

# The Single Market

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## Reader's Guide

This chapter charts the evolution of the Single Market project, from its original conception in the 1950s, beginning with the Treaty of Rome through to efforts to expand and enforce Single Market commitments in a climate of unfair trade practices and rising economic nationalism. The chapter highlights the tensions and trade-offs between legal and regulatory strategies to integrate markets; the challenges of creating a social market due to internal asymmetries between market integration at supranational level and social protection at national level; and the efforts to facilitate the free movement of goods, capital, services, and labour. The chapter highlights the importance of the Single Market in seeking to promote competitiveness and growth as well as the diffusion of its regulations beyond its borders. It concludes by demonstrating how both traditional international relations theories of integration and newer approaches in comparative politics and international relations, can be used to shed light on the governance of the Single Market.

## 20.1 Introduction

The Single Market is a core element of the European integration process. Within the Single Market project, the EU has sought to promote the free movement of goods, capital, services, and factors of production to ease cross-border trade among member states to try and achieve 'an ever-closer economic union'. Yet the Single Market has evolved considerably in ambition and scope since early efforts to address tariffs and quotas in the 1950s and 1960s. At the same time the European economy has undergone profound structural changes. Yet even though the European Union continues to use the Single Market as a platform for economic renewal, to project international influence, and to address unfair trade distortions and market practices, critics argue that European firms are now less anchored than ever before to the European continent as they prefer to invest in emerging markets so they have shifted their energies outside of the European Union. The result is that European firms are losing ground as banks have retrenched to their home markets so that innovation is hampered by a lack of a unified capital market as differences in bankruptcy rules or tax regimes create structural barriers for many small and medium firms that impede their ability to engage in cross-border trade. While there has been sustained effort to deepen the single market in areas closely linked to the single market through new proposals in, for example, energy, digital, technology, and banking, where member states have often shielded their domestic markets, there are still persistent gaps in achieving the single market (Howarth and Sadeh, 2010; Camis  o and Guimar  es, 2017; *The Economist*, 24 September 2019; Egan, 2020).

In taking stock of what the European Union (EU) has accomplished in terms of internal trade liberalization, this chapter assesses the legal, political, and economic dynamics that have shaped Single Market integration. It focuses on the tensions within the Single Market, the promotion of Single Market rules externally, and the increased salience of the Single Market to address rising economic nationalism and to advance foreign economic priorities. This chapter reviews the state of the Single Market, from its historical origins to more recent efforts, recognizing its economic imperatives as well as its political rationale by highlighting different theoretical efforts to understand and explain the dynamics of market integration.

## 20.2 Market integration in historical perspective

In the space of one year, from the **Messina Conference** in June 1955 to the **Venice Conference** in May 1956, the idea of economic unification among six West European states took root. After months of discussion, what became known as the **Spaak Report** (after its principal author) generated the idea of a new kind of inter-state economic relationship as the basis for treaty negotiations (Bertrand, 1956: 569). This report provided a blueprint for a Single Market in Western Europe, with three main elements:

- the establishment of normal standards of competition through the elimination of protective barriers;
- the curtailing of state intervention and monopolistic conditions; and
- measures to prevent distortions of competition, including the possible **harmonization** of legislation at the European level.

The economic intent of such proposals dovetailed with the **federalist** agenda (Laurent, 1970). Initially, there were visible benefits as the creation of the common market initially boosted European growth and increased intra-European trade in the European Economic Community (EEC) (Egan, 2020). Despite the economic benefits of integration, the single market is also a political project aimed at scaling up political authority to unify diverse markets which can be viewed in terms of power struggles over the rightful locus of authority and the nature of governance (McNamara, 2019). Based on the Spaak Report, the Treaty of Rome (1957) aimed for a **common market** by coordinating economic activities, ensuring stability and economic development, and raising living standards. At the core of the proposed European common market was the creation of a **customs union** (see Box 20.1). This meant that member states would not only abolish all their customs duties on mutual trade, but also apply a uniform tariff on trade with non-European Community (EC) countries. The other measures proposed to promote internal trade liberalization, including free movement of labour, services, and capital, and a limited number of sectoral policies (agriculture, transport, and trade or commercial policy), were to be regulated and managed at the European level.

# BOX 20.1 BACKGROUND: STAGES IN ECONOMIC INTEGRATION

Free trade area (FTA)	Reduces tariffs to zero between members
Customs union	Reduces tariffs to zero between members and establishes a common external tariff
Single market	Establishes a free flow of factors of production (labour and capital, as well as goods and services)
Economic union	Involves an agreement to harmonize economic policies

The transformation of the Community into a common market was to take place over a period of 12 to 15 years, starting with the elimination of customs duties and quantitative restrictions in 1958, and a **common external tariff** in 1968. Internal tariff reductions were also frequently extended to third countries to limit the discriminatory effects of the customs union, which was politically important in the formative period of the EC (Egan, 2001: 41). Membership of the EC meant more than simply a customs union, however, as the 'four freedoms'—the free movement of goods, services, capital, and labour—were viewed as central features of the Single Market. However, the requirements for each freedom varied according to the political circumstances at the time that the Treaty was drafted and were dependent on the willingness of states to incur adjustments so that their domestic market structures and regulatory styles dovetailed with European policies and legal obligations.

Initially, the removal of trade barriers for *goods* focused on the removal of tariffs and quantitative restrictions, and then on the removal of **non-tariff barriers**. This meant dismantling quotas, subsidies, and **voluntary export restraints**, and measures such as national product **regulations** and standards, public purchasing, and licensing practices, which sometimes reflected legitimate public policy concerns, but were often a thinly disguised form of protectionism designed to suppress foreign competition (Egan, 2001: 42). For the free movement of *capital*, the goal was freedom of investment to enable capital to go where it would be most productive. Yet vivid memories of currency speculation in the interwar period meant that liberalization was subject to particular '**safeguard clauses**', frequently used during **recessions**. Free movement of *services* meant the freedom of establishment for industrial and commercial activity—that is, the right to set up

in business anywhere in the Community, on a temporary or permanent basis. However, the Treaty provisions on services contained virtually no detail on what should be liberalized (Pelkmans, 1997). For *labour*, the provisions for free movement meant the abolition of restrictions on labour mobility which was originally designed for workers to take up employment in another EU member state, something that generated concerns about 'guest workers' and whether this policy would be sustainable during a recession and high domestic unemployment.

National governments were receptive to early efforts to eliminate trade barriers and to create a customs union because they were able to use domestic social welfare policies to compensate for the increased competition stemming from market integration. Favourable starting conditions for the European trade liberalization effort were set against the backdrop of the mixed economy and welfare state, which were central components of the post-war settlement to create a 'social contract' that allowed for the creation of an open and integrated system of economic exchange (Tsoukalis, 1997). Yet even with these national policies, it was still politically necessary to provide some sort of financial aid at the European level to ease the effects of competition through basic investment in underdeveloped regions, the suppression of large-scale unemployment, and the coordination of economic policies (see Bertrand, 1956; Spaak, 1956).

Despite post-war economic growth and increased trade among the member states, the prevalence of domestic **barriers to trade** reflected the continued tensions between import- and export-oriented industries as proponents of protectionism wanted to shelter industries while opponents wanted greater market access and internal liberalization. As such the diverse growth models and institutional architectures within the European Union have influenced how member

states regulate production, investment, industrial relations, and exchange. The tension across these distinct political economies began in the earliest years of the European Community around the implied commitment to market liberalization. In the 1960s and 1970s, this meant, on the one hand, stressing the virtues of increased competition and greater efficiencies through reduced transaction costs and economies of scale and, on the other hand, promoting *dirigisme* and intervention by state agencies and nationalized monopolies, resulting in a tension between ‘regulated capitalism’ and ‘neo-liberalism’ (Hooghe and Marks, 1997; see Box 20.2). Such different ‘varieties of capitalism’ across Europe can provide a comparative institutional advantage, for the more export growth models have fared better than domestic consumption growth models in the single market in responding to increased competition and opportunities in the EU (Hall and Soskice, 2001: 15). As a result, from the 1980s onwards, neo-liberal ideas have proved resilient as competitive market institutions were promoted in the Single Market, and member states were pushed to reform labour and product markets to better deal with rapid technological change, integrated supply chains and increased global competition. But under recent pressure of rising economic nationalism, trade tensions with the United States and Chinese distortive market practices, the proposed European response—to push European champions and promote resilient value chains within the EU—again reflects tensions over economic strategies—and the balance between interventionism and competition in the single market.

#### KEY POINTS

- The objective of creating a single European market can be traced to the 1956 Spaak Report and the 1957 Treaty of Rome.
- The Treaty of Rome sought to establish a customs union in Europe.
- The Treaty also sought to dismantle trade barriers among the six original members of the European Economic Community (EEC).
- Distinctive forms of capitalism persist given strong institutionally embedded practices and norms that foster different preferences on market integration.

### 20.3 What is a Single Market?

While Article 26(2) TFEU defines an internal market as an area without internal frontiers for goods, capital, services, and labour, it is a legally ambiguous concept (Weatherill, 2017). Internal markets vary in terms of their scope and composition (Egan, 2015). As such, the nature and governance of the European Single Market depends on the scope of legal and political competences allocated to the central level as well as the degree to which constituent units are permitted to pursue different regulatory policies. To achieve its ambitions, the functional requirements for an internal market include some type of policy coordination or mode of governance (Armstrong and Bulmer, 1998). Two important governance changes took place that helped to set the scene for the creation of a Single Market. The first was



#### BOX 20.2 BACKGROUND: CHARACTERISTICS OF CAPITALISM

##### Neo-liberalism

Market liberalization removes restrictions to trade and market access; it provides a regulatory climate attractive to business and investment.

Regulatory competition among member states leads to competition among different national regulatory policies and pressure for domestic structural reform.

The rejection of greater regulatory power for institutions at EU level; the insulation of the market from political interference; the retention of political authority at the national level.

##### Regulated capitalism

Market intervention: government intervention in market.

Social market economy and social solidarity places emphasis on the welfare state and distributive compensatory politics.

Increased capacity to regulate at European level; the mobilization of particular social groups; the reform institutions to generate greater use of qualified majority voting (QMV); the enhancement of legislative legitimacy and social inclusion objectives.

Source: adapted from Hooghe and Marks (1997).



the emergence of **mutual recognition** as a key principle; the second, the increasing **judicial activism** of the Court of Justice of the EU (CJEU).

Initially, the European mode of governance was **harmonization**. This was to provide a lightning rod for public opposition to efforts to regulate what many felt were long-standing national customs, traditions, and practices (Dashwood, 1983; see Box 20.3). The years of fruitless arguments over noise limits on lawnmowers, the composition of bread and beer, or tractor rear-view mirrors were amplified by a **unanimity** requirement which allowed individual governments to veto specific legislative proposals. This changed when the principle of mutual recognition was introduced. This new mode of governance simplified the rules for Single Market access. Mutual recognition allows member states to recognize regulations as equivalent (Schmidt, 2007). Member states do not unconditionally accept such mutual equivalence of rules, as they

reserve the right to enforce their own regulations on the basis of 'general interest' considerations. Mutual recognition and harmonization reduce the barriers created by national regulations, but at the same time provide a necessary level playing field. Without this, the absence of regulations for product and process standards might lead to a 'race to the bottom' in social and environment standards, as states seek to reduce their domestic measures to attract foreign direct investment and gain significant competitive advantage through **social dumping** where suppression of worker's rights and decreased labour costs creates unfair competition.

The problems associated with addressing trade restrictions through harmonization did not go unnoticed by the CJEU, which has often used its judicial power for the purposes of fostering an integrated economy (see Chapter 13). Indeed, a large measure of the credit for creating the Single Market belongs to the CJEU's judicial



#### BOX 20.3 BACKGROUND: THE SINGLE MARKET PROGRAMME

The Single Market programme involved the removal of three kinds of trade barrier, as follows.

Physical barriers	The removal of internal barriers and frontiers for goods and people
	The simplification of border controls (including the creation of a single administrative document for border entry)
Technical barriers	The coordination of product standards, testing, and certification (under the so-called new approach)
	The liberalization of public procurement
	The free movement of capital (by reducing capital exchange controls)
	The free movement of services (covering financial services, such as banking and insurance, to operate under home country control)
	The liberalization of the transport sector (rail, road, and air; rights of <i>cabotage</i> ; the liberalization of markets and removal of monopolies, state subsidies, and quotas or market-sharing arrangements)
Fiscal barriers	The free movement of labour and the mutual recognition of professional qualifications (including non-discrimination in employment)
	The Europeanization of company law, intellectual property, and company taxation (including the freedom of establishment for enterprises, a European Company Statute, and rules on trademarks, copyright, and legal protection)
	The harmonization of divergent tax regimes, including sales tax
	The agreement of standard rates and special exemptions from sales tax
	Other indirect taxes aimed at reducing restrictions on cross-border sales

activism. Confronted by restrictions on their ability to operate across national borders, firms began to seek redress through the Community legal system. The Court was asked to determine whether the restrictions on imports imposed by member states were legitimate under the Treaty. Member states' restrictions included Italy's prohibition on the sale of pasta not made with durum wheat, Germany's 'beer purity' regulations prohibiting the sale of any product as 'beer' that was not brewed with specific ingredients, and Belgian regulations that required margarine to be sold only in cube-shaped containers to prevent confusion with butter, sold in round-shaped containers. As a result, the Court had the task of balancing the demands of market integration with the pursuit of legitimate regulatory objectives advanced by member states.

Several landmark cases limited the scope and applicability of national legislation. One of the most important cases in this regard was Case 8/74 *Procureur du Roi v Dassonville* [1974] ECR 837. Dassonville imported whisky into Belgium purchased from a French supplier. It was prosecuted by Belgian authorities for violating national customs rules that prohibited importation from a third country without the correct documentation. Dassonville argued that the whisky had entered the French market legally, that it must therefore be allowed to circulate freely, and that restrictions on imports within the EC were illegal. In a sweeping judgment, the Court argued that 'all trading rules that hinder trade, whether directly or indirectly, actually or potentially, were inadmissible'.

National measures that impact trade negatively were therefore prohibited (Stone Sweet and Caporaso, 1998: 118). This was softened by the recognition that reasonable regulations made by member states for legitimate public interests like health, safety, and environment policies were acceptable if there were no European rules in place. The judgment was predicated on the belief that the European Commission should adopt harmonized standards to allow free movement across markets, while at the same time giving the CJEU the opportunity to monitor member states' behaviour and scrutinize permissible exceptions.

In what is probably its best-known case, Case 120/78 *Rewe-Zentral AG v Bundesmonopolverwaltung für Branntwein (Cassis de Dijon)* [1978] ECR 649, the Court ruled on a German ban on the sale of a French blackcurrant liqueur because it did not conform to German standards regarding alcoholic content (see Egan, 2001: 95 and Chapter 13). The Court rejected German arguments that Cassis, with its lower

alcoholic content, posed health risks, but noted that the protection of the consumer could occur by labelling alcohol content. Most importantly, it clearly defined what national measures were deemed permissible. The most-cited part of the ruling suggested 'there was no valid reason why products produced and marketed in one member state could not be introduced into another member state'.

The notion of equivalence of national regulations, which this ruling introduced, crucially meant that harmonization would not always be necessary for the construction of a Single Market. Mutual recognition as a new mode of governance implies that it is only in areas that are not mutually equivalent that member states can invoke national restrictions, practices, and traditions, and restrict free trade in the Community.

In fact, the Court argued that **derogations** from (exceptions to) the free trade rule for the purposes of public health, fair competition, and consumer protection were possible, but that they had to be based upon reasonable grounds. Governments, whether national, local, or sub-national, had to demonstrate that any measure restricting trade was not simply disguised protectionism. Anxious to safeguard the Community-wide market, the Court has continued to determine on a case-by-case basis whether specific laws are valid under the Treaty. However, faced with a growing number of cases, the Court, in Joined Cases C-267/91 and 2-268/91 *Keck and Mithouard* [1993] ECR I-6097, reduced the scope of judicial scrutiny in cases that applied to all traders operating in specific national territory, under certain conditions. Thus, the Court would not examine issues such as Sunday trading, mandatory closing hours, or other issues that had a limited effect on cross-border trade and which reflected national moral, social, and cultural norms.

Case law relating to the free movement of services and rights of establishment is now at the centre of recent legal developments because the 'country of origin' principle is the starting point in assessing restrictions to free movement. In the seminal Case C-438/05 *International Transport Workers' Federation and anor v Viking Line ABP* [2008] IRLR 143, Case C-341/05 *Laval* [2007] ECR I-11767, and Case C-346/06 *Rüffert v Land Niedersachsen* [2008] IRLR 467, the importance of freedom of establishment and services is prioritized over social and collective labour rights in economic integration.

Judicial activism has thus allowed companies the right to choose the least restrictive regulatory environment to allow for more home-country control rules. Scharpf (2010) highlights the constitutional asymmetry that this creates, as these judgments involving efforts to liberalize services challenge national socio-economic models. This results from the predominance of market-based treaty obligations promoting economic freedoms and legal obligations to safeguard against protectionism. The constitutive role of law is crucial in understanding the consolidation of markets. The CJEU has placed state and local laws under its purview to determine whether they are discriminatory or not, balancing the different policy objectives to determine the locus of regulatory authority as well as the extent to which states can differentiate and provide asymmetrical market access due to specific legitimate exemptions and exceptions.

#### KEY POINTS

- The *dirigiste* strategy of harmonization of rules to integrate national markets in the 1960s and 1970s achieved limited results.
- Mutual recognition provided a new mechanism for regulatory coordination and the possibility of mutual equivalence of member state rules.
- Seminal rulings by the Court of Justice have played a key role in challenging non-tariff trade barriers.
- More recent cases, *Viking*, *Laval*, and *Rüffert*, have raised questions about the balance between economic freedoms and social and labour rights.

## 20.4 The politics of neo-liberalism and '1992'

Throughout the 1970s and early 1980s, member state efforts to maintain import restrictions and discriminatory trade practices had thwarted attempts to create a Single Market. By the mid-1980s, however, things began to change. Growing recognition of a competitiveness gap vis-à-vis the USA, Japan, and newly industrializing countries, led to strenuous efforts to maintain overall levels of market activity and provide conditions for viable markets (Pelkmans and Winters, 1988: 6). While past economic policies, notably *neo-corporatist* class

compromises and *consensual* incomes policies, had successfully promoted growth, these national policies were unable to cope with changes in the international economy as trade deficits soared and stagflation increased.

Assessments were so bleak that, on the 25th anniversary of the Treaty of Rome, *The Economist* put a tombstone on its cover to proclaim the EC dead and buried. A growing consensus among business and political leaders that a collective strategy was needed to stop an 'escalating trade war' (*Financial Times*, 25 July 1980) led the European Round Table, the heads of Europe's largest companies, to put forward numerous proposals to improve European competitiveness. Other trade associations flagged problems of industry standards, border formalities, and export licences, France and Italy being the worst offenders. Industry began a campaign of proactive lobbying, ambitious proposals, and visible political engagement (*Financial Times*, 20 March 2001). Responding to this groundswell, the European Commission proposed addressing the most problematic barriers in the member states (*Financial Times*, 23 September 1980; *The Economist*, 22 October 1983).

Governments, cognizant that their efforts to create national champions, protect labour markets, and maintain public spending were not stemming rising trade imbalances and deficits, sought new solutions. Efforts to contain import competition and stabilize industries had failed, shifting strategies from *Keynesian* demand management towards market liberalization. This did not mean a common consensus around neo-liberalism, because different conceptions of the agenda for European integration emerged. While the British advocated a genuine common market in goods and services, and promoted a radically neo-liberal agenda, the French argued for the creation of a common industrial space wherein trade barriers could be reduced internally, provided that external trade protection would compensate for increased internal competition (Pearce and Sutton, 1983). Major steps taken at the 1984 European Council meeting in Fontainebleau broke the impasse, as agreement on the long-running disputes over the UK's contribution to the Community Budget and the pending Iberian enlargement were reached. The *Dooge Committee* was also established to reform the institutional and decision-making structure of the Community.

Agreement at the 1985 Intergovernmental Conference (IGC) in Milan to 'study the institutional

conditions under which the internal market could be achieved within a time limit' proved critical for market integration. This built on several earlier developments, including the **Spinelli Report**, which focused on the need to link national regulations and institutional reform, and the parliamentary draft Treaty on European Union on institutional reform, which included increased parliamentary powers and greater use of qualified majority voting (QMV) in the Council. At the subsequent IGC, the proposed treaty reforms were assembled to become the **Single European Act (SEA)** (see also Chapter 2).

The SEA endorsed the Single Market and altered the decision-making rules for Single Market measures (with exceptions such as taxation and rights of workers) from unanimity to QMV. This linked institutional reforms to substantive goals and made it more difficult for recalcitrant member states to veto legislative action, as had been the case under harmonization. The SEA also strengthened the powers of the European Parliament with respect to Single Market measures by allowing for the rejection or amendment of proposals under the **cooperation procedure**.

#### 20.4.1 A strategic blueprint and agenda: The 1992 programme

By early 1985, newly appointed Commission President Jacques Delors and Internal Market Commissioner Lord Cockfield, a British former Secretary of State for Industry, put together a package of proposals that aimed to complete the Single Market by 1992. The 300 proposals—subsequently modified and amended to become 283 proposals—became a Commission White Paper entitled *Completing the Internal Market*. The final product became known as the '**1992 Programme**'.

The White Paper grouped remaining trade obstacles as physical, technical, and fiscal barriers. Lord Cockfield used this simple categorization to introduce legislative proposals across goods, services, capital, and labour markets to improve market access and prevent distortions to competition and restrictive business practices. The European Commission bolstered support by commissioning a series of economic evaluations on the 'costs of non-Europe' (the **Cecchini Report**, 1988), which was revived in the European Parliament's 2014 report *Mapping the Cost of Non-Europe*. This concept, first pioneered in the 1980s, emphasized trade and welfare gains from removing trade

barriers, as well as efficiency gains achieved through market enlargement, intensified competition, and industrial restructuring. The new Parliament report suggests the European economy could be boosted by some €800 billion—or 6 per cent of current GDP, as the Single Market has yet to achieve its full potential, which could be achieved by more effective application of existing legislation and a deepening of the Single Market.

At the core of the Single Market project is mutual recognition, the consequence of which would be increased competition among intra-EU firms, as well as different national regulatory systems (see Sun and Pelkmans, 1995). Governments sponsoring regulations that restricted market access would be pressured since firms from other member states would not be required to abide by them, putting their local firms at a disadvantage. The European Commission sought to apply this innovative strategy to the service sector as well. The concept of 'home country control' was to allow banks, insurance companies, and dealers in securities to offer elsewhere in the Community the same services as those they offered at home. A single licence would operate, so that these sectors would be licensed, regulated, and supervised mostly by their home country.

Building on the legal decisions outlining the doctrine of mutual recognition as a broad free trade principle and with reference to standard-setting as a more flexible regulatory strategy, the Commission drafted a proposal on harmonization and standards in 1985 (Pelkmans, 1997). This 'new approach' reflected a critical effort to address trade barriers by sharing regulatory functions between the public and private sectors. Where possible, there was to be mutual recognition of regulations and standards, and Community-level regulation was to be restricted to essential health and safety requirements with delegation to European standards bodies as a means of allowing private sector governance to provide business with the standards to comply with European legislation.

The White Paper gained widespread political support by providing a target date for the completion of the Single Market, emphasizing the merits of economic liberalism. It included measures across the four freedoms, such as the abolition of frontier and capital exchange controls, mutual recognition of goods and services, and rights of establishment for professional workers. While the White Paper focused mostly on market access or **negative**



integration measures, such as removing technical trade barriers, dismantling quotas, and removing licensing restrictions for cross-border banking and insurance services, they were complemented by market-correcting or **positive integration** measures, such as health and safety standards, rules for trademarks and deposit insurance, and solvency ratios for banks and insurance (see Box 20.4).

Despite its 1992 deadline, the Single Market remained incomplete. The White Paper avoided a number of issues, such as the social dimension, politically sensitive sectors including textiles and clothing, and taxation of savings and investment income, despite these areas' evident distortions and restrictions. Completion of the Single Market meant tackling politically difficult dossiers and ensuring legislation was implemented in all member states; otherwise consumers' and producers' confidence in realizing economic benefits would be undermined. Nationally important sectors like utilities (for example, gas and postal services) were given special exemptions in the Single Market due to social and economic arguments that 'universal services' must be provided, resulting in natural monopolies and limited competition. With rapid liberalization and technological changes, the traditional economic rationale for such *dirigiste* policies was being undermined. Pressure to open telecommunications, electricity, and gas markets resulted in the Commission forcing liberalization of these basic services through its competition powers. The competition policy pursued by the Commission has reinforced a liberalizing bias within the Single Market—because specific features of restrictive practices, monopolies,

rules governing state aid to industry, and merger policy have played a substantial role in reducing market distortions.

#### KEY POINTS

- Business supports the Single Market and continues to lobby for measures to improve European competitiveness.
- The White Paper on the Single Market created a package of measures to liberalize trade that became the 1992 Programme.
- The Single Market is a 'work in progress', with efforts underway to deepen and widen the internal market in new areas such as the Digital Single Market, artificial intelligence (AI), and the collaborative economy.

## 20.5 Compensatory measures and regulatory adjustment in the Single Market

The pressures of increased competition and liberalization brought pressures for ancillary policies along social democratic lines (Scharpf, 1999). Fearful that excessive competition would increase social conflict, proponents of regulated capitalism (see Box 20.2) recommended various inclusive mechanisms to generate broad-based support for the Single Market. These included **structural policy** for poorer regions to promote economic and social **cohesion**, consumer and



### BOX 20.4 CASE STUDY: UPDATING THE SINGLE MARKET: THE DIGITAL ECONOMY

The rapid growth and diffusion of digital technologies are fast changing global trade. The Digital Single Market represents the latest effort to provide rules for digital content, e-commerce, and online services as restrictions on watching movies online, mobile phone roaming charges, and delivery fees for online purchases hamper cross-border activities. Data localization rules require information held by companies to be held on servers in their home country which restricts data flows, undermining cross-border e-trade in goods and services. The transformation of European economies means that traditional means of market integration through the removal of trade barriers and sector harmonization appears outdated in the context of changes in production, technology, and innovation, and the growth of tradable services.

Take, for example, the collaborative economy which allows users to enjoy cheaper access to a wider variety of goods and services whenever they need them. While existing European regulations were devised for traditional business-to-business transactions, these new platforms impact a wide array of Single Market issues from consumer and labour protection to service and tax provisions. The lack of a Single Market in services has generated increased uncertainty and market fragmentation in the collaborative platforms, with outright bans or burdensome limits to market access in some member states. Thus, *Uber*, the collaborative platform providing alternative urban transportation, has been banned in European cities such as Sofia, Barcelona, or Budapest, but is available in Sheffield, Birmingham, and Madrid.

environmental protection, and rural development. **Fiscal transfers** spread the burden of adjustment and assisted the adversely affected countries. They signalled a willingness to accept further trade liberalization but only in exchange for compensatory measures.

These initiatives acknowledged that the domestic political pressures on national welfare states meant that they could no longer compensate for the effects of integration as they had done in the past (Scharpf, 1999). The goal of regulating markets, redistributing resources, and shaping partnership among public and private actors led advocates of regulated capitalism to propose provisions for transport and communications infrastructure, information networks, workforce skills, and research and development (Hooghe and Marks, 1997). The progressive expansion of activities at the European level brought into focus the two long-standing opposing views about the economic role of governments.

Some have argued that the Single Market has progressively increased the level of statism or interventionism in Europe especially in the aftermath of the economic crisis (Messerlin, 2001; Schmidt, 2007). It is argued that the economic consensus favourable to market forces and neo-liberalism under the 1980s Single Market programme has been offset by increased intervention or regulated capitalism in labour markets (minimum wage and working time), and new provisions for culture (broadcast quotas), industry (shipbuilding, textiles, and clothing), and technology (new energy resources, biotechnology, and broadband networks) in the 1990s and loosening of state aid rules in the 2000s.

Yet these forms of **embedded liberalism** have partly been overshadowed by a growing emphasis on competitiveness in the 1990s, in terms of increased market competition and discipline through the **Lisbon Process**, a collective strategy across different policies wherein the Single Market is central to delivering the goals of growth, jobs, innovation, and competition, and to drive European recovery and the **Europe 2020** strategy. The **Monti Report** sought to frame the Single Market as a mechanism to bolster the social market economy, to help address serious problems related to inequality, productivity, and growth (Monti, 2010). And more recently, this has led to increased intervention as central banks have purchased government debt to assist with liquidity and solvency problems and pandemic aid has cushioned workers and businesses from a severe recession.

## KEY POINTS

- Proponents of regulated capitalism have advocated policies to generate support for the EU, including structural policies and social dialogue.
- The disjuncture between market integration at supranational level and social protection at national level has become increasingly contentious due to concerns that the socio-political legitimacy of the Single Market project has been undermined by the adverse consequences of globalization.
- Fears about the socio-political legitimacy of market outcomes were echoed in the 2010 Monti Report which argued that the social dimensions of the market economy needed to be strengthened in order to strengthen public support.

## 20.6 Swings and roundabouts: the revival of the Single Market

As Europe faces the challenges of making the Single Market deliver, greater attention has been given to enforcement and compliance, as well as promoting growth (European Council, 2020). The European institutions have continuously promoted regulatory reform and more flexible modes of governance, in part motivated by business requests for an easing of regulatory burdens as a prerequisite for the achievement of a Europe-wide Single Market (European Commission, 1992a; Molitor, 1995; Mandelkern Group, 2001). Specific initiatives have included 'Simpler Legislation for a Single Market' (1996), the Action Plan for the Single Market (1997), a scoreboard to generate peer pressure to enhance regulatory compliance (European Report, 28 November 1997), and **regulatory impact assessments**. Yet there remain compliance problems with Single Market obligations in both new and old member states, generating a range of formal and informal mechanisms with which to address the situation (Falkner et al., 2004). While the Commission has actively pursued **infringement proceedings** (under Article 226 of the Treaty), whereby it formally notifies member states of their legal obligations, it has also sought to address the slow pace of standardization, and misunderstandings with the application of mutual recognition in practice (Nicolaidis and Schmidt, 2007). This involves out-of-court informal solutions to complaints by consumers and businesses regarding

the incorrect application of internal market laws, notification of new national laws and standards to prevent new trade barriers, and the new goods package, all aimed at better market surveillance. Business surveys indicate that firms still face obstacles that prevent them from realizing the full benefits of the Single Market (Egan and Guimarães, 2011, 2017).

Recognizing that the Single Market constitutes a key driver for European economic growth, Mario Monti, a former Commissioner and Italian Prime Minister, was commissioned to write a report on how to improve the Single Market in a time of economic crisis. Facing concerns about 'internal market fatigue' and growing nationalist pressures (see Box 20.5), Monti advocated deepening and widening the Single Market, using social benefits to generate public support and renewed momentum, as well as adaptation to new technologies, business models, and market practices (Pelkmans, 2010). Seeking to generate a momentum, the timing of the Monti Report, entitled *A New Strategy for the Single Market: At the Service of Europe's Economy and Society*, coincided with the start of the **eurozone** crisis and was thus largely ignored. The European Commission persisted, however, promoting 12 key areas that ultimately became the **Single Market Act I** (2011), which was subsequently complemented by the **Single Market Act II** (2012).

While Europe has identified the digital economy, patents, the coordination of tax policies, copyright,

and electronic commerce, and deepening services liberalization, the goal of delivering on this agenda was, from the outset, very ambitious given Europe's economic and political climate. The acceleration of economic integration has generated more anti-system politics, driven by the acute financial crisis and economic austerity of the late 2000s that has led to a surge in economic nationalism as the sources of economic and social stress have fostered a protective counter-movement to subordinate the market to political constraints (Hopkin, 2017). Pressure was placed on the Single Market during the financial crisis, as cross-border financial markets disintegrated, and investment was repatriated, creating a credit crunch for some member states, and stringent austerity measures. Though the Commission saw the crisis as an opportunity to put the Single Market at the top of the agenda, as part of a two-tiered response that would promote economic governance and financial market supervision, there was less interest in viewing the Single Market as a response to promote growth and efficiency gains in the aftermath of the economic slowdown and sovereign debt crisis in Europe (Camisão, and Guimarães, 2017).

And with competition rules now being quietly shelved as Europe grapples with the pandemic, the large bailouts can impact the functioning of the Single Market. The vision for Europe has again shifted as France and Germany argue that the real answer



#### BOX 20.5 CASE STUDY: BREXIT AND THE IMPORTANCE OF THE UK SINGLE MARKET

On 29 March 2017, the UK formally notified the EU of its intention to leave the world's largest trade bloc. Attention focused heavily on the options about the future relationship between the UK and EU leading eventually to a Trade and Cooperation Agreement (TCA) in December 2020. The EU stressed the indivisibility of the Single Market. Economic assessments have highlighted the largest impact will be on pharmaceuticals, automotive, engineering, financial, and chemical sectors in the UK due to the loss of Single Market access. Coupled with the prospect of customs checks, rules of origin requirements, and the imposition of levies or tariffs for nearly three million small businesses that are currently exempt, the withdrawal from the Single Market requires multiple new arrangements. The regulation of internal UK trade was not considered a significant issue until Brexit. The British government was concerned that the four nations would have

different rules leading to regulatory divergence and market fragmentation within the UK. The introduction of an Internal Market Bill generated intense controversy as it rode roughshod over the expectations that there would be devolution of specific competences post-Brexit that had previously been managed by the EU. This generated significant pushback from the EU. This is because it violated the terms of the Withdrawal Bill in which Northern Ireland was to be governed by regulatory arrangements that were subject to joint approval by the EU and the UK. The impact of these developments on the domestic market is important as any resultant legislative divergences could create barriers to trade and competitive distortions of competition. Just like the European Single Market, the British government was faced with determining how it would ensure non-discrimination while deciding between harmonization, regulatory competition, or mutual recognition.



is dirigiste industrial policy as open and competitive markets are under pressure. Even though there are efforts to ensure that the Single Market works more effectively on the ground without unnecessary burdens and restrictions, with scorecards, dispute resolutions mechanisms, and now a joint Single Market Enforcement Task Force (SMET) established in 2020, concerns about the uneven application of the four freedoms across member states are not new. The Single Market is not a static process but a continuous system of internal trade liberalization that shapes and transforms both markets and politics. Yet it is a nominal 'single' market as it remains incomplete, subject to the vagaries of politics, even as it has eliminated many barriers to cross-border trade and commerce. Across the four freedoms—of goods, capital, service, and labor—the Single Market demonstrates a pattern of selective liberalization, leading to deep integration of capital and good markets, while lagging in services and labor markets.

#### KEY POINTS

- There has been continued emphasis on improving compliance with Single Market regulations as well as with easing the overall business climate through regulatory reform.
- There have also been ongoing efforts to revive the Single Market such as through the Monti Report and Single Market Acts I and II, which provide a range of initiatives to enhance general macroeconomic performance against a difficult climate of austerity and populist pressures.
- The salience of the Single Market has been enhanced by the Brexit referendum as the UK is faced with the indivisibility of the four freedoms, and the future economic relationship with the EU, against the backdrop of highly integrated supply chains and trade relations.

## 20.7 Globalization, external governance, and the Single Market

Some scholars argue that European integration contributes to globalization because increased intra-European flow of goods, services, capital, and people generate economic opportunities and market openness. Others argue that globalization threatens the European social model, and that the direct impact on national economies requires

coordinated action to manage the tensions and challenges created by increased global competition (see Box 20.6). While much attention within the European Union has been focused on the need to manage the consequences of rising protectionism, while promoting efficiency to ensure greater productivity and ease intra-European transaction costs, debates about managing economic liberalization have now been transferred to the global level. While there are discussions underway about how the EU can generate economic growth through industrial policy efforts, the EU is linking rules on competition, public procurement, and trade defence instruments to ensure fair conditions for domestic European companies operating in the Single Market (European Commission, 2021).

The size of the Single Market has also enabled the European Union to exercise its authority in multilateral trade negotiations and use market access as a 'soft power' instrument to promote economic and political reform in Central and Eastern Europe and the Balkans through **stabilization and association agreements** (SAAs) to, in many cases, eventual EU membership (see Chapter 18). The European Union has allowed non-members through the European Economic Area (EEA) access to its internal market via regulatory alignment and judicial enforcement (Gstöhl, 2015).

As the largest trade bloc in the world, the EU has a leading role to play in international trade negotiations and liberalization, promoting a new generation of FTAs. These cover goods and some services, promoting liberalization through rule making rather than exchange of tariff concessions (Baldwin, 2011). While many argue that across a broad range of sectors, the EU is increasingly shaping global markets through the transfer of its Single Market rules and standards, others point to a limited export of regulatory rules through new FTAs, focusing on regulatory equivalence with international rather than European standards (Damro, 2012; but see Young, 2015). In select cases, the EU has sought to play a leading role by promoting key concepts of its internal market strategy in areas like competition policy, environmental management standards, and food safety leading to what is known as the 'Brussels effect'. For example, the EU pushes its protection of specific food products in trade agreements, known as geographical indicators which protect certain regional products, with



## BOX 20.6 KEY DEBATES: THEORIZING THE SINGLE MARKET

There are different theoretical approaches from various disciplinary perspectives that can explain the causes, content, and consequences of the Single Market (see Pelkmans et al., 2008).

**Intergovernmentalists** (see Chapter 5) claim that the institutional dynamics that underpin the Single Market project were the result of a convergence of policy preferences in the early 1980s between the UK, Germany, and France (Moravcsik, 1991). National interests and policies are expected to constrain integrationist impulses, because state resources, power, and bargaining are the driving factors of economic integration. Garrett (1992) furthers this, arguing that, in important areas of legal activity, the Court was constrained by member states' governments and serves their interests (especially those of the most powerful member states) in rendering its judgments.

By comparison, **neo-functionalists** (see Chapter 4) stress the importance of supranational actors in shaping the Single Market. Sandholtz and Zysman (1989) point to the Commission as an innovative policy entrepreneur shaping the European agenda, supported by business interests seeking to reap the benefits of an enlarged market. Burley and Mattli (1993) argue that Court rulings have resulted in interactions between national and European courts, creating a distinctive legal regime that shapes rules and procedures governing markets. When political attempts to create a common market stalled, the Court advanced its supranational authority over national courts, expanding its jurisdictional authority in order to make a pivotal contribution to the promotion of free trade (see Shapiro, 1992; Egan, 2001; Scheutze, 2017). Cameron (1992) seeks to blend these different theoretical perspectives by arguing that the 1992 Programme was the result of the complex interaction of different actors and institutions, simultaneously accelerating economic integration and supranational institution-building, while also representing intergovernmental bargaining among states. By contrast, van Apeldoorn (1992) argues that market outcomes are the result of struggles between contending transnational forces; and that economic integration reflects the economic interests of transnational capital strengthened by deepening globalization processes and the rise of a neo-liberal market ideology within the European political economy. Conversely, Jabko (2006) focuses on the role of ideas in **framing** the Single Market project, drawing on **constructivist** premises (see Chapter 6) that the market can be strategically used as a political strategy to appeal to various constituencies at different times.

Subsequently, the Single Market process has been examined through the lens of comparative policy analysis. Empirical studies have shown that European policies are a patchwork of different **policy styles**, instruments, and institutional arrangements (Héritier, 1996). Majone (1996) described such changes in European governance (see Chapter 7), as generating an increasing transfer of

regulatory authority to the EU level to reduce transaction costs and to resolve problems of heterogeneity through collective action and coordination. The need to ensure credible commitments has led to burgeoning scholarship on implementation and compliance with European laws and norms (Adam et al., 2020). For Majone (1995), European governance is increasingly delegated to non-majoritarian institutions, such as independent banks, regulatory agencies, and courts, to foster such collective regulatory outcomes, because they are better suited than traditional political bodies, such as parties, legislatures, and interest groups, to achieve the independence and credibility necessary to govern the market. Bradford (2020)—building on Majone's work—claims that the rules governing the internal market create a 'Brussels' effect which shapes global product and consumer markets that ties into the earlier work on 'external governance' (Lavenex and Schimmelfennig, 2009).

Other scholars have sought to demonstrate that the Single Market may not be entirely benign in its consequences as embedding states in transnational markets and regulatory regimes weakens state capacity to govern their national economies (Scharpf, 1999, 2002; Streeck, 1999). While political economists have illustrated how the European **polity's** activism has increased market competition in sectors hitherto shielded from the discipline of the market (Scharpf, 1999), there has been growing attention in comparative politics to the role of public opinion and party politics in intensifying conflict around European policies as the distributional consequences across member states have become increasingly salient (Hooghe and Marks, 2009). Few subjects have generated more debate than the effects of economic integration and globalization on the policy autonomy of governments. Opponents argue that the increasing constraints on national policy choices, especially regarding immigration, increased economic competition and pressures on the welfare states, have, in fact, contributed to the growing opposition among the populace towards further European integration. As Hooghe and Marks (2009) have argued, as important as economic imperatives are, market integration is also the product of politics—most notably, but not exclusively, tensions and conflicts about **sovereignty**, identity, and governance in a multilevel polity. There is a strong relationship between economic and political developments, as the Single Market and its ancillary policies require political support and legitimacy, as well as institutional capabilities and effectiveness (Egan, 2015). While EU capacities have increased in fiscal, administrative, and tax powers through coordination rather than displacement of national powers (Genschel and Jachtenfuchs, 2015), the politicization of core state powers generates conflict and bargaining over institutional power and authority, resulting in growing economic insecurity among domestic publics about the effects of a broader breakdown of economic barriers on national identity, culture, and values (see Chapter 15).

Canada, across Latin America, Australasia, and China. Yet European integration also takes place in a situation of global sourcing of goods and services,

increased tradability of goods and services, and changing patterns of trade and investment as other regional arrangements are evolving.

### KEY POINTS

- Opinion is divided on whether globalization is a threat or an opportunity for Europe.
- The European Union—as a huge trading bloc—plays an important role in the international economic system, as well as being shaped by it.
- The EU uses its different trading relationships to promote its rules and standards, exporting its Single Market governance through a myriad of different trading relationships.
- Once heralded as a model of economic integration, the Single Market is still attractive to neighbouring states, but other regional trade blocs are seeking different options.

## 20.8 Conclusion

While the Single Market is the backbone of European integration, it is still incomplete or even non-existent in some areas, so it has fallen short of its potential. Amid continued efforts to promote productivity and growth, the salience of the Single Market has been enhanced by the negotiations on the UK's exit from the EU, and its insistence on withdrawal from the Single Market and customs union. Nonetheless, the Single Market remains a key component of the European project as the digital economy, collaborative economy, or capital markets union reflect contemporary efforts to address changes in the global economy. In some areas, the Single Market has underperformed, while in other areas it has promoted highly efficient cross-border supply chains. Thus, the Single Market is a differentiated model of integration, with varying modes of governance, and different levels of liberalization across the four freedoms.

Although the Single Market is now well entrenched, its feasibility and effectiveness depend on

two conditions. First, it requires well-defined legal and judicial mechanisms to guarantee **enforcement** and compliance with Single Market rules. Second, it also needs to generate political support and legitimacy for further economic integration. In this respect, the relationship between economic and social rights needs to be re-examined, since viable and sustainable integration is likely to be more successful if economic growth is fairly distributed. For some, the extensive European case law bolsters equity, economic development, and social welfare, expanding social rights to match market rights (Caporaso and Tarrow, 2009). Others stress the primacy of neo-liberalism in generating a populist backlash against the dominance of the market. Most agree however with the need to update Single Market rules to keep pace with the European service-led business economy, and to address the unfair competitive practices from foreign subsidies that cause distortions in the Single Market.



### QUESTIONS

1. What policy instruments has the EU used to address intra-European trade barriers?
2. How successful has the EU been in fostering a Single Market free of restrictions to trade and commerce?
3. What were the driving forces behind the 'relaunch' of the Single Market project in the 1980s and 2000s?
4. How have theories and approaches explained the Single Market programme?
5. What role has the Court of Justice of the EU played in dealing with trade barriers?

6. What new initiatives have been undertaken to further promote the single market? How crucial is enforcement and compliance of single market rules?
7. What are the possible consequences of a British exit ('Brexit') for the UK's own Internal Market?
8. Is globalization a threat or an opportunity for the EU?



### GUIDE TO FURTHER READING

Anderson, G. (ed.) (2012) *Internal Markets and Multi-level Governance: The Experience of the European Union, Australia, Canada, Switzerland, and the United States* (Oxford: Oxford University Press). This book considers the concept of the Single Market in a comparative perspective.

Egan, M. (2015) *Single Markets: Economic Integration in Europe & the United States* (Oxford: Oxford University Press). Offers insights on the consolidation of the EU Single Market by comparing it to nineteenth-century American market integration.

Egan, M. (2020) 'The Internal Market of the European Union: From Indivisibility to Differentiated Integration', in F. Laursen (ed.), *The Oxford Encyclopedia of European Union Politics* (Oxford: Oxford University Press).

Egan, M and Guimareas M.H. (2017) 'The Single Market: Trade Barriers and Trade Remedies', *Journal of Common Market Studies* 55/2: 294–311. Assesses the Single Market in terms of barriers to trade and effective implementation.

Weatherill S. (2017) *The Internal Market as a Legal Concept* (Oxford: Oxford University Press). Examines what the concept of the 'internal market' means from a legal perspective.



Access the online resources to take your learning and understanding further, including extra multiple-choice questions with instant feedback, web links, answer guidance to end-of-chapter questions, and updates on new developments in EU politics.

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