

Carlos Westendorp, Spain and 1993

Caption: In spring 1992, in an article published in the Spanish magazine Política Exterior, Carlos Westendorp, Junior Minister in the Spanish Ministry for European Affairs, outlines the challenges which will arise when the single market becomes a reality in 1993.

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Spain and 1993

Carlos Westendorp

DURING the 1980s, it became clear that the hope cherished by the ‘Founding Fathers’ of the European Community of establishing an integrated economic area was running a serious risk of being thwarted. The reasons for that lay, firstly, in the proliferation of barriers erected as a consequence of the economic crisis of the 1970s — which were not necessarily incompatible with the wording of the Treaty — and, secondly, in the fact that exceptions to the freedom of movement, which had been envisaged as temporary, persisted until they became permanent.

At the European Councils in Copenhagen and Milan, it was recognised that the Community project had stagnated, and the idea of establishing a true ‘Internal Market’ based on firm foundations within the Community was revived once again.

Now that the problem had been identified, the Community needed to define the **objectives** of the project and equip itself with the **instruments** required to carry it out properly.

The Single European Act defined the **objective** and almost repeats itself in describing the purpose of the Internal Market Programme as the establishment of ‘an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured.’

Where the **instruments** to achieve this are concerned, the Community had a dual task to perform:

— On the one hand, it had to identify the obstacles impeding the effective completion of the Internal Market. That exercise was carried out in the White Paper on the Internal Market which set out a list of directives and regulations designed to result in the harmonisation of laws which had been used to justify the continuing existence of border controls. Therefore, what was involved was not a process of ‘deregulation’ in the sense in which that term is used elsewhere, rather it was the establishment of a harmonised regulatory framework paving the way to the completion of a truly integrated economic area.

— On the other hand, a new legal framework was needed for this Community project. That framework is the Single European Act, which introduces institutional mechanisms that allow for more flexible decision-making through qualified majority voting and make it possible, as acknowledged in Article 100a of the Act [sic], for laws to be harmonised wholesale.

Once the Single European Act had been adopted, the task of approving proposals put forward by the Commission was allocated among the various sectoral bodies of the Council. Obviously, the initial stages saw a significant effort to agree on the less complex issues, while, at the same time, delays emerged in more sensitive matters such as taxation.

What is the situation of the Internal Market Programme today, just over eight months before the date laid down in the Single European Act (1 January 1993)? By early March 1992, 230 of the 282 directives and regulations covered in the White Paper have been approved, in other words 80 % of the total. Accordingly, we may conclude with greater certainty than the Rome European Council in December 1990 that ‘the main features of the single European internal market are now in place’.

However, that very good progress towards the completion of the Internal Market is not always matched in terms of the way it is perceived by ordinary people. Given that the vast majority of the rules are in the form of directives which have to be transposed into national legislation, citizens sometimes cannot see that the rules, which take the form of national legislation, originate in the Community.

Generally speaking, the greatest progress has been made in the free movement of goods, services and capital, and there has been a much greater delay in the free movement of persons. The differing interpretations by some Member States as to the scope of the Treaty provisions on the abolition of barriers to the free movement

of persons and the failure by those States to recognise the powers of the EC in that field have meant that the opportunities for making progress have been few and far between.

In recognition of that fact, and based on the finding that barriers to the free movement of persons continue to exist (as set out in the ‘Palma Document’), eight Member States have decided to bring forward the full establishment of free movement of persons by signing the Schengen Agreement. By virtue of that Agreement, those eight States (the six founder members and Spain and Portugal) have managed to overcome the deadlock which could have resulted from those differences in interpretation by laying the foundations for a further extension of the free movement of persons to the entire Community territory.

The White Paper on the Internal Market divides the barriers to the establishment of an internal market into three basic types: **physical** barriers, **technical** barriers and **fiscal** barriers.

— Insofar as the removal of **physical** barriers is concerned, work relating to the abolition of customs formalities by 1 January 1993 has been completed. Very significant progress has been made in the removal of veterinary and plant health controls and checks associated with commercial policy measures (resulting from the application of Article 115 of the EEC Treaty and Article 71 of the ECSC Treaty) or the common rules on exports.

Significant progress is also being made in the abolition of controls on the movement of works of art on the basis of two principles: recognition of the right of the Member States to continue to define their national heritage and certainty as to the recovery of works exported illegally.

— There has also been very considerable progress where the abolition of **technical** barriers is concerned, both in respect of technical harmonisation and standardisation and in the deregulation of public procurement: work in this field is almost complete. The free movement of workers and professionals has been strengthened through recognition of professional qualifications (doctors, nurses, lawyers, architects) and by the adoption of the directive on the general system for the recognition of qualifications involving more than three years’ training. As far as services are concerned, we may note the progress already made in the field of transport and the progress still being made in the financial services field.

In the transport sector, following the major deregulation achieved under the package of regulations adopted in December 1985, we are attempting to make progress in the deregulation of cabotage, which is the most significant barrier to full deregulation in the sector. This is going on against the background of a worrying fall in the international competitiveness of the sector and at the same time as the plan to establish a Community register known as EUROS.

The key elements involved in establishing an integrated financial area are already in place. A decisive issue in that respect was the directive on the free movement of capital adopted in 1988, which Spain has just signed up to, having brought forward the scheduled date of 1 January 1993. Where banking and insurance are concerned, a general system has been established based on the principle of a single licence and country-of-origin control, the purpose being to safeguard freedom of establishment. Some significant rules are still outstanding (for example in the field of life assurance investment funds), but the basic elements have already been adopted.

Significant progress, which in some respects has introduced novel aspects into our Commercial Law, has also been made in company law, such as the Regulation on European Economic Interest Groupings or the Regulation on Mergers, and the regulation of trademark rights.

— The abolition of **fiscal** barriers has proved much more difficult. Nonetheless, an important political agreement has been reached in respect of harmonisation of indirect taxation (VAT and excise duties) which will have to be enshrined in the relevant directives. The agreement provides for the establishment of a transitional period lasting until 1996, after which date the principle of country-of-origin taxation will apply, with a few exceptions such as cars or mail-order sales. Tax rates will be harmonised by establishing minimum rates (normal and reduced), and it will be possible for those States which will have to raise their average rate (Spain and Luxembourg) to introduce a ‘super-reduced’ rate.

As we can see, the key aspects of the 1993 Internal Market Programme have already been adopted. That does not mean that the challenge posed by that programme has come to an end. Quite the reverse, the adoption of the major aspects of the programme mean that we must now work very hard to make the most of the opportunities that have thus become available to us.

Firstly, it is necessary to deliver on the commitment to complete the Internal Market on 1 January 1993. Accordingly, work must be done to transpose the rules adopted at Community level into national legislation. The situation is generally positive in that regard, although there are significant differences in the rate of transposition on the part of the various Member States. At the beginning of March 1992, Denmark had transposed 83.9 % of the Directives adopted, whereas Luxembourg had transposed only 60.8 %. Spain lies somewhere between the two, having transposed 71.8 %, and it is the Government's intention to be in a leading position on 1 January 1993. As we have said, sometimes the fact that these rules take the form of national legislation blinds economic operators to the scope of what has already been achieved. It has been confirmed that 65 % of national laws are currently of Community origin. Without getting into arguments as to the accuracy of that figure, we should be aware of the significant effort being made to adjust to the change which has already been made in recent years.

If we are to ensure the completion of the Internal Market by the dates provided for, we must draw up an inventory of the barriers which still exist but which are scheduled for removal by 1993. Accordingly, the Commission has published a list of 311 residual controls which will have to be abolished. Spain is in a very good position in this regard, with only 31 outstanding, and is behind only the Netherlands and Denmark in this field.

Secondly, no less significant an effort is involved in the process whereby economic operators take on board the impact implicit in the establishment of the Internal Market. That impact is the result of establishing a set of rules for an economic area of 380 million consumers for whom a harmonised regulatory framework will be established, and new economic factors will have to be taken into account, such as how to take advantage of economies of scale or increased competition.

The Government is seeking to encourage the process of taking the new European framework on board through its 'Acción Institucional 93' campaign, the intention of which is to heighten the awareness of the various economic and social operators of the repercussions of the framework.

Thirdly, we must bear in mind the external dimension of the 1993 Single Market Programme. The Community is much more open as a region in its trade with the rest of the world than other economic giants such as the United States or Japan; it is the largest world trading power and has preferential relationships with the other European countries as well as countries in the Mediterranean, Africa and Latin America. The Community, aware of that fact, has taken care to establish a wide-ranging network of arrangements with various nations and international organisations which make it possible to extend the dynamic effects of the Single Market outwards, especially towards the other nations on the continent of Europe.

One outcome of all this is the plan to establish a European Economic Area, which extends the principle of free movement of goods and factors of production to the EFTA countries, and the Association Agreements recently signed with Poland, Hungary and Czechoslovakia.

The Community is thereby restating its resolve to retain its openness and to dispel the doubts harboured by those who feared the establishment of an inward-looking 'fortress'.

Finally, we must bear in mind that the fact that the Community is continually evolving and that the Treaty on European Union agreed in Maastricht envisages the establishment of an Economic and Monetary Union within the Community by 1997.

That means that we ought to start thinking of 1997 as a new economic challenge which must strengthen and multiply the effects of the 1993 Internal Market. The abolition of barriers to the free movement of goods,

services, capital and persons will have to be matched by a similar effort to coordinate economic policies and to achieve convergence of macroeconomic results.

On 1 January 1994, 12 months after the date envisaged for the completion of the Internal Market, the second stage of Economic and Monetary Union will come into force: the European Monetary Institute will be established as an embryonic future European Central Bank. By that date, the key aspects of the Internal Market Programme will have started to make their positive, revitalising effects felt in the economies of the Community and will become one aspect in the establishment of what Robert Schuman referred to as '*de facto* solidarity', thereby becoming a solid foundation on which to build subsequent progress along the road towards European integration.

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