AN OUTSIDER'S GUIDE TO 1992: CONSUMER PROTECTION AND STANDARDS

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At the core of the movement of the European Community to "1992" is a monumental effort to overcome hundreds of non-tariff barriers (NTBs). This is to be achieved by harmonizing product standards, safety regulations and registration procedures. This guide, for and by outsiders, gives a thumbnail sketch of the major factors affecting the outcome.

1992: TO BE OR NTB?

A tariff is easy to see and therefore relatively easy to place on the agenda for trade negotiation. Non-tariff barriers (NTBs) are often harder to spot and therefore harder to address. But they are no less harmful to consumers. A simple example is a licensing or registration procedure for insurance companies which is put forward "to protect consumers" when the real purpose is to shield local companies from competition. The shape of the package was used to keep foreign margarine from the market in Belgium. Another example is a technical standard specifying the engines or brakes that locomotives must have. Many countries in Europe use this to keep competing units out of the national market. An Italian health standard was used for a time to keep apple vinegar from other countries off the national market. There is no limit to the imaginitive use of NTBs. Each good or service may have several controls, some of which actually serve consumers (by ensuring health, safety or competition) and many others which harm consumers. One estimate found that the European Community (EC) had over 100,000 different technical regulations and standards (Commission, 1988, No. 55, p. 49). In 1988 the European Commission surveyed 20,000 enterprises in 12 member countries to rank the seriousness of barriers to trade. The results, starting with the most serious:

1. technical standards and regulations
2. administrative barriers
3. frontier formalities
4. freight transport regulations
5. tax differences,
6. capital market controls
7. government procurement rules
8. implementation differences in Community laws

UNCOMMON SUCCESS WITH A COMMON MARKET 1957-68

It was on March 25, 1957 that the Treaty of Rome established the European Economic Community from the original six countries: France, Italy, West Germany, the Netherlands, Belgium and Luxembourg. The principal goal was a common market, meaning the removal of internal tariffs and quotas and the creation of a uniform external tariff to protect that common market. A 12 year target was set to achieve this and victory was claimed by 1968, a year early. Progress on internal trade was truly impressive, though not complete. Agriculture was the major stumbling block. From the 1960s the use of agricultural subsidies through the Common Agricultural Policy (CAP) led to

MEMBERSHIP OF THE EC

1957 Original Six
Belgium
France
Italy
Luxembourg
Netherlands
West Germany

1973 Denmark
Ireland
United Kingdom

1981 Greece

1986 Portugal
Spain

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mountains of surpluses which threatened to bankrupt the EC. But visible progress had the European Community (EC) grow from six countries to 12 with the addition of Britain, Denmark, and Ireland in 1973, Greece in 1981, and Spain and Portugal in 1986. As Table I shows, there are four rather large countries by population (or by GDP) and a range of eight other sizes to tiny Luxembourg. Trade within the EC countries is about the same size as trade outside the EC.

Table I
BASIC STATISTICS OF EC COUNTRIES

Country	Population (million)	GDP ($ bil.)	Exports ($ Bil.) Inside EC	Outside EC
France	54	542	48	49
Britain	56	474	43	56
Italy	57	378	35	42
W. Germany	62	690	90	93
Holland	14	139	50	19
Ireland	3	18	6	3
Belgium	10	85	39	16
Spain	38	174	9	12
Greece	10	37	2	2
Luxembourg	.5	3	*	*
Portugal	10	22	3	2
Denmark	5	61	8	9
EC	320	2623	333	303

Source: E.C. for 1987.
* In Belgian statistics

Progress with internal trade indeed helped consumers by means of increased competition and lower prices, but much of the gain was lost because the CAP led to either high food prices, or price controls plus high taxes to make up the difference. And disposal of surplus stocks drew attention to the problem. The spirit of charity was often too low to keep European consumers cheerful whenever a mountain of "Christmas butter" was given to Soviet consumers at bargain rates while EC consumers paid high prices.

WORLDWIDE GROWTH OF NTBS

The completion of the customs union by 1968, remarkable as it was, failed to liberate consumers from the higher prices resulting from national protection against competition. The reason? The momentous growth in the use of non-tariff barriers (including "voluntary" and other quotas, and the abuse of anti-dumping provisions) to the point where they are more significant than tariffs, as measured by harm to consumers (Corbet, 1986; Venables, 1986). Further, NTBs often harm low income consumers most of all (Jenkins, 1980). UNCTAD research shows that: "... most of the new trade interventions by developed market economy countries, consisting mainly of restrictions and retaliatory actions were directed primarily against other [developed] countries. This was due particulary to the complex system of trade measures built up against Japanese exports, especially in the EEC and to a lesser extent in the United States" (UNCTAD, 1987, p. 194). The transparency of tariffs before GATT has led countries to make more use of the less visible NTBs. The impact on consumer well-being is so severe that the reduction in NTBs must be a priority for consumer research and for consumer action.

FORTRESS EUROPE: MYTH OR REALITY?

A major concern outside of Europe is that 1992 will be accompanied by barriers against outsiders. Part of this concern is identified with finger-pointing in the serious agricultural subsidy wars among the major trade blocs. That issue is serious, though more closely related to subsidies than to standards, which is the theme treated here. The main indication of a Fortress Europe approach came in the statement by the EC Commissioner for External Relations, Willy de Clercq, that foreign banks would only benefit from the larger EC market if their home markets were opened to EC banks. Later he down-played the expectation of reciprocity arguing that the EC had a strong interest in multilateral trade. It is especially so for consumers. Fortress Europe is not strongly suggested by the way that country-specific quotas for importing Japanese cars are being eliminated and replaced with "temporary" EC quotas. The shift from country-specific NTBs to EC quotas is an overall improvement, though not completely ideal for consumers. Consider the conspicuous example in the tactic used by France requiring that all Japanese video recorders must be cleared through the tiny customs port in Poitiers, a strategy which succeeded in bottling up imports. An EC wide policy, once it is defined, will surely be less aggressive.

What does a count of actual use of NTBs show about the fear of Fortress Europe? U.N. statistics show that there is less evidence for the "fortress" myth than there is for Japan-bashing: "No less than 50 per cent of the (1981) trade coverage of increased intervention through non-tariff measures in the period 1981-86 was directed against Japan: (UNCTAD, 1987, p. 194). Those are worldwide statistics. For the EC as a bloc, imports from Japan exceed exports by a ratio greater than 40 to 1, an astounding imbalance.

TRADE OF EC WITH MAJOR PARTNERS, 1987

	Population (million)	Exports to ($ billion)	Imports from ($ billion)
USA	240	81	63
Japan	121	1	40
COMECON	393	21	27
EFTA	33	53	93

Source: E.C. 1989. COMECON consists of eastern bloc countries and EFTA includes Nordic countries plus Austria and Switzerland.

If outsiders have exaggerated the possibility of Fortress Europe, it is partly because of the late stage at which the 1992 effort reached the consciousness of the rest of the world. In fact, 1992 as a target is nothing other than the end year of the eight year planning phase (1968, 1976, 1984, 1992). The major decisions were made in 1984-85 but too little noticed outside of Europe.

INSTITUTIONS FOR 1992

The completion of the customs union in 1968 left in place many non-tariff methods for protectionism. By 1980 or earlier it was evident that a barrier by barrier approach (against over 100,000 NTBs) would not succeed (Venables, 1986). The path-breaking change came at the beginning of 1985 when the new leader, Jacques Delors from France, proposed a major reform package containing four components. These were eventually passed as the Single European Act. Two elements, a defence union and a monetary union, are still under vigorous discussion, while two others led to major progress on EC institutions, and on the internal markets. In 1985 the European Parliament, with 518 Euro MPs, was given more control over budgetary matters (except over agriculture) ending a long-standing paralysis on financial matters. In the EC the MPs sit in political groupings rather than by country. The Single European Act also gave budgetary power to the Council of Ministers which represents the twelve countries. But it is important to see that the meetings take place with national ministers present (say ministers of agriculture or of environment or of transportation. A third institution, the European Commission is of special importance. It is a civil service, not elected, and is not so directly controlled by the other bodies as one might expect. The Commission is headed by Jacques Delors in his second term during 1989-92. Its 17 directorates can originate proposals for initiatives. The fourth institution is the European Court of Justice. Located in Luxembourg, the Court has 13 judges and six advocates-general from member countries. Since EC law takes precedence over national law, the court is of major importance. Most of its work concerns economic rulings on cases referred by national courts.

INTERNAL MARKET: COUP FOR CONSUMERS

No country wants to surrender sovereignty, not over defence nor over the NTBs on health, product standards nor anything else. The 1985 measure which allowed all to move to the "harmonization" effort was the agreement for all countries, as a first step, to recognise each other's standards. This is a benign, efficient wolf in sheep's clothing.

In the harmonization efforts, major use is made of a pivotal 1979 ruling of the European Court of Justice: the "Cassis de Dijon" precedent. West German law had been used to keep Cassis from France out of the German market on the grounds that it did not meet the standard defining liqueur (an NTB protecting German producers). The European Court held that trade could only be prevented if the import threatened health, or if it contravened tax laws. Cassis did not (it contained less alcohol than the 25% specified in the German standard). The Cassis Principle, as used for 1992 in the Delors package of 1985, eliminates the need for complete harmonization. This is a critical change because vigorous harmonization required unanimity in the Council of Ministers. As it stands, countries must recognise each other's standards so long as health and taxes are not threatened (often called the principle of mutual recognition). Initially, consumers feared the loss of true safety standards, but experience has been reassuring (Venables, 1986). In other precedents, "Eyssen" for example, the European Court has permitted standards to be retained when they really are health-related. The Court upheld Dutch law prohibiting cheese containing nisin, on the grounds that the additive's effect to prolong the commercial life of cheese was certain but nisin's effect on the length of human life was uncertain. With precedents like Dijon and Eyssen, consumers score a double coup, the elimination of harmful NTBs and maintenance of health standards. While the impact has been revolutionary, it would be incorrect to conclude that producers have abandoned attempts to invent imaginative new forms of protection. Too, the Dijon principle is harder to apply to services than to products, though it will indeed apply.

BENEFITS OF HARMONIZATION

The Community commissioned a major study to measure the economic effects of 1992. By the most conservative estimate, 1992 offers gains of about 2.5% of GDP. With dynamic competitive gains and complete elimination of internal barriers, this might be as large as 6.5% of GDP (European Commission, 1988, p. 19). The gains come from the removal of distortions, gains in efficiency and lower costs of administration. Indirect effects include, restructuring, innovation and the removal of X-inefficiency (inappropriate use of resources which adds to costs).

How important is each type of barrier in affecting intra-EC trade? Evidence is available from the Commission's survey of 20,000 enterprises.
Administrative barriers (customs) are judged to be the most important barrier in Belgium, Greece, Spain, Ireland, Italy, the Netherlands and Portugal.
Standards and technical rules are thought to be the most important barriers in Denmark, Germany, France and the U.K.
Public procurement rules are high in Italy and Portugal.
Frontier delays are highest in Belgium, Greece, Spain and Portugal, and the same countries have high barriers in transport market regulations. Italy has severe capital market restrictions. Some of these barriers have particular harmful effects on specific industries.

Economic measurement does not completely agree with the survey evidence. Estimates by the Commission suggest that a major portion of the gains will come from the financial sector. Elimination of NTBs there could theoretically mean price reductions for financial services from 10% to 34% (see table for country-specific impacts) with a realistic expectation of an overall price reduction in the 10% range.

In addition, the largest impacts of all are expected to be in items affecting final consumers, services like credit card rates, consumer credit, and insurance. The harmonization of many of the other standards have an impact on consumers which is less easy to see. Most, like the elimination of border formalities, the standardization of pharmaceutical registration, the removal of barriers to government procurement, and increased use of competition policy will result in lower prices and increased choice. If the harmonization has dynamic effects on innovation, or if it helps to make a Community-wide improvement on the environmental

FINANCIAL MARKETS:
PRICE EFFECTS OF 1992

Possible impacts on the prices of financial products through completion of the internal market.

		Theoretical potential price reductions	Indicative reductions	
			Range	Center of range
1.	Spain	34	16-26	21
2.	Italy	29	9-19	14
3.	France	24	7-17	12
4.	Belgium	23	6-16	11
5.	Germany	25	5-15	10
6.	Luxembourg	17	3-13	8
7.	U. Kingdom	13	2-12	7
8.	Netherlands	9	0-9	4
Expected Impact on the Eight Countries		21	5-15	10

Source: EC 1988

front, the improvement in the consumer's standard of living will exceed the 2.5% to 6.5% gains estimated by the Commission.

CONCLUSION

The concept of 1992 with an internal market free from both tariff and non-tariff barriers is not of recent origin. Major initiatives were taken in 1976 and especially at the time of the 1985 paper Completion of the Internal Market, the key document identifying NTBs. Prior to 1985, harmonization was shackled by the requirement for a unanimous vote in the Council of Ministers for passage of standardization measures. By 1987 when the Single European Act was ratified. The Act, under Article 100a, needs only "qualified majority voting". Most Community-wide standard setting was transferred from Eurocrats to new European standards institutes like the European Telecommunications Standards Institute (ETSI), and the European Committee for Standardization (CEN). Consumers are represented along with industry experts though this is not entirely successful. A member country planning to set a separate standard (for an 'emergency') must notify the Commission which will assess it as a potential barrier to trade. So far the Commission has stopped more than 30 proposals for assessment.

The major device which has permitted a burst of progress is the use of a mutual recognition principle following the Cassis de Dijon ruling. Case by case assessment is impossibly slow because of the workload (for food additives alone, there are 40,000 applications). Dijon proposes, in the words of the Commission, that "The objectives of national legislation ... are essentially identical." For that reason "... if a product is lawfully manufactured and marketed in one member state, there is no reason why it should not move freely throughout the community." This principle eliminated the need for case by case approval allowing a giant step toward the completion of the internal market.

When 1992 arrives (on January 1, 1993 on the EC calendar) startling progress will have been achieved, though not full success. Serious problems will remain with the harmonization of standards for about forty professions. And if an EC-wide method for approving new drug products is established, it may be late. But the achievement will be remarkable nonetheless: hundreds of NTBs are not to be. The sustained effort, aided by some inventive public measures, will reduce enough NTBs to increase the standard of living in the EC by more than 2 1/2%, no easy feat.

There are probably three lessons for outsiders:

1. Non-tariff barriers are numerous inventive and quite harmful to consumer welfare.
2. Progress against NTBs requires a sustained effort and determined leadership.
3. Given the vast diversity of standards, regulations, rules and formalities, only a broad-based general approach has any chance of success.

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