions of the EFTA Consultative Committee and the SMO: http://www.eesc.europa.eu/?i=portal.en.smo-observatory-smo-spotlight.21343,
2.3 Notwithstanding the instruments set up for its implementation, political, social and economic realities prevailed over the ideals of 1957 and there was no escaping the conclusion that 15 years on, the objectives that were supposed to herald the effective establishment of a "common market" were very far from being achieved.

2.4 The 1985 White Paper on the completion of the internal market laid down clear targets for achieving this aim by 1992. At the same time, it was felt that the Treaty of Rome required some amendment in order to facilitate implementation of the policy objectives set out in the White Paper. This was the origin of the Single European Act (4) which ushered in major changes where the internal market was concerned, notably:

a) the qualified majority rule instead of unanimity for adopting measures concerning the approximation of legislation with a view to completing the internal market (Articles 8a and 100a);

b) the first reference to a high level of protection with regard to measures on health, safety and consumer protection (Article 100a(3));

c) the general adoption of the principle of mutual recognition, based on the well-known Court of Justice case-law in the Cassis de Dijon case (Article 100b);

d) a clear call for economic and social cohesion as a key objective to be taken into consideration when completing the internal market (Articles 130a and 130b).

2.5 However, it was not until 1992, with the establishment of the European Union under the Maastricht Treaty (3), that the new provisions regarding the achievement of the internal market took on real substance – by which time it was abundantly clear that the 1992 deadline for completing the internal market would be missed by a wide mark (4).

2.6 What was in fact evident was a return to legislative and non-legislative obstacles in most of the Member States, combined with a liberal, permissive policy on the part of the Commission, bringing the process of achieving the internal market to a virtual standstill in a number of particularly important areas, notably with regard to services.

2.7 Indeed, many of the initiatives taken in the area of internal market completion merely led to an accumulation of isolated, uncoordinated legislative harmonisation measures, separated from any overarching policy; these initiatives were often blocked by the Member States by introducing national policies that restricted free competition, granting illegal state aid, imposing new quota restrictions or their equivalent, and systematically rebuffing any forward movement in such key areas as industrial integration, taxation or economic governance.

2.8 Even apparently successful initiatives such as the adoption of the Schengen rules, the introduction of the single currency, the more recent placing of an area of justice and freedom on an EU footing, and the incorporation of the Charter of Fundamental Rights into the final version of the Lisbon Treaty, all of which were welcomed, have been of limited impact owing to the non-adherence or reservations of certain Member States. Moreover, their scope and application have been restricted – when they have not been openly flouted – and deprived of other crucial flanking measures, such as an effective European financial policy. All of this goes to explain Europe’s inability to cope with the present crisis, which has taken it to the brink of the abyss as Jacques Delors was to say in an interview with the Le Soir and Le Temps newspapers on 18 August 2011.

2.9 The EESC has long been drawing attention to the need for a clear paradigm shift that puts quality to the fore in completing the internal market, makes the practical interests and fundamental rights of citizens in general, and of consumers and workers in particular, a central concern, and puts social aspects on an equal footing with economic aspects. This forms part of a people-oriented vision in contrast to the purely economic approach followed until now, which is responsible for the prevailing limitations, hesitation, reluctance and lack of confidence (5).

2.10 At the beginning of his second term of office, the current President of the European Commission set out his new vision of a single internal market for the 21st century (6), which came in the wake of an earlier Communication on A Citizens' Agenda – Delivering results for Europe (7). The impression given by the Commission, that it advocated a fundamental shift in its policy approach to the single market for the ultimate benefit of citizens and consumers, naturally raised expectations. No longer considering it as a stand-alone policy, but rather as part of an overall strategy prefiguring the subsequent 2020 Strategy, the Commission declared the main objectives of the internal market to be to increase consumer confidence, promote economic integration and social cohesion, and develop a knowledge-based society in a sustainable Europe, within a globalised world. A key instrument in this new approach was ever-better regulation in a rationalised, simplified legislative environment (8).

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(6) OJ C 191, 29.7.1992, in what would be considered an echo of the Spinelli project, attempting to secure agreement between federalists and their opponents.
(8) Communication from the Commission on The operation of the Community’s internal market after 1992 – Follow-up to the Sutherland Report (SEC(92) 2277 of 2.12.1992 and EESC opinion OJ C 201, 26.7.1993, p.59, the conclusions of which remain relevant today and merit careful consideration.

(9) OJ C 77, 31.3.2009, p.15.
2.11 In order to consolidate this new approach, the Commission asked former Commissioner Mario Monti to draw up a major report that was presented in May 2010 (10). At about the same time, the Council had asked a Reflection Group made up of prominent figures, including Mario Monti and headed by former Spanish Prime Minister Felipe González, to prepare a report on the outlook for Europe up to 2030 (10). For its part, also in May 2010, the European Parliament adopted the Grech Report, the basis for its Resolution of 20 May 2010 on Delivering a single market to consumers and citizens (11).

2.12 At root, all these important documents draw attention to the need for a radical paradigm shift in defining and implementing policy on completing the internal market, deeming the current model to have run out of steam. They point out that while significant results have been achieved in some areas, in general results are poorly known, inadequate and disappointing from several points of view, at a time when Europe is facing unexpected challenges and a menacing outlook.

2.13 These comments and conclusions are moreover widely borne out by regular and successive internal market scoreboards (12), by the detailed regular Eurobarometer analyses of public and business opinion and experience regarding the internal market in the Member States, by identical scoreboards for consumers on the internal market (13), as well as by the Commission’s annual reports on the application of Community law in general (14) and consumer law acquis in particular (15). When properly interpreted, analysed according to proper criteria and critically assessed, they fully confirm the concerns and doubts expressed in the documents mentioned above.

2.14 It was hoped that the Commission would make real changes in its political approach to the single market in order to reflect all these conclusions and, in the current context of financial crisis, take a genuinely new, different view of a single market for the 21st century, thereby meeting the expectations raised by a series of declarations from leading political figures. The document on the priorities for a highly competitive social market economy was thus greeted with some disappointment: in spite of its many acknowledged merits, it simply lists 50 isolated measures with no clear strategic approach (16), and its weaknesses and shortcomings were clearly pinpointed in the European Parliament’s Resolution of 6 April 2011 (17).

3.1 It is important to restate that, with regard to Community policies, and in keeping with the fundamental principles now enshrined in the Lisbon Treaty, completing the internal market is not an end in itself, but a means or an instrument for achieving a whole range of policy objectives across different fields (18).

3.2 It is also important to reiterate that these objectives are simultaneously economic, social and environmental, with each on an equal footing, and that the ultimate aim of all of them is people’s wellbeing and the promotion of values of human dignity, equality, freedom, solidarity, democracy, the rule of law and respect for human rights (Articles 2 and 3, TEU) (19).

3.3 Consequently, measures to complete the internal market, the aims of which are now, under law, far broader than in 1957, are to be approached in the light of these principles, values and objectives.

3.4 The internal market, which was clearly designed from the outset as the economic mainstay of a Europe of federal hue, must now be looked at again in the light of developments over the last 30 years and present-day reality. It is true that current circumstances are increasingly tending to turn the single market into a mere free trade area, like its EFTA forerunner, envisaging its future not as the natural outcome of a supra-national political project but as the lowest common denominator of European countries’ national interests.

3.5 It is thus necessary to vigorously reaffirm the idea that the internal market must bind these national interests together in a fully integrated institutional system of...
economic and financial governance, the model for which needs to be redefined and given concrete form within the short term.

3.6 The first step in this direction is to be realistic about the limits of the internal market itself, and not to seek to make it into what it cannot and should not be, forcibly imposing frequently unnecessary and unjustified measures that serve only to make it harder for businesses, especially SMEs (29), which also include the professions, to operate. Sometimes full harmonisation measures are not justified because other values, such as quality assurance, should prevail, as in the case of certain areas of consumer rights and consumer protection. In addition to harmonisation, the key maxim and tenet of "strength in diversity" should again take centre stage in European internal market policy.

3.7 It will be crucial to press ahead in a determined and uncompromising manner, making no concessions, with the Better Lawmaking programme. The EESC has always been actively involved (25) with this programme, with the aim not only of producing technically sound texts and cutting through pointless and damaging red tape, but more fundamentally of taking a proactive approach to lawmaking and administrative practices, and effectively involving civil society and industry stakeholders at all stages in framing and defining legislation. In particular, it feels that greater importance should be attached to ex-ante impact assessments, using regulations instead of directives more systematically as a tool for achieving legislative uniformity where appropriate, and daring to try out new and better-suited instruments than the current complex legislative mix, such as the choice of optional regimes when properly justified (27). It is also essential to muster the same courage to forgo Community initiatives completely if they are ineffective or bring little advantage.

3.8 It is similarly important to review, simplify and codify the Community acquis and administrative formalities (26) and to prune out anything that is useless, unnecessary, counter-productive or even harmful (27). This must however be done with due care, as lack of coordination could lead to the discarding of key aspects of legislation that are essential to important areas.

3.9 The motto should be regulate, but don't suffocate. Innovation and creativity will thus be needed, and a fresh look should be taken at the proposals contained in the first Report of the Group of Independent Experts on legislative and administrative simplification, most of which have not been implemented but remain relevant and require proper implementation (29).

3.10 Standardisation has a major role to play in keeping with the "new approach" model applied not only to products, but also to services (29). In that regard, too, however, careful consideration should be given to the need, effectiveness and impact of the measures taken so as to distinguish between different services for the single market when standardising them.

3.11 Similarly, it will be necessary to give new impetus and greater breadth to the Internal Market Information System (IMI) expanding its scope and enhancing administrative cooperation in line with the suggestions and recommendations made by the EESC on a number of occasions (29), and, by the same token, to overhaul the SOLVIT network, giving it a new framework and appropriate means.

3.12 The main principles guiding the construction of the internal market will also have to be rethought, especially the principles of mutual recognition (31), subsidiarity (32), proportionality (33) and the precautionary principle, thus far restricted to specific areas such as food safety, but which should be given the status of a general principle, reshaping them and laying down new ways of defining them that are closer to people's real interests.

3.13 There is a need to establish priorities with care. This does not mean picking – more or less at random – a few flagship measures, but acting in accordance with well-defined criteria that reflect the clear policy approach that Europe still lacks, and that should give absolute priority to people.

(29) Looking back to the Molitor Report, in order to rebut the unfair accusation levelled against it of "taking one step forward and two steps back" (cf. Alexis Feral, Le principe de subsidiarité, progrès ou status quo après le Traité d'Amsterdam?, in Revue du Marché Unique européen, L, 1998, p. 55), on account of the clumsy way the Commission had applied it, turning it into the real "challenge of change" as conceived by Jacques Delors.
(30) Account should be taken here of the various EESC opinions on the successive annual reports from the Commission, in keeping with Article 9 of the Protocol on the application of the principles of subsidiarity and proportionality.
3.14 The services sector in general (34), and retail financial services in particular (35), should figure prominently among these priorities, as this is where the shortfall in completing the internal market is most acute, but is also exactly where innovation is most needed, with regard not only to the measures but also to the instruments to be applied. In particular, the EESC is calling on the European Commission to monitor and report in a regular and open manner the implementation of the Services Directive, which is the only legislation so far providing for opening of cross-border trade in services.

3.15 An area that warrants particular attention is the practical implementation of an internal market for cross-border e-commerce on account of the socio-economic benefits for European consumers in general, and people living in less accessible areas or affected by some form of disability in particular. It would also benefit EU businesses, especially SMEs, since it would settle a whole host of problems and issues which have long been identified. So far, however, the tools and mechanisms that are vital to securing consumer confidence and guaranteeing their protection, and creating a business-friendly environment, have not been developed (36).

3.16 This applies in particular to issues of market fragmentation, disparities between applicable rules, uncertainty about privacy and data confidentiality, security of transactions, legal protection in the event of disputes, the existence of illegal online services, piracy and cybercrime. These need to be addressed jointly by the various Commission DGs with a view to establishing a coherent legal framework for a genuine digital internal market.

3.17 The effective application of Community law is an area where greater effort is required, and where the EU has regrettably not achieved convincing results. This is the only way of guaranteeing that the law will be respected and that regulation will be effective (37), and it extends beyond the narrow bounds of "administrative cooperation" (38). In this regard, the right to collective action at European level is of crucial importance to European citizens, and must be enshrined unambiguously and without further delay as an ultimate means of satisfactorily establishing responsibilities for infringements of Community law, and thereby encouraging voluntary compliance (39).

3.18 Most important of all, however, will be to define the parameters of an internal market that puts people, as individuals and as citizens, at its core. This task must not be left to any group of more or less enlightened sages, but be based on the direct contributions of individual citizens and civil society, taking heed of their concerns and claims, as well as their frustrations and disappointments.

3.19 Whilst action is urgently needed, it is important to ensure that this action is coordinated and properly thought out. The EESC therefore proposes a period of reflection, coinciding with the 20th anniversary of 1992. As its contribution to this, the EESC would point to a number of parameters that it sees as key to a debate of this kind.

3.19.1 First of all, there must be a debate on how internal market policy must be visibly governed by the fundamental principles and key objectives set out in the Charter of Fundamental Rights of the European Union, especially those contained in Titles IV and V, with particular emphasis on strengthening the social dimension and consumers’ rights (40).

3.19.2 A debate is also needed on how to link sectoral policies within a common strategic objective encompassing economic, industrial, trade, transport, energy, environmental, consumer and competition policies within an overall legal framework that fosters integration and boosts the confidence of the social and societal partners (consumers, households, workers, businesses, NGOs, etc), This would entail reassessing and boosting the 2020 Strategy.

3.19.3 Similarly, a debate is needed on how to strengthen and guarantee people’s freedom of movement and mobility in general, and for workers in particular (whether employees or self-employed), for teachers and for students, ensuring that their social rights – social security, legal protection, accident and health insurance, retirement pensions, etc. – are respected in all circumstances without discrimination, at the same time reviewing the system for the recognition of vocational and educational qualifications. It is essential here to ensure high standards of consumer safety and health.


(38) OJ C 128, 18.5.2010, p.103.


3.19.4 With a view to promoting social inclusion and employment, a debate is also needed on **effectively opening up labour markets** to all European citizens, abolishing, after careful examination, unjustified discrimination and restrictions.

3.19.5 An aspect meriting particular attention is the long overdue definition of an **appropriate legal framework for social economy enterprises in general** and European foundations, mutual societies and associations in particular.

3.19.6 There is an equally urgent need for a discussion on defining a **clear legal framework for services of general interest and social services in particular** defining quality criteria for essential public services and clarifying the applicable rules governing public procurement, competition and state aid (**1**).

3.20 Lastly, resources and efforts must be jointly harnessed in favour of an **effective single market communication policy** within the broader setting of a coherent, integrated communication policy on Europe that involves people and takes proper account of public opinion and European social media in order to disseminate reliable information to European citizens, especially consumers, through the innovative use of the digital media (**2**).

Brussels, 22 February 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

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(**1**) Cf. EESC opinion, OJ C 161, 13.7.2007, p. 80.