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Policy-Making in the European Union

SEVENTH EDITION

Edited by

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CHAPTER 5

The Single Market

From Stagnation to Renewal?

Alasdair R. Young

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Summary

The single European market programme marked a turning point in European integration. Although the Treaty of Rome called for the creation of a common market—with the free flow of goods, services, capital, and workers—among the member states, realizing that objective had proved difficult. Detailed harmonization of different standards had proved a frustrating approach to market integration, especially as external competition challenged European industry. New ideas about market regulation permeated the European Union (EU) policy process and, supported by Court of Justice of the European Union (CJEU) judgments and Commission entrepreneurship, facilitated legislative activism and important changes in the policy-implementing processes, culminating in the '1992 programme' to make the single market a reality. Although the task of 'completing' the single market remains unfinished, it has moved to the heart of European integration and altered the pattern of state-market relations in Europe. The 2008 financial crisis and its aftermath presented challenges to the single market. Subsequent concerns about stagnant economic growth have raised its political profile.

Introduction

The end of 2012 marked the twentieth anniversary of the 'completion' of the single market and saw renewed efforts to realize its full potential. The decision in the mid-1980s to complete the single market induced an explosion of academic interest in the EU. Before 1985, the theoretical debate on political integration had stalled, studies of EU policy-making were sparse, and few mainstream economists devoted themselves to the analysis of European economic integration. In the late 1980s all that changed, as competing political analyses proliferated and the economic consequences of the single market programme, which aimed to realize the free movement of goods, services, capital, and labour among the EU's member states by 1992, were examined. Indeed, many new theoretical approaches to the study of European integration have taken the single market as their main point of reference, just as many earlier theorists had taken agricultural policy as their stimulus. For many, the single European market (SEM) programme constitutes the critical turning point between stagnation and dynamism, between the 'old' politics of European integration and the 'new' politics of European regulation.

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

The SEM is also important for its impact on the European public policy model *within* the member states. Thus, market regulation at the supranational level of European governance jostles, often uneasily, with other issues on the political and economic agendas of the EU member states. Many have come to see 'more single market' as a way to foster economic growth in a time of austerity. At the same time, structural reforms introduced by some member states in order to secure international assistance with their sovereign debt crises (see Chapter 7) threaten to undermine the political legitimacy of the single market. This distrust of the markets reinforces tensions that predate the financial crisis between supranational regulation for transnational markets, which engage transnational regulators and large market operators, and encapsulated national politics, which engage those responsible for, and dependent on, the reduced domestic political space, such as smaller scale entrepreneurs, local regulators, and national or regional politicians. Thus, in the words

of former Commissioner Mario Monti (2010: 6), 'The single market today is less popular than ever, while Europe needs it more than ever.'

The implications of the single market have not been confined to the EU's member states. The formal and informal impact on the Union's neighbours, partners, and competitors has been powerful. The SEM has been extended formally to neighbouring countries through the European Economic Area (EEA) and various forms of association with candidate and non-candidate countries and to many eventually by full accession (see Chapter 17). The SEM has also changed the conditions under which foreign goods and services may enter the world's largest market and prompted other states to align their rules with the EU's.

Establishing the single market

The objective of establishing a single market started with the Treaty of Rome (see Box 5.1). It set targets for creating a customs union and the progressive approximation of legislation, as well as for establishing a 'common market', complete with the free movement for goods, services, capital, and labour (the 'four freedoms'), all within a single regime of competition rules (see Chapter 6). The path was more clearly defined for the customs union than for the common market (Balassa 1975; Pelkmans 1984), reflecting the greater preoccupation of policy-makers in the 1950s with tariffs and quotas than with technical barriers to trade (TBTs) and trade in services.

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

BOX 5.1 The treaty base of the single market

Art. 34 TFEU (ex Art. 30 EEC)	Prohibition on quantitative restrictions on imports and all measures having equivalent effect
Art. 45 TFEU (ex Art. 48 EEC)	Free movement of workers
Art. 49 TFEU (ex Art. 52 EEC)	Right of establishment
Art. 56 TFEU (ex Art. 59 EEC)	Freedom to provide services
Art. 63 TFEU (ex Art. 67 EEC)	Free movement of capital
Art. 114 TFEU (ex Art. 100 EEC)	Approximation of laws that affect the establishment or functioning of the common market

Harmonization and its increasing frustration

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

The principal instrument of the original European Economic Community (EEC) for advancing the four freedoms was the directive, in principle setting the essential framework of policy at the European level and leaving the ‘scope and method’ of its implementation to the member states. In the case of TBTs, harmonization was based on Article 100 EEC (Art. 114 TFEU). Other articles provided the legal foundation for the freedom of movement for services, capital, and labour and for aligning many other national regulations (see Box 5.1).

Harmonization measures were drafted by the Commission in cooperation with sector-specific working groups, composed of experts nominated by member governments. The Commission also regularly invited comments on their drafts from European-level pressure groups (Dashwood 1977: 291–2). Beginning in 1973 with the ‘Low-Voltage Directive’, the Commission, where possible, incorporated the work of private standard-making bodies—primarily the Committee for European Norms (Standards) (CEN) and the Committee for European Electrical Norms (Standards) (CENELEC)—into Community measures by ‘reference to standards’ (Schreiber 1991: 99).

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

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

The CJEU’s jurisprudence began to bite at the heels of national policy-makers. In 1974, the *Dassonville* ruling established a legal basis for challenging the validity of national legislation that introduced new TBTs. The famous *Cassis de Dijon* judgment in 1979 insisted that under certain specified conditions member states should accept in their own markets products approved for sale by other member states (Dashwood 1983: 186; Alter and Meunier-Aitsahalia 1994: 540–1). There was cumulative frustration in the Commission and in the business community, however, at the slow pace of progress and the uncertainties of reliance on the CJEU, whose rulings apply only to the cases lodged. The high level of economic interdependence within the EU made these TBTs costly and visible (Pelkmans 1984; Cecchini *et al.* 1988).

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

The emerging reform agenda

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

The prospects for a collective response were enhanced by changes within the member states. These are widely described in the political-integration literature as a convergence of national policy preferences during the early 1980s (Sandholtz and Zysman 1989: 111; Moravcsik 1991: 21, 1998: 369; D. Cameron 1992: 56). This convergence, it is claimed, reflected widespread acceptance of neo-liberal economic ideas, which stress that markets are better than governments at generating economic growth. Neo-liberal ideas thus advocate that governments should interfere less in economies by privatizing state-owned industries and removing regulations, particularly those governing economic competition.

Although new government policies certainly did emerge in the early 1980s, closer examination reveals that these differed substantially between countries in terms of their origins, motivations, and intensities (see Moravcsik 1998: 343–4). Political parties advocating neo-liberal economic policies came to power in the

UK, Belgium, the Netherlands, and Denmark, in part due to a rejection of the parties that had overseen the economic decline of the late 1970s (Hall 1986: 100). The rejection was less marked in Germany, where the underlying strength of its economy preserved an attachment to the established 'social market' framework. In France the 'policy learning' was explicit. Expansionary fiscal policies had led to increased inflation and unemployment, exacerbated the trade deficit, and swelled the public debt (Hall 1986: 199). By 1983, the French government had started to look for European solutions, reversing the threat it had made in autumn 1982 to obstruct the common market (Pearce and Sutton 1985: 68). The Spanish government sought to link socialist modernization at home with transnational market disciplines abroad. Convergence is thus something of a misnomer—European market liberalization served quite different purposes for different governments and different economic actors.

New ideas about markets and competition thus started to be floated in response to the problems of the European economy. The appeal of these ideas was influenced by the wave of deregulation in the US in the late 1970s and early 1980s (Hancher and Moran 1989: 133; Sandholtz and Zysman 1989: 112; Majone 1991: 81). Furthermore, the CJEU's 1979 *Cassis de Dijon* judgment provided the Commission with a lever with which to pursue greater market integration (Dashwood 1983).

From the early 1980s, European Council communiqués repeatedly expressed concern about the poor state of the single market (Armstrong and Bulmer 1998: 17) and in December 1982 it created an Internal Market Council. Throughout 1983, support for revitalizing the single market continued to grow. In April, the heads of some of Europe's leading multinational corporations formed the European Round Table of Industrialists (ERT) to advocate the completion of the single market (Cowles 1994). The Union of Industrial and Employers' Confederations of Europe (UNICE) added its voice to calls for greater market integration.

The single European market programme

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

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

In 1985, after consultations with the member governments, the new president of the Commission, Jacques Delors, decided that a drive to 'complete the single market' was perhaps the only strategic policy objective that would enjoy any sort of consensus (Moravcsik 1998: 362). In his inaugural speech to the European Parliament (EP), Delors committed himself to completing the single market by the end of 1992. The European Council in Milan in June 1985 endorsed the White Paper (Commission 1985a) drawn up by Lord Cockfield, the commissioner for the single market, containing 300 (later reduced to 282) measures (see Table 5.1).

During this same period, but outside the Community framework, the French and German governments in 1984 agreed the Moselle Treaty in order to mitigate the impact of border controls. In 1985 it was converted, at the insistence of the Benelux (Belgium, the Netherlands, and Luxembourg) governments, into the first Schengen Agreement (see Chapter 15).

The Single European Act

The development of the SEM programme coincided with the most significant reform of the European Community's (EC's) institutions since the Treaties of Rome. In June 1984, the meeting of the European Council in Fontainebleau cleared the way for institutional reform by resolving the question of Britain's budget rebate and the outstanding issues of the Iberian enlargement. At this meeting, the Commission tabled the 'new approach' and the UK government tabled a memorandum that called *inter alia* for the creation of a 'genuine common market' in goods and services (Thatcher 1984). The meeting established the Ad Hoc Committee on Institutional Reform (Dooge Committee) to consider reforms to the Community's decision-making procedures with the Iberian enlargement in mind. Earlier that year in its Draft Treaty on European Union, the European Parliament (1984) had sought to focus attention on institutional reform, calling *inter alia* for increased parliamentary powers and greater use of qualified majority voting (QMV) in the Council.

By December 1985, a remarkably quick and focused intergovernmental conference (IGC) had agreed the terms of institutional reform that became the SEA. In addition to its important focus on accommodating enlargement, the SEA specifically

TABLE 5.1 The White Paper on the single market: a taxonomy

Markets		Products	Services	Persons and labour	Capital
Measures	Market access	<ul style="list-style-type: none"> Abolition of intra-EC frontier controls Approximation of: <ul style="list-style-type: none"> technical regulations VAT rates and excises Unspecified implications for trade policy 	<ul style="list-style-type: none"> Mutual recognition and 'home-country control', removal of licensing restrictions (in banking and insurance) Dismantling of quotas and freedom of cabotage (road haulage) Access to inter-regional air travel markets Multiple designation in bilaterals (air transport) 	<ul style="list-style-type: none"> Abolition of intra-EC frontier checks on persons Relaxation of residence requirements for EC persons Right of establishment for various highly educated workers European 'vocational training card' 	<ul style="list-style-type: none"> Abolition of exchange controls Admission of securities listed in one member state to another Measures to facilitate industrial cooperation and migration of firms
	Competitive conditions	<ul style="list-style-type: none"> Promise of special paper on state aid to industry Liberalization of public procurement Merger control 	<ul style="list-style-type: none"> Introduction of competition policy in air transport Approximation of fiscal and/or regulatory aspects in various services markets 		<ul style="list-style-type: none"> Proposals on takeovers and holdings Fiscal approximation of: <ul style="list-style-type: none"> double taxation security taxes parent-subsidiary links
Market functioning		<ul style="list-style-type: none"> Specific proposals on R&D in telecoms and IT Proposals on standards, trademarks, corporate law, etc. 	<ul style="list-style-type: none"> Approximation of: <ul style="list-style-type: none"> market and firm regulation in banking consumer protection in insurance EC system of permits for road haulage EC standard for payment cards 	<ul style="list-style-type: none"> Approximation of: <ul style="list-style-type: none"> income tax provisions for migrants various training provisions mutual recognition of diplomas Largely silent on labour-market provisions 	<ul style="list-style-type: none"> European economic interest grouping European company statute (2001) Harmonization of industrial and commercial property laws Common bankruptcy provisions Call to strengthen EMS
	Sectoral policy	<ul style="list-style-type: none"> CAP proposals: <ul style="list-style-type: none"> abolition of frontiers approximation and mutual recognition in veterinary and phytosanitary policies Steel: <ul style="list-style-type: none"> call to reduce subsidies 	<ul style="list-style-type: none"> Common crisis regime in road transport Common air transport policy on access, capacity, and prices Common rules on mass-risks insurance 		

Source: Peckmans and Winters (1988: 12).

endorsed the '1992 programme' to complete the single market and altered the main decision rule for single-market measures (with the exceptions of taxation, free movement of persons, and the rights and interests of employed persons) from unanimity to QMV. It also enhanced the powers of the EP by introducing the cooperation procedure for single-market measures. Thus, a strategic policy development and institutional reform were linked symbiotically and symbolically.

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

Squaring the theoretical circle

Theoretical accounts of the SEM and SEA fall into two main approaches: one that emphasizes the role of supranational actors (neo-functionalism), the other that stresses the importance of the member governments (liberal intergovernmentalism) (see Chapter 2). Comparisons of the two approaches are complicated by the fact that some observers focus on the SEM, whilst others concentrate on the SEA.

Those analysts who concentrate on the SEM programme tend to stress the role of supranational actors. Cowles (1994) and van Apeldoorn (2001, 2002) emphasize the importance of transnational business interests in shaping the EU agenda in favour of the completion of the single market. Sandholtz and Zysman (1989) also give pride of place to supranational actors, although they cast the Commission in the leading role, with big business lending support. Garrett and Weingast (1993) contend that it was the CJEU's idea of mutual recognition that provided a focal point for agreement among member governments that favoured liberalization. Alter and Meunier-Aitsahalia (1994) recognize the importance of the idea of mutual recognition, but stress the Commission's entrepreneurial exploitation of this idea as a formula for liberalization.

There was not one unambiguous understanding of the single market programme, however (van Apeldoorn 2001, 2002; Jabko 2006). In addition to the neo-liberal vision of boosting economic efficiency by freeing trade among the member states and thus increasing competition, there was also a more competitiveness-oriented vision, in which the creation of the single market, not least through enabling European firms to take advantage of greater economies of scale, would make European firms more competitive internationally. Jabko (2006) contends that the Commission strategically exploited the ambiguity about the meaning of the market in order to advance European integration. By contrast, van Apeldoorn (2001, 2002) argues that the clash between competition and competitiveness factions within the ERT was won by the competitiveness faction, which wanted the removal of internal barriers to trade to be accompanied by higher barriers to imports from outside the EU and

by a European industrial policy, but this agenda was thwarted by opposition from neo-liberal member states (see also Parsons 2008). Despite differences of emphasis, accounts of the SEM programme tend to emphasize the role of supranational actors and are thus at least compatible with neo-functionalism.

Analysts who focus on the SEA, by contrast, stress bargaining among the member governments (intergovernmentalism), although their preferences were influenced by domestic economic pressures (Cameron 1992; Moravcsik 1991, 1998). Moravcsik (1998: 374) argues that the SEA was the product of interstate bargaining, principally between the French, German, and UK governments, and that traditional tools of international statecraft, such as threats of exclusion and side-payments, explain the final composition of the '1992 programme' and the SEA. He does, however, recognize that supranational policy entrepreneurs, particularly the Commission, played a 'significant if secondary role' in packaging existing proposals, presenting them as a response to economic decline and helping to mobilize transnational interests (Moravcsik 1998: 372, 374). Both Moravcsik (1998) and Garrett (1992) argue that the member-state governments were willing to accept limits on their policy autonomy because they were engaged in an extended cooperative project and wanted to be able to ensure that their partners would comply with agreements. Parsons (2008), however, argues that proponents of the SEM, most notably the UK government, accepted institutional reform only as the price demanded by those states less enthusiastic about liberalization, but more committed to integration, not because they considered institutional reform necessary for realizing the project. Thus, while there is broad agreement that the contours of the institutional bargain were defined by bargaining among self-interested governments, precisely why they accepted the outcome they did is contested.

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

Subsequent institutional reform

The SEA set the institutional framework for the single market programme, and its broad parameters remain largely unchanged. The most significant subsequent change was the introduction of the co-decision procedure in the Maastricht Treaty on European Union (TEU). The Treaty of Amsterdam established

clearer guidelines about when member governments might adopt national rules stricter than agreed common rules. The Treaty of Lisbon (ToL) made only modest changes to the single market programme by increasing the EP's role in legislation to liberalize specific services (Art. 59 TFEU) and by establishing a formal mechanism for establishing European intellectual property rights (Art. 118 TFEU). Lisbon also introduced a mechanism by which the Commission can impose financial sanctions on member states that fail to transpose EU legislation (Art. 260(3) TFEU). More strikingly, the institutional reforms—QMV and the co-decision procedure—first introduced with respect to single-market measures have been subsequently extended to other areas of policy-making, becoming the 'ordinary legislative procedure' in the ToL.

The politics of policy-making in the SEM

The SEM and SEA fundamentally changed the politics of market integration within the EC. First, the SEM revived 'negative integration', that is, the removal of national rules that impede economic exchange. This is most obvious in the mutual recognition principle, the abolition of frontier controls, and the elimination of exchange controls. Secondly, the SEA changed the institutional framework for 'positive integration'—agreeing common rules to replace national ones—by extending and activating QMV and enhancing the powers of the EP. In addition, with respect to the 'new approach' and 'home-country control', the SEM blurred the distinction between positive and negative integration by setting only minimum common requirements. These different modes of integration have profound political implications as they both affect who the key actors in the policy process are and shape their relative influence (see Table 5.2).

TABLE 5.2 Different modes of market integration

Type of integration	Form	Description
Negative	Mutual recognition principle	Different national standards assumed to be equivalent in effect
	'New approach'	Common objectives with reference to voluntary standards
Positive	Approximation	Common detailed rules
	Common authorization	Common approval of individual products required

Source: Adapted from Holmes and Young (2001).

Negative integration

Negative integration is the elimination of national rules that impede economic exchange. It can occur as the result of political agreement among the member governments on the basis of a proposal from the Commission, as was the case with eliminating border procedures and abolishing exchange controls. In such instances, negative integration, for all intents and purposes, looks much like positive integration (see the following section). More commonly, however, negative integration occurs as the result of a national measure being found incompatible with the treaties as the result of a judicial process. In such instances, firms are usually the initiators, and the courts (ultimately the CJEU) are the decision-makers.

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

Under EU law, however, member governments have the right, albeit within limits, to enforce strict national rules despite the principle of mutual recognition. Crucially, the principle applies only when the assumption holds that the national rules are equivalent in effect. This is not always the case, and Article 36 TFEU (ex Art. 36 EEC) permits restrictions on trade for a number of public-policy reasons, including public morality and the protection of human, animal, and plant health and safety. It is, therefore, possible that a government's more stringent regulation will be upheld by the courts if there is a legal challenge.

As a consequence, there are incentives for its trading partners to negotiate a common rule in order to eliminate the disruptive impact on trade of different rules (Vogel 1995; A. R. Young and Wallace 2000). This is one of the reasons why mutual recognition applies primarily to relatively simple products. It also means that strict-standard governments, particularly those with valuable markets, can play an important role in setting the agenda for positive integration.

Positive integration

Because different countries, for a wide variety of reasons, adopt different regulations and because those regulations serve public policy goals and usually impede trade only as a side effect, it is frequently not possible simply to eliminate national rules ('negative integration'). In such cases, in order to square the twin objectives of delivering public policy objectives and liberalizing trade it is necessary to replace different national rules with common European ones ('positive integration').

Given the relative importance of 'positive integration' in the EU's market-integration project, it is more appropriate to describe the SEM as *reregulatory*, than *deregulatory*.

The policy cycle and institutional actors

Formally the Commission is the agenda-setter for positive integration, as only it can propose new measures. The reality is somewhat more complicated. The Council and EP can request that the Commission develop proposals. In addition, as noted previously, the member states can indirectly shape the agenda by pursuing policies that disrupt the free flow of goods or services within the single market. In addition, member governments, as part of compromises on legislation, often build in 'policy ratchets' requiring that an issue be reconsidered by some specified time in the future.

As discussed earlier, the SEA introduced two important changes to the legislative process on single-market measures: QMV and the enhanced role of the EP. In the late 1990s to early 2000s, voting was the norm on single-market measures (Hayes-Renshaw *et al.* 2006), but more recently there have been fewer explicitly contested votes (see Figure 4.2). It is difficult, however, to assess how significant QMV has been to the single market programme as measures are put to a vote only when they are sure to pass. Votes against measures might, therefore, be more to appease domestic constituencies or to signal potential implementation problems than to express strong opposition (see Chapter 4).

By increasing the power of the EP, the SEA and subsequent treaties have made the adoption of single-market measures more complicated (Parsons 2008). Since the TEU strengthened the EP's ability to reject proposals, it has been a co-legislator with the Council (Hix 1999: 96). The EP's increased influence, formally in decision-making and informally in proposal-shaping, has affected policy outcomes by enhancing the representation of civic interests, such as consumer and environmental groups (Peterson and Bomberg 1999; A. R. Young and Wallace 2000).

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

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

The policy players

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

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

Another change following the SEA and the launch of the SEM was the increase in the number of civic-interest groups, although they found it much harder to exercise effective political muscle. The consumer and the purchaser had been the intended beneficiaries of the SEM programme and the 'minimum essential requirements' of harmonizing and liberalizing directives were often to help them or their assumed interests. However, it is easier to discern consumers as objects of policy than as partners in the process, although they are often sporadic participants (A. R. Young 1997; A. R. Young and Wallace 2000).

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

Although the single market programme made 'Brussels' much more important, firms and interest groups retain close contacts with their national governments as they remain important players in the SEM policy process. Rather than consistently preferring national or European policy, the SEM contributed to a rise in 'forum-shopping', with non-state actors pursuing their policy objectives at whichever level of governance they consider more likely to deliver the desired result.

In this process the Commission plays a pivotal role. Its sole right of initiative ensures that, but what really matters is how the Commission has chosen to use it. Although *reregulatory* rather than *deregulatory*, the SEM did have the effect of

liberalizing markets and increasing competition among firms from different member states. In such circumstances, the costs of policy change (liberalization) are concentrated on the protected firms and the benefits tend to be disbursed thinly across a wide range of actors (consumers and users), although some particularly competitive firms are likely to benefit. In such circumstances, a policy entrepreneur is required to champion change and galvanize support—a role that the Commission has grasped with gusto.

Opening up the policy space

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

In addition, the policy networks surrounding the SEM—both because they involve actors from multiple member states and because the participants are not directly involved in implementing policy decisions—tend to be more open than those in individual member states. As a result, a large number and wide variety of interests have access to the policy process. Furthermore, if there is to be a European regulation, producers tend to want their national rules to provide the template. As a consequence, powerful business interests often compete with each other in the European policy process, thereby undermining the typical 'privileged position' of business vis-à-vis other, less organized actors.

Hence, SEM regulations are usually contested by 'advocacy alliances', tactical, often loose groupings of diverse proponents and opponents of particular policies (A. R. Young and Wallace 2000: 3). Such 'advocacy alliances' bring together combinations of member governments, supranational European institutions, and producer and civic interests. Thus, these alliances bridge the agenda-setting, policy-formulation, and policy-decision phases of the policy cycle.

A greater focus on services

Legislative activity in the 1980s and through the 1990s concentrated primarily on the free movement of goods (Vogt 2005). With respect to the free movement of capital, there was the crucial 1988 Directive 88/361 that scrapped all remaining restrictions on capital movements between residents of the member states from 1 July 1990. There were also efforts to galvanize the free movement of labour by removing disincentives to relocating to another member state (see Chapter 11). Services, however, despite their economic importance—they account for more than 65 per cent of EU gross domestic product (GDP) and employment (Commission 2012b)—were relatively neglected until the turn of the century.

What single-market legislation there was on services focused primarily on eliminating quantitative restrictions on service providers, for example in air transport and road haulage, or on introducing competition in sectors dominated by public monopolies, such as electricity and telecommunications (see Chapters 6 and 15). A version of the 'new approach' with mutual recognition explicitly underpinned by agreement on common minimum principles for national regulation was applied to financial services, where 'home-country control' was introduced, and a number of professions in which mutual recognition on the basis of agreed common qualifications was established. The provision of services within the EU was therefore governed primarily by the right of establishment and the freedom to supply cross-border services enshrined in the Treaty of Rome. As a consequence, the provision of services within the EU was regulated primarily by national rules (Langhammer 2005).

The 2000 European Council in Lisbon identified removal of barriers to services as a key component to boosting the EU's competitiveness. The 2006 Services Directive (2006/123), which was the response to this challenge, pitted neo-liberalism against 'social Europe', saw the EP play a major role, and essentially divided the old and new member states (see Box 5.2). It thus revealed how politically fraught liberalization

BOX 5.2 The Services Directive

The Commission's 2004 proposal for the Services Directive was radically liberalizing in that it sought to formalize mutual recognition in services through the 'country of origin' provision, under which a service provider would be able to operate throughout the EU in accordance with the regulatory requirements of its country of origin. It was also potentially very broad in scope. The most controversial aspect of the proposal was that it might undermine enforcement of the 1996 Posted Workers Directive (96/71/EC), which specifies that host-country labour and wage laws, where they exist, apply. This issue became much more sensitive after the 2004 enlargement because of the much larger wage differentials between the new and old member states. Playing on this aspect of the proposal, its opponents, notably labour unions in the old member states, managed to frame the directive as permitting a particularly inequitable kind of social dumping, as workers working side by side would be paid different wages and foreign workers would face host-country prices while being paid home-country wages.

The EP responded to these concerns by adopting, over the votes of many MEPs from central and east European countries, a substantially modified version of the draft directive that replaced the concept of 'country of origin' with 'freedom to provide services' and exempted a number of sectors. Most of the central and east European member states, Finland, and the UK preferred the Commission's proposal, but the Commission, in the face of entrenched opposition to radical liberalization, accepted most of the Parliament's amendments. The Council adopted this version with only minor, slightly liberalizing changes, with only Belgium and Lithuania abstaining. The directive, therefore, was significantly less liberalizing than the Commission had intended.

Source: Hay 2007; Howarth 2007a; Nicolaïdis and Schmidt 2007.

within the EU can be. The directive, which covers services accounting for 45 per cent of EU GDP, was implemented in 2012 and its main economic effects are not expected to be felt for five to ten years after implementation (Commission 2012b: 1). As a consequence, despite 'significant progress', 'burdensome' national requirements remain and continue to restrict intra-EU services trade (WTO 2011: ix). The 2008 financial crisis prompted renewed attention to the fragmented regulation of financial services and gave a new impetus to European financial regulation (see the section 'From stagnation to opportunity?' later in the chapter).

The regulatory policy mode

The SEM policy process, therefore, combines high levels of interest-group engagement with Commission entrepreneurship, Council bargaining, and parliamentary deliberation over common rules. These rules are subsequently often enforced through the courts by private actors. As such, the SEM is the exemplar of the EU's regulatory policy mode (see Chapter 4).

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

There are two keys to these different dynamics. The first concerns policy ideas. While neo-liberalism has expounded the benefits of removing restrictions on competition (Majone 1991), post-material values and more recent ideas such as the 'precautionary principle' have supported more stringent social regulations (Vogel 2012; Weale 1992). The second key concerns how the potential for negative integration affects the bargaining power of the member governments within the Council under the shadow of QMV. With regard to economic regulations, the prospect of negative integration is pronounced, putting those member governments with restrictions in a weak position to do more than slow the pace of liberalization (Holmes and McGowan 1997; Schmidt 1998; A. R. Young and Wallace 2000). With regard to social regulations, however, the Treaty establishing the European Community accepts, within limits, the right of member governments to adopt social regulations that impede trade. In addition to putting such issues on the agenda, as noted earlier, this puts the stricter standard country in a stronger bargaining position; its firms are protected and its citizens are content, while foreign goods or services are excluded. The cost of no agreement, therefore, falls more heavily on its partners. Under QMV no individual government can hold out alone for stricter standards, but there is usually an 'advocacy alliance' of civic-interest groups, stringent-standard producers,

several member governments, the Parliament, and often the Commission in favour of more stringent standards. As a consequence, the SEM has tended to contribute to 'trading up' (Vogel 1995).

The regulatory policy mode still predominates in single-market legislation, but it is no longer as pre-eminent as it once was. Particularly in the 2000s, there was a proliferation of European regulatory agencies that were set up by secondary European legislation (Kelemen 2012). Some—such as the European Medicines Agency (EMA); the European Food Safety Authority (EFSA); and the European Chemicals Agency (ECHA)—conduct risk assessments that inform regulatory decisions on specific products (common approvals). In the case of medicines, the Commission takes the decision. With food safety, including biotechnology, and chemicals, the Commission is assisted by representatives of the member states through comitology (see Chapter 4). Should the member states neither approve nor reject a product, the Commission decides. Other regulatory agencies—such as the European Aviation Safety Authority (EASA)—implement and enforce EU legislation, including, in the case of aviation, providing type-certification of aircraft and components and authorizing non-EU airlines to operate in European airspace. Moreover, these regulatory decisions tend to have direct effect. This development thus represents a departure from the regulatory mode.

Outputs and assessment

The legislative output of the SEM programme has been impressive, with 1,420 directives and 1,769 regulations in force as of 1 October 2012 (Commission 2013a: 9). This legislative output is widely believed to have translated into significant economic impacts, although the 'exact economic worth' of the single market in terms of economic growth generated and jobs created is difficult to determine (see AmCham EU 2012: 9; Pelkmans 2011: 3–5). There are, however, persistent gaps in the legislative programme. There is still significant variation in national regulation of services (WTO 2011: xi) and even goods (inference from WTO 2008: Annex D). In addition, as economic activity continues to develop the single market it is arguable that the SEM will never be truly 'complete' (Commission 2002a: 4).

Even where rules are in place, the correct transposition and adequate implementation of SEM directives has been a pressing and persistent concern (Commission 2002b: 11, 2009a: 17; Grech 2010: 18). Although the member states have improved their individual transposition rates, the proportion of EU directives that have not been implemented by all member states on time has remained stuck at about 5 per cent (Commission 2013a: 16). The American Chamber of Commerce to the EU estimated that the 'lack of proper implementation and application' in tax, services, goods, and public procurement 'may be reducing the expected economic gains from core directives and regulations by as much as one-third. The cost of this "lack of enforcement loss" can be estimated to be in excess of €10 billion' (AmCham EU 2012: 17).

Beyond these problems with regulatory approximation, differences in member states' regulations disrupt the effective functioning of the single market because of problems with applying the mutual recognition principle. These problems are most pronounced with regard to technically complex products (e.g. buses, lorries, construction products, and precious metals), products that may pose a threat to safety or health (e.g. foods), and services, although the principle works quite well when applied to relatively simple products (Commission 2002b: 2). These problems stem in part from significant underlying cultural differences among the member states. Furthermore, consumers in different markets may prefer different product characteristics or may feel more comfortable doing business with established local firms (Müller 2003). Thus, cultural differences also have a bearing on whether the removal of legal and physical barriers is sufficient to create a single market.

The problems of translating legislative activism into results on the ground are reflected in European consumers' views of the single market. In a 2009 survey, one-third of respondents did not answer or could not name one thing that came to mind when they heard the phrase 'the internal market of the European Union' (Eurobarometer 2010: 8). Moreover, while most respondents viewed the single market positively—particularly in terms of increasing the variety of products available, boosting competitiveness, creating jobs, and responding to crises—most felt that the single market benefits only large companies and sizeable minorities considered that the single market had made things worse; such as by eroding consumer protection, worsening working conditions, and threatening national identity and culture (Eurobarometer 2010: 10). This thus reflects a loss of support for the neo-liberal, Anglo-Saxon regulatory model that underpinned the single market programme. The financial crisis and the austerity and restructuring measures associated with sovereign debt bailouts (see Chapter 7), have contributed to greater public and political distrust of markets in general (Grech 2010: 17; Monti 2010: 12). There is thus a widely shared sense that the single market lacks popular legitimacy (Grech 2010: 17; Monti 2010; Pelkmans 2011: 8).

From stagnation to opportunity?

As the global financial crisis began unfolding in the autumn of 2008 there were concerns that the single market might unravel (see e.g. Barroso 2009). In October, for instance, despite an agreement among France, Germany, Italy, and the UK to co-ordinate their responses to the crisis, Germany announced unilaterally that it would guarantee all bank deposits. This prompted other member states to follow suit. In the wake of the Icelandic government's decision not to guarantee non-Icelandic deposits, including those in internet bank Icesave, and the UK government's decision to step in to cover UK depositors, there was uncertainty about who was responsible for guaranteeing deposits held outside a bank's home country.¹ In addition, British, Greek, and Spanish politicians suggested that banks that received public funds

should lend first to domestic firms and households (see Chapter 7). Despite the initial fears, former Internal Market and Competition Commissioner Mario Monti (2010: 23) concluded in May 2010 that the single market had survived the crisis 'virtually unscathed' (see also *The Economist*, 22 Oct. 2009: 58), although there are still some causes for concern (see *The Economist*, 20 Oct. 2012: 51).

The financial crisis and its aftermath, however, have had political implications for the single market. During the 2000s the single market was relatively neglected; seen as largely complete or at least not a political priority (Egan 2012: 407; Monti 2010: 12). The rapid expansion of new forms of cross-border economic activity, notably associated with the digital economy, meant that policy was falling behind practice. From about 2010 the single market has received greater political attention as it has been presented, not least by the Commission, as a means of fostering much-needed growth in a period of austerity (Barroso 2011; European Council 2011: 2). The opportunities, and the difficulties, of advancing the internal market after the 2008 financial crisis can be illustrated in two cases of policy-making: the proposed banking union (see Box 5.3) and, particularly, the Commission's 'Single Market Act' initiative, a two-part action plan of priority actions addressing particular 'levers' 'to boost growth and strengthen confidence' (Commission 2011a).

BOX 5.3 The struggle towards banking union

The 2008 global financial crisis exposed a number of shortcomings in European financial regulation.² Regulators did not foresee the crisis and the rules did not prevent excessive risk-taking by banks. When the crisis struck there was confusion about whether bank deposits were guaranteed and by whom, a particular problem in the case of cross-border banking operations. As noted earlier, there was initially an uncoordinated response to bank guarantees, with individual governments adopting ad hoc policies to cover deposits with public funds. The costs of covering extensive bank losses virtually bankrupted the Irish and Cypriot governments, and put a severe strain on Spain's finances. The Greek government's partial default on its debt in 2012 pushed Greek (and Cypriot) banks to the brink, as the government bonds they held as reserve assets lost over half their original value. The banking union is a central component of the EU's response to these problems (see also Chapter 7).

In June 2012, almost four years after the financial crisis struck, the European Council agreed to establish a banking union. A banking union would, like the US Federal Deposit Insurance Corporation, ideally involve five elements:

- (1) a single bank supervisor to adopt and enforce common rules;
- (2) a resolution authority able to 'resolve'—restructure or wind up—failed banks;
- (3) a single resolution fund (paid for by industry) to cover costs associated with resolving failed banks;
- (4) a credible euro-area wide guarantee on deposits to reassure savers that their euros are equally safe in whichever country they are saved; and
- (5) a common backstop in case the resolution fund runs out of money.

Banking union is thus particularly controversial because of its potential redistributive character, not only between private creditors and debtors but also between countries. Creditor countries, most vocally Germany, are reluctant for their taxpayers to cover the mistakes of bankers and bank supervisors elsewhere.

Progress towards banking union, once started, has as a result been acrimonious. The smoothest part was establishing the European Central Bank (ECB) as the single supervisor. Under legislation adopted by the Council and the EP in October 2013, from late 2014 the ECB will directly supervise the 130 largest and most systemically important banks in the euro area and oversee national supervision of another 6,000. In December 2013, the EU's finance ministers reached agreement on the second and third elements. The resolution authority is complex, involving the ECB, the resolution board, and the Commission, as well as member states should the Commission not follow a board recommendation to wind up a bank. Due to German opposition, the single resolution fund will only gradually pool national funds over ten years. During this period, again due to German opposition, there will be no common backstop should the resolution funds prove insufficient. The single resolution mechanism is therefore not as streamlined or as robust as the Commission, supported by France and Italy, had proposed. Both the ECB and EP criticized the deal, suggesting that it will not reassure the markets about the stability of the banking system. In spring 2014 the EP secured concessions that strengthened the hand of the ECB in closing failing banks and accelerated the establishment of the common backstop before approving the single resolution mechanism, which will come into effect in 2015. The fourth element of banking union, a system of guarantees for bank depositors, has languished in the face of German objections. Thus, the politically charged issue of transfers between countries combined with European and national legal complexities have made progress towards banking union painful and incomplete.

Source: *The Economist*, 8 Sept. 2012, 13 Dec. 2012, 8 June 2013, 14 Dec. 2013; *Financial Times*, 8 May 2013, 10 July 2013, 18 Dec. 2013; 8 May 2014; *New York Times*, 12 July 2013; 18 Dec. 2013; *The Wall Street Journal*, 17 May 2013.

In this emphasis on the need for 'more single market' there are echoes of the factors contributing to the launch of the single market programme in the 1980s. There are broad similarities in the desires to promote growth and create jobs and to foster the competitiveness of European firms relative to foreign rivals (Barroso 2011; European Council 2011: 1). In addition, although the sources of constraint are different, expansionary fiscal policies are not a viable option given debt levels and monetary policy is already almost as expansionary as possible (Monti 2010: 9; European Council 2011: 1).

There are important differences in the details between the 1980s and 2010s, however: for one thing, the nature of economic competition has changed. In the 1980s, the emphasis was on economies of scale; in the 2010s, transnational production, innovation, and product differentiation are more important, as are the digital, knowledge, and service economies (Egan 2012: 407; Monti 2010: 16; Pelkmans 2011: 5).

This has implications for what the single market should be trying to achieve, with less emphasis on common rules and more emphasis on removing obstacles to innovation (Egan 2012: 407; Pelkmans 2011: 5).

It is also arguably the case that it is less clear what needs to be done to revitalize the single market than it was to create it. According to one senior diplomat quoted in the *Financial Times* (8 May 2012), 'Everybody thinks the single market is the answer but nobody knows what to do'. This lack of consensus is evident in the results of the Commission's consultation on the Single Market Act.³ Although respondents could select up to ten of the Commission's fifty proposals as important, none were supported by a majority of the 740 submissions made through the standard online form. There was a similar lack of consensus even among the sixty-four companies and seventy-nine industrial federations that participated. Perhaps reflecting this lack of a clear steer, the Commission's Single Market Act included something for everyone (see Table 5.3). *The Economist's* (20 Oct. 2012: 51) Charlemagne columnist characterized the first batch of proposals as a 'mishmash'. The Single Market Act's proposals certainly lack the oomph of the original '1992' initiative (contrast Tables 5.1 and 5.3).

A third difference from the 1980s is that the political imperative does not seem to be as strong (Pelkmans 2011: 7). The unified patent, which will ensure uniform protection for an invention across the participating member states on the basis of a single application, was the only one of the first twelve priority items that was adopted by the, admittedly ambitious, end-of-2012 target. It was already well advanced in legislative process when the Single Market Act was presented. In addition, it was only adopted by (and thus only applicable in) twenty-five member states, and thus is an example of enhanced cooperation, because Italy and Spain refused to participate as only English, French, and German are the official languages for patent applications (*The Economist*, 15 Dec. 2012). Such intransigence on patents and the belated and faltering progress on banking union (see Box 5.2), although formally a crisis-management measure and not part of the Single Market Act, suggest that politicians are reluctant to make politically difficult compromises even when anticipated gains are considerable.

Lower key policy-making, however, is continuing. Arguing that the financial crisis reveals the costs of weak legislation and enforcement while the ensuing economic crisis has focused attention on the costs associated with regulation,⁴ the Commission (2012c) is pursuing a 'smart regulation' agenda which involves assessing the economic impact of proposed legislation, particularly on small and medium-sized enterprises, and simplifying and codifying existing legislation. It also includes greater attention to implementation and enforcement. In particular, in December 2012 the Commission launched a Regulatory Fitness and Performance (REFIT) Programme to 'identify burdens, inconsistencies, gaps and ineffective measures' (Commission 2012c: 3). This initiative is thus the latest manifestation of the 'better regulation agenda', which has its roots in the Commission's 2001 White Paper on governance (see A. R. Young 2010).

TABLE 5.3 Key actions in the Single Market Act

'Levers'	Single Market Act I COM(2011) 206 final 13 April 2011	Single Market Act II COM(2012) 573 final 3 October 2012
Access to finance for SMEs	Legislation on venture capital funds	Facilitate access to long-term investment funds
Mobility of citizens	Revise system for the recognition of professional qualifications	Develop true European placement and recruitment tool
Intellectual property rights	Legislation setting up unitary patent protection	
Consumers	Legislation on alternative dispute resolution	Revise General Product Safety Directive and adopt Regulation on Market Surveillance
Services	Revise legislation on European standardization system	Revise Payment Services Directive
Networks	Energy and transport infrastructure legislation	Fourth Railway Package, 'Blue Belt' Package for maritime transport, Accelerate implementation of Single European Sky, Action plan to improve implementation and enforcement of Third Energy Package
Digital single market	Legislation on eSignature, identification, and eAuthentication	Common rules on high-speed broadband
Social entrepreneurship	Legislation to facilitate the development of social investment funds	
Taxation	Review energy tax directive	
Social cohesion	Legislation on implementation of Posting of Workers Directive and on clarifying the exercise of freedom of establishment/ services alongside fundamental social rights	Legislation to give all EU citizens access to basic payment account, ensure bank account fees are transparent and comparable, and make switching accounts easier
Business environment	Legislation simplifying Accounting Directive	Modernize EU insolvency rules
Public procurement	Revise procurement directives	Make electronic invoicing standard

Source: Commission (2012d: Annexes I and II). © European Union, 1995–2014.

Policy linkages

The elimination of legal barriers to cross-border exchange has also shifted attention to the processes and conditions under which goods are produced and services provided. Irrespective of other arguments for European policies on environmental and social issues (see Chapters 11 and 13), the preoccupation of entrepreneurs with operating on a level playing field turned attention to the relevance of such rules for costs, competitiveness, and profitability. Moreover, the Commission seems to consider addressing the social and environmental impacts of increased competition as necessary for maintaining support for the single-market project (Commission 2010a: 8–9, 22–4). In addition, renewed efforts to enhance the mobility of workers before and after retirement can have significant implications for the functioning of European welfare states (see Chapter 11).

There have also been higher profile policy spill-overs from the single market. It was invoked to build support for the two big policy initiatives that followed it: economic and monetary union (EMU) (see Chapter 7) and justice and home affairs (see Chapter 15). As we have seen, the crisis in the euro area has now fed back into the single market, creating a new impetus to ‘complete’ it.

The single market also has implications for the EU’s external policies. Single-market rules profoundly affect the terms on which third-country goods and services enter the EU (see Chapter 16; A. R. Young and Peterson 2014). As a consequence of the stringency of many of its common rules and its more general regulatory capacity, the EU is considered ‘the predominant regulator of global commerce’ (Bradford 2012: 5; see also Drezner 2007: 36; Jacoby and Meunier 2010: 306). Differences between single-market rules and those of the EU’s trade partners have now moved to the centre of the EU’s bilateral trade relations, most prominently in the context of the negotiation of a Transatlantic Trade and Investment Partnership (see Chapter 16; A. R. Young and Peterson 2014). Single-market rules have also provided a core framework for relations with the EU’s ‘near abroad’: the members of the EEA, current and former candidate countries, and states participating in the European neighbourhood policy (see Chapter 17; A. R. Young and Wallace 2000). Moreover, the Commission (2007a: 7) advocates ‘expanding the regulatory space of the single market’ by *inter alia* ‘ensuring that European norms are a reference for global standards’. The external significance of the EU’s rules, particularly the single market, have prompted Damro (2012) to argue that in its external relations the EU should be conceptualized as ‘market power Europe’.

Conclusion

The SEM programme represents an approach to policy different both from that within the EU prior to the mid-1980s and from that found in most member states. It is an explicitly regulatory mode of policy-making. As a consequence, new relationships

have been established between public and private actors at the EU level and between actors operating at the national and European levels. This has tended to open up the policy process, although business groups, especially large firms, have a ‘privileged position’, as they do at the national level. There is, however, more likely to be competition among such privileged actors at the European level than within member states.

The SEM has also reduced the dependence of many economic actors on national policy. The scope for national policy-makers to control economic transactions on their territories has become more limited and will remain limited as long as the transnational legal regime of the EU holds together. The resilience of the single market in the face of the financial crisis is testament to this. That is not to say, however, that the political turf has been won by EU-level policy-makers, since the new regulatory mode involves a diffusion of policy authority rather than its concentration at the European level, as the tussle over banking union starkly illustrates. This inclination is likely to be reinforced by the imperatives of regulating an enlarged, and more diverse, single market in which innovation and flexibility are prized.

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

Because liberalization, at least in the short run, creates losers as well as winners, the single market programme has to be seen as an important element of the legitimacy test faced by the EU since the early 1990s. This has been recognized in the Single Market Act’s emphasis on delivering tangible benefits to consumers and citizens. The political implications of the 2008 financial crisis has not totally undermined the idea prominent in the 2000s that less regulation is better, but it has certainly given greater impetus to reregulation rather than deregulation, most starkly in financial services.



NOTES

- 1 Iceland is not a member of the EU, but is a member of the EEA and so was bound by the 1994 directive on deposit guarantees giving its actions EU resonance. In January 2013, the European Free Trade Area court ruled in favour of Iceland arguing that given the systemic nature of its banking crisis it was not liable for its deposit-guarantee scheme not working properly (see S. Browsers, ‘Court rules against UK in £2.3bn Icesave deposit guarantees battle’, *The Guardian*, 28 Jan. 2013).
- 2 Thanks to Dermot Hodson for constructive comments on this box. All errors are my own.
- 3 Available on http://ec.europa.eu/internal_market/smact/consultation/2011/debate/index_en.htm.
- 4 The spring 2013 *Eurobarometer* (Commission 2013b: 59) reported that 74 per cent of respondents thought that the EU generates ‘too much red tape’.