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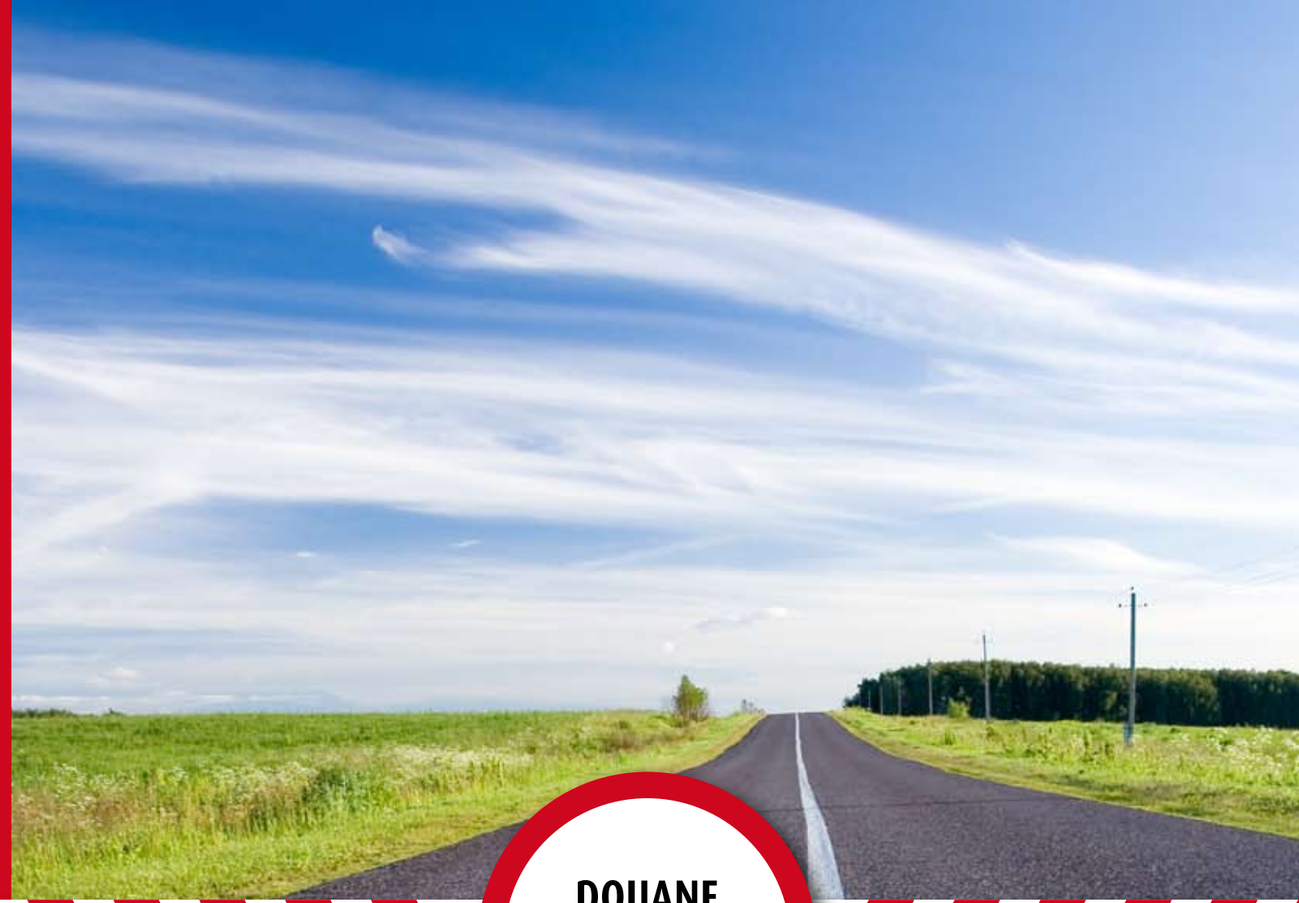

DOUANE
CUSTOMS

WHEN WILL IT REALLY BE 1992?

Specific proposals for completing the internal market

VNO-NCW

VNO-NCW is the largest central business organisation in the Netherlands. It defends the common interests of 175 sector associations whose member companies total more than 115,000. The five affiliated regional employer associations and Jong Management represent 10,000 personal members. VNO-NCW represents 90% of jobs in the market sector.

MKB-Nederland

With more than 186,000 businesses and institutions from 135 sector organisations as well as 250 regional and local business associations, Koninklijke Vereniging MKB-Nederland is the central employer organisation for small and medium-sized businesses. MKB-Nederland coordinates the interests of business people and business organisations in the small business sector and public/private institutions which identify with enterprise, with the goal of strengthening all facets of entrepreneurship.

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Introduction

A single shared European internal market. That has long been an aspiration in the European Union. More than fifty years ago, the European Economic Community (predecessor of the European Union) laid its foundations in the Treaty of Rome. A common policy for trade, agriculture, transport as well as free movement of persons, goods, services and capital. Seen in retrospect, it was only a first step in the right direction. It was another thirty-five years before the Europe 1992 programme was put in place on the initiative of the business community. An ambitious plan to make completion of the internal market a reality. The British former Vice-President of the European Commission Lord Cockfield identified no fewer than three hundred barriers impeding the internal market and set out a detailed time path for removal of these obstacles.

Now, seventeen years later, the single market is only a partial fact. The glass is more than half full. But we are still not there. A missed opportunity. Because the internal market increases well-being and choice for the consumer and businesses. Furthermore, an open internal market makes Europe attractive for foreign investors and trading partners. And completion of the internal market can only enhance the advantages that we already enjoy. CPB[1] recently calculated that integration of the internal market for goods and services can add 17% to gross domestic product in the Netherlands over the long term. Only half of this has currently been realised.

In 2009 Dutch businesses - which have also benefited greatly from the EU - are still struggling with barriers. For instance, rules and requirements which differ from country to country. In a word: the internal market is still not working as well as it should do. The European Commission acknowledges this in its internal market strategy published in late 2007, and makes recommendations for the future to eliminate the differences.
The analysis is right, but policy-makers seem to lack a sense of urgency to take action on the ground. They are not focusing sufficiently on the extent of the negative consequences of different requirements in the member states for the day-to-day management of businesses. And as the number of member states in the European Union increases, the differences become greater and the problem all the more pressing. And hence also the importance of really coming to grips with this situation.

With the inventory in this brochure of specific obstacles encountered by individual firms and sectors in practice, VNO-NCW and MKB-Nederland demonstrate that the internal market is not just an abstract concept for companies. But a matter that affects the day-to-day running of their businesses. Some of the sticking points are stubborn. Other issues can expect to encounter a great reluctance to find a solution among the member states. These probably need to have more time spent on them. But a large number of the sticking points identified can be dealt with relatively quickly. The central question continues to be: when will it really be 1992? It is now time for action.

[1] CPB document no. 168, The Internal Market and the Dutch economy implications for trade and economic growth, September 2008

For the general view of VNO-NCW and MKB-Nederland on the future of Europe, we refer to the brochure Europe can be a winner; 55 recommendations from Dutch business for 2009-2014 (January 2009).

What is still wrong with the internal market?

Seventeen years after the ambitions for completion of the internal market were agreed, businesses still face problems. Clearly, progress has been made in the meantime, but the internal market is a matter that affects the day-to-day running of businesses. Obstacles are therefore visible, so to speak, every day on the shop floor. This also emerges from the inventory (see annex 1) which VNO-NCW and MKB-Nederland based on the experience of their members. The question they were asked is: "What problems do you encounter in the European internal market?" Most important findings: a number of obstacles are due to the absence of European rules, but most problems faced by companies on the internal market are to do with existing European rules. In practice, it transpires that member states interpret and implement European rules differently, despite the fact that this confronts business people different requirements in the various member states. What is striking in this case is that European rules have indeed been put in place to create an internal market, but that the medicine does not always produce an adequate cure.

No European harmonisation

As a result, there is not yet a common internal market in a range of areas. Due to the absence of European harmonisation, for instance. In order to solve cross-border problems, new European measures need to be taken where necessary (open energy market, post market, financial and other services).
An example: in other countries such as France, electricity is cheaper than in the Netherlands because it is generated using nuclear power plants. Dutch energy-intensive industrial firms would like to be able to buy in this cheaper electricity. After all, the cost of energy is an important component in the input costs of these firms. And is therefore a factor for their competitive position.
While the electricity market may have been formally open since 1999, Dutch companies are still unable to conclude a purchase contract with a French electricity producer. The reason: it is not possible to contract a transmission capacity from France through Belgium to the Netherlands. Various causes can be identified for this. Markets are isolated, and there is hardly any cooperation and integration. Furthermore, cross-border transmission capacity is kept small by national grid operators. This is because space in the relevant part of the grid has to be bought in an auction for transmission of electricity from abroad. The proceeds from this auctioning go to the national grid operators. Hence, it is not attractive for them to increase the cross--border capacity. A disincentive in other words.
Incidentally, the fact that space in the transmission network has to be bought in an auction also at the same time makes it unattractive for Dutch companies to buy in their electricity from abroad. The price that has to be paid for this cancels out the advantage of buying cheaper electricity. Work is currently under way via a Brussels master plan for improvement which seeks greater market integration as well as more and better energy transport across borders.

Additional requirements

New additional requirements enacted by member states when they transpose European rules into their national legal order also do nothing to advance the internal market. This 'gold-plating' by individual member states just makes it more difficult to do business at an international level.
For example, the consumer guarantees directives lays down the liability of sellers. If a defect is observed within a period of two years from the date the goods are delivered, the seller is liable.
Most member states have transposed this provision to the letter and therefore also apply the two-year guarantee period in their own legislation. The Netherlands is the only country that has not linked the liability of the seller to a fixed period with the argument that national responsibility must be retained to ensure good consumer protection. But if a fixed period of two years provides good protection for all other European shoppers, why should that be different for the Dutch? The Dutch government must also adopt the period enshrined in the directive so that businesses and consumers in the EU are treated the same. It is not certain whether the general overhaul of consumer legislation ('consumer acquis') currently under way will bring about this harmonisation. The Netherlands should therefore examine how this "Dutch exception" can be removed.

Inadequate enforcement and supervision

Neither is the operation of the internal market advanced when member states inadequately enforce or supervise implementation of agreements reached at European level.
Take the problem of forgery of marking systems, such as CE marking which indicates that a product complies with European rules. In a global and free market, systems such as this need to be policed. European research makes this clear: on 50% of impounded counterfeit products, the CE marking was also simply falsified. A growing problem for industry which can be addressed by simply improving the effectiveness of market supervision. Because if that is not done, European safe and low-energy products will lose the competition with dangerous and less sustainable fakes.

Administrative burden

European rules often lead to a lot of extra red tape. This is not only the result of European regulation itself. It is also generated when it is transposed into the legislation of the different member states. It is projected that the EU as a whole can save at least 130 billion euros by 2012 if serious work is done on reducing the administrative burden by 25%.
Two examples: if a business has paid value-added tax in another member state - i.e. a member state where that business is not established - it can claim that tax back. Not from the tax office in its home country, but from the member state where the value-added tax has been paid. Sometimes the refund comes through quickly. But in many cases the business will have to wait for a long time, even years.
The procedures for having a new product approved for the European market also cause too much bureaucracy and take too long. Thirty months in Europe against six months in the United States.

Specific proposals for completing the internal market

Most problems for companies on the internal market are caused by existing European rules. As already pointed out, that is the most striking conclusion that can be drawn from the inventory. Because in practice member states interpret and implement the European rules differently. This means that business people are confronted with different requirements in the various member states. In addition, directives sometimes offer too much leeway for member states to create waivers or impose extra requirements.

The Dutch business community therefore believes it important that priority is given to focusing all attention on correct implementation and enforcement of European rules. And on reducing the administrative burden on companies. Measures also need to be taken in the area of timely and correct implementation, better supervision and better complaint handling.
In addition, it is important to make steady progress towards finding European solutions for issues which cross national borders such as energy, post and financial services. It is still a condition that member states must implement them unambiguously and reduce high administrative obligations. That requires tackling these issues at source through European rules of good quality which are clear and whose impact has been assessed in advance.
Hence, the concrete recommendation from VNO-NCW and MKB-Nederland is:

1. tackle issues at source: better rules;
2. ensure better transposition of European rules into national legislation: better implementation;
3. improve supervision of compliance;
4. organise more rapid complaint handling and good provision of information.

Recommendation 1: better rules

Good and unambiguous

Improving the operation of the internal market calls for issues to be tackled at source: new European rules need to be of good quality and clear. Only matters with cross-border effects should be regulated. The rest - national matters - should be left to the member states. Administrative requirements should be kept to a minimum. And, last but not least: application procedures should be simple, clear and transparent. In this regard, apply the principle think small first: is it workable for small businesses?

No nationalism

The internal market with its four freedoms of persons, goods, services and capital is the philosophy underlying European internal market rules. At the same time, there is a field of tension with the tendency towards nationalism which is increasing as the European Union expands. On some issues European solutions are inconceivable because member states are unwilling to work towards them.

Correct regulatory instruments

There are advantages in enshrining rules in 'framework directives'. As the name suggests, they offer a good framework for arriving at the conditions and objectives for a level playing field and leave member states free to dovetail the directive into their own legislation. There is a margin to react adequately to local differences and to choose the tools for achieving the objectives. In other words, a framework directive can work well. Think, for instance, of the framework directives in the field of social affairs.
But there are also drawbacks. Framework directives sometimes offer member states too much discretion to impose extra national requirements when the European rules are transposed into national legislation. For instance, toll collection systems are not coordinated across the entire EU. This means that carriers have to incorporate a whole series of 'boxes' for toll collection in their trucks. Because member states make it a requirement to use the box corresponding to their own system for collecting tolls.

In the specific area of environment (water and air), framework directives can even create distortions in the internal market. European objectives are often formulated at the wrong level. Think of the targets which the EU has set for each member state to reduce its emissions of greenhouse gases and improve air quality. Setting targets at that level is detrimental for countries such as the Netherlands. The EU fails to take account of the fact that some member states are more densely populated than others, are more intensively built up and have more industry. Those countries must make a relatively greater effort to meet the targets. This creates an uneven playing field which harms companies active in countries such as the Netherlands.
The need to protect air quality is beyond dispute for the Dutch business community. But if justice is to be done to the internal market principle, European targets must be set at the company level. Therefore, not at European level, but European standards for each system or product. These tackle the cause of the environmental problem at source ('European source measures'). In other words, not an emission ceiling for a particular region, but the same emission standard for similar systems or per product.

In order to avoid an uneven playing field, regulations are preferable to directives in certain cases. This is because a regulation is directly applicable in the member states and therefore leaves no room for different national embellishments.

Consistency

Improving European rules goes hand in hand with creating more structure. Rules must form a consistent whole, comprise no overlaps and be based on the same assumptions.
An example of legislation which takes account of these points is the so-called REACH regulation, the European rules for registration of chemicals and management of risks when these substances are used. Lists of substances in other directives should be avoided.

Impact assessment

In all phases leading to adoption of new European legislation, more attention must be paid to the consequences in the area of implementation and enforcement (e.g. in an impact assessment). Awkward questions and possible consequences of projected regulation must be examined and not swept under the carpet, so that they can be resolved during the implementation phase. A reliable assessment of the impact of policy choices in terms of costs as well as the positive and negative consequences is important in the genesis of new

rules. The Commission is working on improvement of the impact assessment procedure. For some time every legislative proposal emanating from the EU has had to be accompanied by an impact assessment of the social and economic consequences. Commission directives have been widened to encompass competition effects and greater emphasis is placed on stakeholder consultation. The Commission has set up an internal impact assessment board to guarantee quality. The business community calls for an external assessment and more transparency, with the draft impact assessment report being published for comments.
But it is not only the European Commission that has to concentrate on the consequences of proposed rules. This is also applicable for the European Parliament and the Council of Ministers. They are partners in the legislative process. The impact of the amendments they table must also be evaluated for their impact and to see whether the proposals are workable. Another impact study will have to be incorporated to this end. For instance, through impact assessment boards set up by the European Parliament and the European Council.

Recommendation 2: better implementation

No national exceptions

The member states must exhibit more responsibility when implementing the internal market. In part by minimising the discretion for national exceptions and imposing extra requirements when new European rules are being negotiated, and in part when they transpose these rules into national legislation. In addition, the directive must comprise a reasonable timetable for its implementation by the member states.

Good interpretation

When EU rules are transposed into national legislation, it is very important that member states interpret the legislation properly. Good communication and cooperation between Commission ('legislator') and individual member states ('implementer') is important for this. Furthermore, transparency about progress and elaboration by individual member states is essential (e.g. by means of a scoreboard). National exceptions and 'gold-plating' must be limited.

Mutual recognition

The functioning of the principle of mutual recognition in non-harmonised areas must be improved.

More supervisory powers

Lastly, the European Commission - as legislator and guardian of European rules - should be given more powers to effect correct implementation and enforcement of internal market rules. To that end, sufficient resources and personnel should be made available (see also recommendations 3 and 4).

Recommendation 3: better supervision

When European rules are being drawn up, hardly any attention is paid to how supervision of enforcement of those rules has to take place. The exception is competition, where the European Commission plays a clear role and has direct powers for enforcing competition

rules. But beyond that, European policing powers are very limited. Supervision is decentralised, i.e. carried out by the member states. The enforcement bodies in the member states differ in the degree of independence, reach, scale and tasks. As a result, implementation and enforcement of European rules are too limited. And this despite the fact that clear and good quality policing is essential for a fair market situation.
Take the telecoms market (and also the energy market). In these markets, the same players operate in different configurations in various member states, but the position taken by the government is different in each country. For instance, the Netherlands does not grant any special treatment for the dominant national operator, whereas other countries have taken measures which confer advantages on the dominant national operator. As a result, the latter can operate under different conditions from other operators, both on the domestic market and elsewhere. This amounts to an uneven playing field despite the fact that, formally, there has been a free European telecoms market since as long ago as 1998.

Supervision guarantee

Within the framework of the EU better regulation programme, the Commission has to take concrete actions in order to guarantee systematic supervision when European policy and rules are being drafted.
In this context, the Commission has produced guidelines which the Directorates-General are supposed to follow when designing new rules. The central question here is whether the rules are a proportionate response to the problem and whether intervention by the authorities is necessary. Insufficient attention is paid to supervision and harmonised implementation by member states. This situation should not continue. The method followed by the European Commission when it introduced the European Pollutant Release and Transfer Register deserves to be repeated. Member states and companies were obliged to register, report and publish emissions to water, soil and air in a European register. Despite the fact that the instrument chosen was a regulation, the business community pointed out that implementation would still raise many practical questions. For instance: how to measure and using which criteria. For this reason, the Commission prepared a manual with guidelines for implementation in order to obtain reliable and comparable data necessary for ensuring compliance with European rules.

Commission as watchdog

The European Commission must monitor closely to ensure that member states implement European rules correctly. Correct implementation of European rules is essential. For instance, in order to prevent formerly state-owned undertakings from enjoying a dominant position thanks to positive discrimination on the part of their national authorities (example: telecoms market).
The Commission has a range of 'hard' (infringement procedures) and 'soft' (internal market scoreboard) instruments at its disposal for enforcing compliance. The business community supports this two-pronged policy but believes that the Commission must operate more rapidly and more actively to ensure that European rules are correctly transposed into national legislation. As things currently stand, the Commission closely monitors implementation from the very first moment only in the case of far-reaching or administratively 'difficult' European rules. But in many cases, the Commission waits until the deadline has passed before verifying that the member states have implemented European rules, and almost never comments on how they have done so.

For instance, the European Commission is working on creation of a European care market. This also calls for a simplification of procedures and conditions under which competent bodies (e.g. care insurers) can give consent for their policyholders/patients to have treatment in another country. The European Union must ensure that this simplification actually takes place without this increasing the costs borne by Dutch care insurers. Exceptions to give preference to national care systems must be strictly limited. In connection with application of internal market rules, it must be clear which country is responsible for supervising the delivery of specific health services. For instance, thought can be given to continuity of care when a patient is transferred to another member state for a specific medical treatment and is then returned to his or her own country.

More cooperation

At the present time the individual national supervisory bodies perform their tasks in different ways. An example: with a view to healthy workplaces, Europe has rules to keep exposure of workers to carcinogens to a minimum. Employers support this policy, but encounter significant differences. For instance, diesel engine emissions have been placed on the list of carcinogens in the Netherlands, whereas this has not been decreed at European level. Hence, it may be the case that these substances are not regarded as carcinogens (in law) in other member states. In the case of cross-border problems, the relevant national bodies have to act, with the risk that companies will have to content themselves with an unpredictable compromise in each individual case.
Therefore, there must be more cooperation between national supervisory bodies and enforcement agencies so that European directives are applied consistently in all member states.

European supervision

In network sectors such as energy, European supervision is more self-evident than supervision by a national body as is currently the case. Moreover, these sectors would benefit from having an independent supervisor. Not from having a supervisor sponsored by the Directorate-General responsible for the policy.
But a central supervisory body attached to the European Commission would not be politically feasible at the present time. Member states are not yet ready to transfer their enforcement tasks to the EU level. The aim should therefore be to have a coordinating competence assigned to the European Commission which is implemented at decentralised level in the member states by national regulators. To that end, coordination as well as exchanges between national supervisory bodies is essential.
As long as there is unevenness in the European internal market, there could be great pressure on the Dutch government to correct the unevenness. For instance by treating Dutch companies better than their foreign competitors and lobbying foreign governments to give preferential treatment to Dutch companies operating in their countries (tax facilitations, regulatory holidays, maintained advantages of frequency allocation). But only for a short period. It is important to use the innovative capacity of the EU as a whole if innovative experiences in one country can be applied in another.

An example: a Dutch bank or insurer is active in several European countries via local subsidiaries. Capital and risk management is coordinated from the head office in the Netherlands. As things currently stand, licences have to be organised, reports have to be submitted, solvency has to be demonstrated and supervision has to be undergone separately

in each member state where the bank has an establishment. Ideally, there would be a single central European supervisor. This does not seem possible, for instance because of differences in jurisdiction of enforcement bodies and rules. For that reason, the sector is provisionally working for a so-called group supervisor (which takes the lead). The place where the bank's or insurer's head office is established determines which is the lead supervisor. This requires a change in the way supervisory bodies think and a building of trust between supervisors from the different member states (jurisdictions). For every bank or insurer active in more than one member state, a (lead) group supervisor would have to be designated which is responsible for supervising the activities of the entire group. In order to ensure that this approach works, local supervisors must work together and information must be exchanged between the group supervisor and the local supervisor. Under this concept, it is not acceptable for a local enforcement body to be able to overturn decisions taken by the group supervisor. However, this model has encountered resistance, in particular from member states whose local markets are dominated by the subsidiaries of Dutch banks and insurers.
The business community supports the envisaged European cooperation agreed in September between national supervisors via a future committee of regulators which decides on a majority vote. The current credit crisis illustrates that progress needs to be made on close cooperation between regulators on global financial markets.

Global coordination

Some issues go beyond the European market and call for global coordination. For European companies listed on American securities exchanges, it is not only important that uniform requirements apply in Europe (International Financial Reporting Standards) for producing financial information. But also that they can use the annual accounts they prepare on the basis of IFRS on American securities markets. These companies' annual accounts currently have to be drawn up separately in accordance with US-GAAP to comply with American rules. It is expected that the American regulator, the Securities and Exchange Commission (SEC), will be able to accept annual accounts based on IFRS as soon as there is coordinated supervision of financial reporting at European level.

Recommendation 4: more rapid complaint handling and good provision of information

Rapid handling of complaints about internal market barriers is a necessity for companies. The procedures are presently so expensive and time-consuming that companies could long have been bankrupt before the infringement procedure has been completed.

Better awareness of Solvit

When a government body applies European rules wrongly, companies (and citizens) can lodge a complaint with the European Solvit complaint service. An agency that has been set up in each member state within the competent ministry. In the Netherlands this is the ministry of Economic Affairs. The complaint has to be settled within ten weeks. The Solvit complaint handling initiative needs to be given a higher profile among business people in the member states, in part through good and visible results. In addition, sufficient human resources must be ensured for Solvit. That is the case in the Netherlands, but it is mainly the large member states that have deficiencies in this area.

Introduce accelerated procedure

In itself, Solvit is an excellent instrument for 'easy' cases where what is generally sought is a practical solution for application of legislation. But it is less suitable for politically sensitive matters. These are still dealt with via the (long-winded) infringement procedure before the European Court of Justice.
It is therefore necessary to have more rapid procedures before the European Court of Justice (perhaps via a separate chamber of the Court). Manpower and financial resources need to be made available for this purpose. Furthermore, the European Court of Justice must deploy the legal remedy of financial damages more and more visibly against member states. Thought could also be given to awarding financial damages earlier in the process.

Better information

A great deal can also be improved using customised provision of information. In the framework of the services directive, one-stop shops will be put in place in all member states from 2010. These will provide information to service providers. These information points must be more than just virtual windows, but genuinely support business people by making foreign markets accessible.

ANNEX 1

The sticking points

Rules which still differ too much between countries in the absence of European rules

Tax, customs

- Reasons for introduction of a **common consolidated corporate tax base (CCCTB)** are a reduction of administrative obligations and cross-border offsets of losses, avoidance of transfer pricing issues. Harmonisation of the tax base is desirable, but there should not be a simultaneous harmonisation of rates. Moreover, use of CCCTB should be optional.
- Draft directive and draft **regulation on the VAT treatment of insurance and financial services**: the aim is to offer market participants and national tax authorities more legal certainty and to reduce the consequences of hidden VAT for the costs of these services. Different rules in some EU member states have to be avoided.
- In most countries national post undertakings (incumbents) enjoy an **exemption from VAT** which is based on their old position as a state-owned organisation and provider of a monopoly public service. This situation has now changed, but the VAT directive has not been modified. Competing post businesses which are liable for VAT therefore operate at a considerable disadvantage vis-à-vis a large group of customers that is exempt from VAT (financial institutions, government agencies and charities). The solution (scrapping the VAT exemption) was formulated by the Commission back in 2002 with the support of the European Parliament. This solution was blocked in the Council by a pair of large countries because the current arrangements are favourable to their national post undertakings. The Commission has now initiated infringement procedures against Germany and the UK on the basis of existing VAT directive. The long procedure does not really offer any real economic solution in relation to investments already made by a number of businesses in the 'free' post market.

Consumer policy

- Since the European Union links new rules in the area of design criteria for electronic products to article 175 of the European Treaty, it is opening up the door to large differences between European member states. Directive 2005/32/EC on the **eco-design of energy-using products** sets out a harmonised legal framework for design criteria. However, the waste framework directive and the directive on waste electrical and electronic equipment undermine this harmonised framework and hence impede the operation of the internal market. It is important to insist on an unambiguous harmonised framework for energy-efficient product design.
- Industry is highly dependent on the **services sector** (e.g. financial services, transport, network industries, services such as maintenance). As the European consumer becomes more mobile within the EU, the call for cross-border service networks is becoming louder. The absence of a free services market hampers not only service providers

themselves but also the customers for services, i.e. manufacturing and other industries. A further liberalisation of the services market as well as the infrastructure market (energy, transport, telecoms) is necessary. Given that the citizen has become more mobile, the demand for transnational service networks has also grown, for instance because goods are often bought in combination with a maintenance contract. Correct implementation of the EU services directive (2006/123/EC) from 28 December 2009 will be a step in the right direction.

Energy and environment

- In other countries such as France, **electricity** is cheaper than in the Netherlands because there it is generated using nuclear power stations. Dutch energy-intensive industrial firms would like to be able to buy in this cheaper electricity. While the electricity market may have been formally open since 1999, Dutch companies are still unable to conclude a purchase contract with a French electricity producer. The reason: it is not possible to contract a transmission capacity from France through Belgium to the Netherlands. Various causes can be identified for this. See complete text on page 7.
- There is a **lack of harmonisation of implementation requirements**, e.g. linked to the carbon emission trading scheme. This scheme comes with a range of monitoring, measurement, registration and verification requirements. Brussels sets out the broad lines, but the member states fill in the finer details. This generates burdensome differences for intra-Community traffic. This is a recurring problem with several major framework directives including the water framework directive, the air quality directives and Natura 2000.

Financial services

- At the present time an **insurer with cross-border operations** is subject to separate supervision by local regulators in each country where it has an establishment. Among other things, it has to arrange licences, submit reports, demonstrate solvency and accept supervision. In practice, this seriously impedes the operation of the internal market. The solution is that for each group a (lead) group regulator has to be designated which is responsible for supervising the activities of the entire group. To this end, it is important that local regulators work together and that information is exchanged between the group regulator and local regulators.

Transport

- **Single European Sky**. Air traffic control in Europe is currently a patchwork of 36 states which all have their own systems which are spread across 67 air traffic control centres (civil and military). This means that aeroplanes in Europe flying from A to B often take unnecessarily long routes as they move from one system to the next. This causes a great deal of irritation for passengers, generates extra costs for airlines and is also certainly not good for the environment. With the expected growth in air traffic, delayed flights can only become more frequent. The Commission has made a start on reforming this patchwork and creating a 'Single European Sky' (SES), but no real progress has yet been made due to resistance from a few member states and air traffic control organisations. Experts have calculated that establishment of the SES will produce a 10 to 12% saving on fuel consumption and therefore also on CO2 emissions. In July 2008 the European Commission came forward with new legislation which is intended to give further shape to the SES. Member states are invited to offer their full support. KLM is a major

advocate of rapid introduction of the SES. KLM already takes its responsibility vis-à-vis the environment very seriously, witness the large investments in an energy-efficient fleet, a whole range of operational measures and technical modifications to equipment, and is a supporter of a workable European system of tradable emission allowances. It cannot be the case that governments take no action to establish a SES. They have the key in their own hands.

- **European guidelines for state aid in ports:** The European Commission acknowledges that tasks of port managers can be performed better if there is adequate autonomy. Financial autonomy is a requirement for efficient allocation of investments and ultimately for the development of ports. In some markets, there is robust competition between a limited number of ports. The state aid guidelines tabled in 2008 are designed to enhance the European level playing field. State aid to hinterland transport must also not have the effect of distorting competition.
- **MOT tests** may only be carried out in the country of registration. Lorries often have to drive back specially (empty) from abroad to the Netherlands for this purpose. The same also applies for passenger cars. It must be possible to arrange valid MOT tests anywhere in the EU.
- The Commission has published a **best practices directive** for cargo insurance. Germany is the only member state that applies several, much stricter rules which are very unclear. The situation is very confusing and leads to fines on a daily basis. The same minimum requirements should apply throughout the EU.
- Lorries which transport **hazardous substances** are often inspected en route. Five inspections during a journey from the Netherlands to Bulgaria is not unusual. Following each inspection, a clearance declaration is issued which is not accepted elsewhere. Identical inspections are carried out again. Inspection declarations should be mutually recognised and the concepts of 'hazardous' and 'waste' need to be clarified.
- Foreign **lorry drivers** have to pay **fines** on the spot, unlike resident drivers who can pay in arrear. Foreign vehicles are often immobilised for hours at a time until the fine is paid. This disturbs international road transport and sometimes leads to claims from customers. Take measures so that foreign drivers can also pay fines in arrear.
- Due to increasing internationalisation of road transport and logistics, there is a growing need for carriers to **use each other's equipment** (e.g. hiring in). The current EU rules do not allow this. Make this possible.
- The **capacity of infrastructures** must be adequate to process the trade flows associated with a good internal market. The TEN programme (trans-European networks) must be geared to this aim. Also desirable is a further liberalisation of transport markets, interoperability of toll systems and smoother customs clearance in ports with ICT applications.

European rules that are not applied (implementation and enforcement)

Labour relations

- Application of the posting of workers directive still poses problems in practice for companies wanting to take advantage of international **labour mobility**. The information that member states have to provide on the labour law and working conditions applicable to service providers from other member states is sometimes difficult or impossible to access. The European Commission also recently urged that this information provision must be improved. The Commission should work with the member states to improve the accessibility of information.
- On **posting** of workers to another member state, the following elements sometimes also constitute an obstacle:
  - The extensive administrative obligations imposed by a member state on foreign service providers so that they can perform inspections to ensure that national legislation is complied with. While recognising that inspections must be carried out properly, it is important to limit the obligations on foreign service providers to the minimum necessary for these inspections to be performed.
  - The practice of some member states whereby all the working conditions agreed in collective labour agreements are declared applicable to posted workers and not to limit them to core working conditions as specified in the posting of workers directive (e.g. collective labour agreement covering the cleaning sector in Belgium).
  - Imposition of levies agreed in collective labour agreements on foreign service providers, e.g. for bonuses for loyalty to the sector (loyalty stamps, construction sector in Belgium, 9.12%) or for a holiday bonus (holiday stamps, construction sector in Germany, around 14.5%). If the working conditions in the Netherlands are at least comparable to those in countries such as Belgium and Germany, it often proves difficult if not impossible to obtain an exemption from these obligations. Furthermore, applying for such exemptions generates a large administrative burden.
  - According to the posting of workers directive, member states can also impose additional obligations on foreign service providers 'where these constitute provisions of public policy'. Some member states interpret the concept of 'public order' very broadly. The Commission must ensure that the posting of workers directive is implemented and applied correctly, and that unnecessary obstacles for the internal market are eliminated.
- In general terms, it is very important that **cross-border mobility of workers** is promoted. Hence, when new European and national rules are being drafted, they must be tested for their impact on mobile workers.

Consumer policy

- The **eu consumer guarantees directive** stipulates that sellers are liable when a defect (or non-conformity) is observed within a period of two years from the date on which the goods were delivered. Most member states have transposed this provision to the letter and apply two years in their legislation.
  The Netherlands is the only EU country that has not linked the liability of the seller for

deficiencies in the product to a fixed period. Hence, the Netherlands must examine how this 'Dutch exception' can be removed. For complete text, see page 8.

- The current European provisions relating to **labelling** are now specified in the following directives:
  - 2000/13, general labelling provisions
  - 90/496, nutritional value labelling
  - 87/250, alcoholic drinks, alcohol content
  - 94/54 derogations from certain provisions of 79/112 (superseding 2000/13).
  - 2002/67, obligatory labelling for quinine/caffeine, etc.
  - 608/2004 labelling for products with phytoserols
  - 2004/77, labelling for products with liquorice or liquorice extract.

  The Commission intends to combine all these directives in a regulation. In theory, this will not only provide greater clarity simply because all the provisions will be in the same place, but it is also beneficial because it will remove the possibility for member states to set various requirements at national level. However, this does not mean that enforcement by member states will then be equivalent. Implementation of certain provisions (primarily on rounding differences or margins; think of natural variations in nutritional content which is not the same in every product and every year, but labels are not modified during the season) are still a national competence with all the associated problems.
- **Categorising products as diet products for medical application**
  This relates to national legislation after transposition of EU directives 1999/44, 2006/34, 2001/15 and 1999/25. Certain countries regard some products fairly rapidly as special/medical foods to which stricter provisions apply. Other countries regard such products as 'normal' food, which means that they can be marketed normally, without the stricter provisions. A draft regulation drawn up by the Commission and member states could offer a solution because it clearly stipulates how to assess whether or not a product constitutes a special food.
- In a global and free market, marking systems (e.g. CE marking which indicates that a product complies with European rules), need to be monitored because misuse is an open invitation. For instance, it emerged from an impact assessment for the Internal Market Package for Goods that in 50% of impounded counterfeit products the CE marking was also simply faked. In order to come to grips with this growing problem of falsification, the **effectiveness of market supervision** will have to be greatly improved. If this does not happen, our European safe and energy-efficient products will lose the competitive battle with dangerous and less sustainable fakes.

Energy and environment

- According to the **waste framework directive**, the member states must maintain a registration system for all companies which collect or transport waste, or brokers or dealers working with waste. Member states have implemented this directive in very different ways, so that large differences in registration and in the associated requirements have developed. All requirements which member states impose over and above those set out in regulation 1013/2006 must be scrapped.
- Under EC regulation 259/93, **exporters must apply for a licence** from the Dutch government (ministry of housing, spatial planning and the environment) in order to export used tyres, with the aim of preventing possible dumping of waste. The problem is that the confidential information provided in the application for an export licence (name,

address of supplier and customer, weight of exports over one year) is made available to the public by the ministry via a website. Only Finland also publishes in this way. The Netherlands, should not make the data publicly available or only after three years (as in other member states) so that the information is less competition-sensitive.

Financial services

- The aim of implementing the **capital requirements directive** is that there should be genuinely consolidated supervision in the EU, a level playing field between institutions and the removal of barriers to cross-border consolidation. In practice, implementation has insufficiently led to further integration of prudential rules within the EU and even to market fragmentation. Better implementation and enforcement of the directive is desirable.

Animal imports

- Directive 2006/88 regulates **imports of tropical and other fish with respect to infectious diseases**. The directive sometimes addresses theoretical risks and also works on the basis of generic lists (not by species, as recommended by the World Organization for Animal Health - OIE). The result is that the EU has an unnecessarily long list of risks and risk categories. The EU should first determine for itself on a scientific basis what the risks are and apply the system recommended by OIE.
- Dutch implementation of the EU regulation (1997/338) enforcing CITES (Convention on International Trade in Endangered Species) has a restrictive effect on **Dutch animal imports**. The Dutch scientific committee that can advise on the import of certain animals is formulated in such a way (laid down in the Dutch flora and fauna law, article 82.3) that, in contradiction with the intention of the EU regulation, it argues essentially from the angle of protection of nature and not from the angle of facilitating trade in protected animals. This acts as an obstacle to Dutch imports, whereas neighbouring countries look at what trade movements are possible without endangering the continued existence of the species in question. Hence, the flora and fauna law should be brought into line with the European regulation, with newly appointed neutral specialists in the scientific committee giving advice which does not unduly hamper imports of certain animals.
- Implementation of EU directive 1997/78 by the Dutch food and consumer product safety authority (VWA) hampers **imports of tropical fish**. Under the European rules, the exporter may not send diseased animals into the EU and he is obliged to inspect all animals on this point prior to shipment. Since the last inspection takes place after the veterinary surgeon in the country of export has signed the health certificate (including the size of the shipment, it may be the case that the number of containers of tropical fish actually shipped is smaller than the number indicated on the certificate. VWA accepts a deviation of up to 5%. In the case of greater downward deviations, the fish are impounded and a new certificate is required. The consequence is that the containers of fish that have arrived in the Netherlands and which are covered by a health certificate are not released because the number is smaller than shown on the certificate. This causes welfare problems for the animals and delays which increase costs. The Netherlands is unique in this policy. The containers which have arrived should be released on the basis of the health certificate and a new certificate should be required for containers which arrive later.

Transport

- A lack of clarity in important parts of the rules makes it impossible for animal shippers and the Dutch government to comply in full with the **animal welfare regulation**. Consultations are under way with the Commission to identify solutions.
- **Different toll systems**: directive 2004/52/EC gives member states too much discretion to introduce toll collection systems which are not completely interoperable. For instance, the German and Austrian system is operable in technical terms, but this possibility is not used by the contracting parties.
  The directive also offers too much leeway for member states to create exceptions, as in article 1 paragraph 2 which stipulates that the directive does not apply to local levies or for which there is no electronic collection method in place. Companies have to buy a separate system for each member state and keep separate records. As a result, the driver's cabin is so packed with different toll systems that the situation becomes difficult to manage and unworkable. Back in the office, people are kept busy full-time dealing with all the different invoices. The member states must be obliged to grant interoperability not only on paper but also to apply it in practice. Interoperability means that a company only has to purchase a single system that applies for all EU countries and which you can use to pay across Europe.

Competition

- Decentralisation of **competition policy** results in interpretation differences and divergent judgements in the various member states.
  In the area of retail trade, existing or proposed national laws governing 'misuse of economic independence' are often unclear and leave too many discretionary interpretation powers to national competition authorities. Such a legislative proposal was recently approved by the Latvian parliament. This proposal proscribes contractual provisions in contracts with suppliers which are unreasonable and unjustified. Nowhere in the proposal is it specified what is meant by unreasonable or unjustified. In addition, such provisions are standard in retail supply relationships. This might relate to sharing the costs for advertising a product in shops or the price that a supplier has to pay to be able to display his products for sale on the most accessible shelves. Similar legislative proposals have previously been discussed in the Czech Republic, Slovakia, Poland, Lithuania and Hungary.

Post

- **Implementation of post directive:**
  2011 is supposed to see complete liberalisation of the European post market on the basis of the post directive amended in February 2008. With the scrapping of the right to a monopoly area, existing post businesses - often supported by their governments - are looking for other protective constructions. Some countries have already made it known that they will attach conditions to licences which are similar to the conditions which the universal service provider (the existing undertaking) has to meet; for instance, deliveries five days a week, national coverage, price regulation, working conditions. This improper use of licensing conditions claims to create a level playing field but in practice means that new post businesses cannot differentiate and will be unable to operate in an innovative manner or compete against the advantages of scale enjoyed by the existing national post business. The solution can be found in express flanking (and monitoring) of implementation of the directive by the Commission. But the question is: to what

extent can the Commission impose this solution without having to wait years for the outcome of slow-moving infringement procedures.

- **Sectoral 'minimum wage' in Germany:**
  The German post undertaking and a number of insignificant small players have agreed a sectoral minimum wage (9.80 euros) which is 30% higher than the demand from the same trade union (Ver.di) for a national minimum wage (7.50 euros). The German government has declared this collective labour agreement valid for the entire sector, on the basis of a law designed for a different purpose. It means that the costs for new post businesses will increase by 20-25%. PIN A.G. has suspended payments. TNT Post has frozen investments and is considering withdrawal depending on legal developments. The solution is to declare invalid the German state's declaration making the agreement binding or the agreement itself because the German post undertaking is abusing its dominant position (inter alia, exclusion of TNT Post from negotiations). TNT Post and PIN have their own collective labour agreement with their employees with a minimum wage of 7.50 euros; they offer attractive part-time jobs for which no training and little instruction is needed.
  In the Netherlands there is talk of a starter model for new post businesses to bring the conditions in work contracts for part-time jobs up to the statutory minimum wage (currently paid on the basis of conditions for the self-employed; costs 30% lower than the minimum wage). In Germany TNT pays the national minimum wage for the sector or more and will now be obliged to pay 30% more from one day to the next.

Privacy protection

- Some rules In the area of **privacy protection** have a different legal effect in different member states. For Instance, the effect of approving binding corporate rules is not the same everywhere. In some member states, approval of such rules is sufficient for all future processing operations, but not in others. In some member states, the European main establishment or parent company can request the approval whereas in other member states this has to be done by the local establishment. Unambiguous policy is important.

European rules that are unnecessary or unnecessarily complex[2]

Labour mobility

- In the area of **complementary pensions**, there are sticking points in practice due to different **tax treatment**. Two examples:
  a. In the Netherlands VAT is levied on asset management activities but not in many other member states. The result of this is that pension funds find it more attractive to run their asset management operations from other member states than the Netherlands.
  b. There are still differences between member states in the tax treatment of complementary pensions (contributions and payments). In the Netherlands contributions enjoy tax incentives and payments are taxed; in some other countries, the situation is reversed. As a result of these differences, it is sometimes impossible for multinational undertakings to realise a cross-border transfer of accrued benefits for their own employees to another establishment within the EU.
- In some member states there are still important obstacles to the functioning of **temporary work agencies**. Against this background, It Is also regrettable that temporary work is excluded from the scope of the European services directive. Temporary work can play a very important role in making European labour markets more flexible. It is therefore very important that unnecessary obstacles that still remain are removed. Clearly, it is necessary to retain frameworks which prevent unacceptable practices which give the temporary work sector a bad name.
- **'Transfer of undertakings'**. This directive tackles a number of practical problems, for instance in the case of application of the EU directive on facility service provision such as cleaning, security and catering. However, this is not a matter of cross-border obstacles, but obstacles arising from European rules.

Tax, customs

- There is a contradiction between the European Commission's wish to move towards **e-customs** (paperless declarations, etc.) and the simultaneous requirement under EU rules that paper documentation must be provided. A recent example is that a document has to accompany a certain (sustainable) timber variety when it crosses a border. Such documents, especially in the area of agriculture and food, must be abolished.
- Europe wants to **reduce administrative costs in the maritime world**, in part by promoting a **paperless inspection environment**. In the port of Rotterdam, an operational 'port community' system has been developed which all services can use. The ports of Rotterdam and Amsterdam recently decided to develop a joint 'port community' system to offer customers a wider range of services for both exchange of information between themselves and with the port authorities and customs. It is desirable that all member states - as well as beyond the EU - communicate with each other electronically. To that end, the European Commission has launched 'e-customs'. Port communities in

2 See also the VNO-NCW en MKB-Nederland brochure 'Better regulation for better business, first set of proposals from Dutch business to reduce European regulatory burdens', February 2007.

de EU and beyond can play an important role in this initiative by ensuring that the information they provide to authorities is clear and easy to understand.

- With regulation 3330/91 on **statistics on goods traffic** between member states, an obligation has been introduced which means that data about all transactions above certain thresholds have to be collected directly from companies. This statistical obligation has been introduced because otherwise an overview of European trade would be lost with the removal of borders in the internal market. Despite the fact that the returns can be made electronically, this is very time-consuming. The reason is that a business has to report each and every delivery separately on a special form. The same data are reported to Intrastat import and Intrastat export. The administrative burden imposed by this survey must be significantly reduced. This can be done by using other existing sources such as the VIES system in which companies declare their transactions for VAT, as well as by abolishing double declarations, e.g. by only declaring 'export' data.
- **Customs clearance for short-sea shipping**: in the area of short-sea shipping, operators must always demonstrate, on arrival In another European port, that the goods on board are not liable for import duties (i.e. that there are no goods from outside the EU). This procedure costs a great deal of human time and money. The competitive position between road transport and short-sea shipping is distorted by the rules. This means that companies cannot benefit optimally from the most advantageous mode of transport. As an additional advantage, short-sea shipping can constitute some relief for the congested road network which also benefits businesses. Modern systems for tracking cargoes make it unnecessary to demonstrate Community status on a regular basis. A company's data can be verified on a random basis. The Community Customs Code should be amended to this end, thereby making the position of short-sea shipping almost equivalent to that of other modes of transport.
- A **licence** is necessary for intra-Community transport of **chemical weapons**. This relates to substances on schedule 1 and some substances on schedule 2 of the chemical weapons convention. A licence is also necessary for intra-Community transport of some components of drug precursors under regulation 273/2004.
- Businesses which carry out intra-Community transactions regularly encounter obstacles in the area of **value-added tax**. To a large extent, these obstacles are caused by an absence of uniformity in national legislation and considerable administrative obligations. In this regard, the following issues are mentioned:
  - Requirements for **(electronic) invoicing**;
    Due to the many 'may' provisions in European VAT rules, there are differences in the requirements that member states impose on invoices. These differences mean considerable extra administrative costs for companies. Uniform invoice requirements are therefore urgently needed. These requirements must meet the criteria of efficiency and proportionality. An important cost saving can be made by moving from paper to electronic invoices. As much as 243 billion euros can be saved on invoice traffic between businesses alone. There are also great differences in the requirements imposed on electronic invoices. There is also a need for uniformity on this point. For instance, Italy requires an e-invoice to carry a time stamp (e-invoicing directive (2001/115/EC). This is only possible by modifying a pdf document retrospectively. As a result, e-invoicing cannot be applied for customers in Italy.
    In addition, an electronic invoice should also be accepted as well as a paper invoice when businesses reclaim VAT paid abroad. European invoicing rules are being

reviewed at the end of 2008. In this connection, the European Commission has contracted a wide-ranging survey which brings together information about the use of electronic invoices by companies. The survey will conclude with recommendations for a more harmonised, simplified and modern set of invoicing rules in order to reduce the administrative burden on companies. Businesses support the European initiative and call for decisions to be taken rapidly.

- Provision of proof for **application of the zero tariff**;
  There are also differences between the member states on this point, which entails unnecessary extra administrative costs for businesses. Requirements should be made uniform.
- **Reporting obligations for tax purposes**;
  Businesses which supply goods to businesses in another EU member state must submit a return to the tax authority. This is known as the listing obligation. There is then a check to see whether the declared deliveries correspond to the customer's intra-Community purchases in the other EU member state. The listing obligation imposes a considerable administrative burden on companies. The listing obligation will also apply for services to businesses in another member state. For many businesses - including banks - this extension of the listing obligation means a considerable new administrative burden. It is recognised that reporting obligations are necessary with a view to combating VAT fraud. But these obligations must be limited to what is necessary for adequate verification. It must not be the case that businesses are obliged to provide a range of data, whereas tax authorities in the member states are not in a position to process and evaluate all these data.
- **Restitution of VAT** paid in another member state.
  Businesses which have paid VAT in a member state where they are not established can apply for that tax to be repaid by the tax authority of the country where the tax has been paid. Many businesses have problems with this restitution procedure. They sometimes have to wait for years for a result. Sometimes a rebate proves to be impossible. At the end of 2007 the Ecofin Council decided on a simpler rebate procedure. From 1 January 2010, all applications can be submitted electronically to the home tax authority. The latter forwards applications to the tax authority of the relevant member state, which has a deadline for restitution. Although this represents an improvement, we continue to support the possibility for businesses to deduct VAT paid in other member states in their own domestic returns (with clearance between the member states). Only then will there be a substantial reduction of administrative burden.

Consumer policy

- Lengthy procedures for **'novel foods directive'**
  The procedures for gaining approval to place a new product on the European market take too long (30 months in the EU against 6 months in the USA). These procedures must be considerably shortened.
- **Food information package**: on the basis of the current proposal, businesses are obliged to provide Information on ingredients in a 3 mm font on the label. The consequence is that fewer languages can be printed on labels, which effectively undermines the advantages of the internal market.
- The current labelling directive is to be superseded by a **product information regulation**. In addition to the labelling already necessary (for pre-packed products),

stricter rules are imposed for allergen declaration (not only for pre-packed but also for loose products), nutritional value declaration for pre-packed products, and the font size on the label. For traditional producers, this proposal is unrealistic and increases red tape. The main question must relate to what essential information the consumer needs to have as a minimum and how this can best be shared. Then it must be determined how this information can be communicated, also examining whether account can be taken of the nature of the business. For instance, it must be possible to take account of the difference between products for export and products that are produced by traditional butchers, bakers, delicatessens and supermarkets for the local market. Once it has been agreed that certain information is essential and practically feasible, this must be communicated by the producer to the consumer (think of health-related elements such as allergens) via a method best suited to the business. Information can also be presented via information columns, flyers, websites, product books and - for traditional businesses - direct contact with the consumer.

- Regarding **food safety**, such far-reaching EU requirements are imposed for traditional butchers, bakers, delicatessens and supermarkets that it is impossible for them to comply with the rules. Many operations are performed on a modest scale and manually, which cannot be compared with industrial production methods. In addition, the assortment may have a changing composition which often involves different ingredients. The general food law should therefore take greater account of the nature of the business. Above all, it is first important to examine more carefully whether all rules are genuinely necessary, regardless of the size of the business. In addition, if the rules are not devised in such a way that they are workable as well as being financially and administratively feasible for traditional butchers, bakers, delicatessens and supermarkets, a different policy will have to be identified which ensures that essential food safety is not impaired.
- **Information obligations** arising from rules on financial services have piled up over the years. Their usefulness needs to be examined critically. Information obligations in the two directives should be subdivided into two categories. Essential information that must be provided. Additional information only at the request of the stakeholder.
- Various European directives are applicable to a single product. In these directives, **different definitions** are used for the same concepts (product safety, waste and Its disposal, energy efficiency, etc.), which causes confusion for producers. In the framework of the proposal for a regulation setting out the requirements for accreditation and market surveillance relating to the marketing of products (COM 2007/0029 and COM 2007/0037), it is important that a) the same definitions are used for conformity assessment, conformity assessment body, designation and notification, b) an efficient European accreditation system Is put In place which ensures worldwide acceptance of conformity assessment and avoids unnecessary duplication of assessments, c) the CE marking system is strengthened, efficient market supervision is put In place In order to keep dangerous products for consumer and environment out of the market.
- It should be possible to make improvements to the **European standardisation system** so that It continues to be applicable and offers sufficient guarantees for all sectors (harmonisation, public character, internationally valid), and at the same time offers the necessary flexibility to meet the specific needs of the various sectors. In addition, the advantage of using standards should be given greater exposure.

Transport

- **Driving bans**: European member states are free to impose weekend and other driving bans. At the present time, twenty countries have no fewer than fifty different driving bans in the area of timing, weight, distance, location, cargo and weather conditions. Each year across Europe there are more than 150 days on which road freight operators may not drive. All these driving bans are totally uncoordinated. Due to the driving bans, long queues of lorries build up at country borders and parking places fill up. For drivers, driving bans are a catastrophe, because they are obliged to spend hours or even days at the roadside including overnight. But they are also disastrous for businesses, because transport takes an unnecessarily long time and is therefore more expensive. As a result of the driving bans, there are more vehicles on the roads than necessary. All weekend driving bans should be abolished unless it can be very clearly demonstrated that freight traffic has a disruptive effect. Abolition is most important on important transit routes (trans-European networks). Prior to this, driving bans must be kept as short as possible and harmonised to the greatest extent possible at European level.
- Application procedures for **exemptions** for outsize convoys (wider or higher than normal) in Europe are time-consuming, unwieldy and opaque, and are sometimes required for each region or even locally. Decisions sometimes take weeks. Each country should have a one-stop shop where all requests for exemptions can be submitted.
- **Simplification of transport chains**: there are efficiency opportunities in a paperless inspection environment, concepts based on the one-stop-shop concept if the following legislation is adopted: for establishment of a single European maritime transport area without barriers (2008) and for e-maritime (2009). This programme is directly linked with the 'e-freight' initiative and the 'e-customs' initiative, and will take full advantage of modern ICT.

Environment

- The **European Integrated Pollution and Control (IPPC) directive** seeks to prevent and combat environmental damage. The IPPC directive obliges member states of the European Union to regulate emissions to water, air and soil by large polluting businesses. This directive is currently being revised and will emerge as the industrial emissions directive. In the Netherlands, research has been carried out Into the effects of the revision of IPPC for the burdens on Dutch businesses and the relevant authority (commissioned from Sira consulting). This research shows that the amendments proposed by the Commission will have a limited influence on the extent of environmental protection in the Netherlands. However, this proposal will lead to increased burdens. Obligations which add to bureaucracy but do nothing to improve environmental protection are:
  - Periodic soil monitoring. The existing Dutch system offers sufficient protection, which means that periodic soil monitoring will result in unnecessary burdens.
  - Reporting obligations for livestock businesses. Real emission figures cannot be determined, so that data already known will be reported. The reporting obligation for livestock businesses leads to unnecessary burdens.

  On the basis of the European Commission's impact assessment, the reduction of administrative burden should be at least 7 million and up to 17 million euros a year. It emerges from the Sira study that the revision will lead not to a reduction but to an increase in the administrative burden of between 3 and 3.7 million euros a year. Sira's findings do not tally with the European Commission's impact assessment.

Recommendations to limit the burdens:
- scrap the reporting obligation for intensive livestock businesses of a limited scale;
- include only emission limit values in the permit and allow agricultural businesses to determine for themselves on the basis of certified installations how they want to comply;
- scrap the obligation to carry out periodic soil monitoring;
- scrap the obligation for requiring a business to produce a report at least once a year to demonstrate that it still meets the permitting conditions;
- scrap the proposal to include installations with a capacity of between 20 and 50 MW in the scope of IPPC;
- make room for the use of innovative solutions by taking limited and controlled risks;
- use more general rules, e.g. a 'simple' IPPC for installations and secondary activities which do not pollute.

– **Scrap introduction of the European soil directive**: the need for soil protection is not In question for the Dutch business community. Businesses therefore take a positive stance when Europe plays a stimulating role for soil protection and knowledge transfer, but we do not regard a directive as appropriate. Soil is not a cross-border issue, but a national and local matter. A directive disregards the principles of subsidiarity and proportionality. European rules can never do justice to the complexity and diversity of the soil Issue. Specific regional and local circumstances play a crucial role and mean that soil problems vary enormously across Europe. A 'one size fits all' approach is inappropriate here.
– The **absence of unambiguous definitions** for the same concepts in the area of nature and environment rules in various directives such as the birds and habitat directive, water directive, and European marine strategy directive can generate administrative burdens and risky projects for ports which operate in the delta. In this context, attention should be paid to consistency and coordination of these and other directives. DG Transport's initiative is supported as a means of achieving clear interpretation guidelines for nature and environment protection in port areas.

Privacy
– Because information processes in many cases are not limited to a single member state, it is necessary to bring about further harmonisation of procedures for notification of governments and other formalities. The current procedures in several individual member states often create unnecessary delay, are complicated and add little to better protection of consumer privacy. Efforts must be made to put in place European information processes which form a system of **"mutual recognition" for privacy formalities**, where the most appropriate data controller (e.g. the European head office or the parent company) can handle the formalities for the entire European Union in the case of uniform transnational data processing via central systems. The following formalities and processes should be further harmonised: notification obligation for processing of personal data by data protection authorities, authorisations for international data traffic, conclusion of processor contracts, establishment of security measures for transnational data processes.
– In the framework of **cross-border marketing activities**, it is a good idea to put in place a completely harmonised opt-in / soft opt-in / opt-out regime. The member states currently have too many differences in the rules in this area, which entail unnecessary compliance costs for companies operating at European level and completely opaque and

impossible to understand for consumers. Complete harmonisation in this area will make it possible for companies to organise much more effective registration procedures, e.g. on Internet, and will ensure that the consumer enjoys the same privacy expectations in other member states as in his home country.

ANNEX 2

Table from CPB[3]: Effect of internal market on openness and income levels

EFFECT OF INTERNAL MARKET ON OPENNESS AND INCOME LEVELS					
	openness[4]	GDP per capita[5] (long run) low	high	GDP per capita[6] (realised) low	high
Trade in goods					
NL	8.2[7]	3.7	14.8	4.0	6.3
EU	4.9	2.2	8.8	2.2	3.3
Trade in services					
NL	1.5	0.7	2.7		
EU	0.7	0.3	1.2		

[3] Netherlands Bureau for Economic Policy Analysis
[4] Trade (export plus import) as a percentage of gdp in 2005.
[5] Percentage of gdp per capita on the steady-state growth path.
[6] Percentage of gdp per Capita in 2005.
[7] Corrected for re-exports.

THIS BROCHURE HAS BEEN PREPARED WITH THE COOPERATION OF:
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