



# Enforcement in the Internal Market

Challenges and proposals  
for improvement

June 2007

## WHO ARE WE?

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BUSINESSEUROPE, the Confederation of European Business, is the voice of more than 20 million small, medium and large companies.

BUSINESSEUROPE's members are 39 central industrial and employers' federations from 33 countries, working together to achieve growth and competitiveness in Europe.

BUSINESSEUROPE actively promotes the role of business in Europe: strong enterprises make a strong Europe. It advocates a favourable and competitive business environment to foster sustainable economic growth and sound economic governance.

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## FOREWORD

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Since its inception in the 80s, the Internal Market applied to goods, services, persons and capital has been one of the main pillars of European well-being and the competitiveness of its companies. However, [it is not self-perpetuating](#). It operates in a fast-moving environment and has to face challenges from globalisation, enlargement of the EU, rising protectionism and technological progress.

[The Internal Market must be reinvigorated](#). Action is needed to strengthen it via further integration of sectoral markets like energy and correct implementation of the services directive, improved rule-making and better communication and information about its opportunities.

It is particularly important that the [EC Treaty's principles and secondary legislation are better enforced](#), by ensuring compliance and through adequate sanctions. The Internal Market affects companies' and citizens' everyday lives and that is why the Commission and in particular Member States must step up their efforts and commitment to ensure its well-functioning.

European business hopes that [the Commission's forthcoming revised Internal Market Strategy will address these issues](#) and propose the necessary steps in close partnership with Member States to improve enforcement in the Internal Market.



## THE REALITY OF THE INTERNAL MARKET

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The Internal Market means increased competition, more transparency, regulatory harmonisation, mutual recognition and a level playing field. It has translated into numerous benefits:

### **For consumers:**

lower prices, higher quality and wider choice

For instance, price of national phone calls dropped 71% between 1997 and 2005. EU health and safety consumer legislation is among the most stringent in the world.

### **For all:** economic well-being

Between 1992-2006, the EU has had an extra estimated gain of 2.2% in its GDP and 2.75 million extra new jobs.

*Benefits for more than 490 million  
citizens and 20 million companies*

### **For citizens:** mobility

European citizens have the right to live, work, study or retire in any EU country.

More than 15 million people now work in an EU country other than their own, and 1.5 million Erasmus students have moved across Europe.

### **For companies:** new business opportunities

Easier access to other markets within the EU is available for companies of all sizes.

Trade integration has increased: intra-EU trade relative to GDP has risen by 30% since 1992.

Cross-border investments have also increased: the share of total Foreign Direct Investment inflows in EU15 originating from other EU15 countries rose from 53% in 1995 to 78% in 2005.

## *But there is potential for more*

The Internal Market is an ongoing project and needs constant adjustment to ensure its well-functioning. But important problems continue to exist:

- **Remaining barriers hampering the four freedoms**  
for example due to divergent interpretation of common rules and requirement for extra testing of goods
- **Legal uncertainty and red tape**  
for example impeding exercise of the right of establishment or provision of a service
- **Uneven enforcement of legislation and principles together with a lack of trust between national authorities**
- **Lack of information about opportunities**
- **Insufficient adaptability to technological progress**

The unsatisfactory functioning of the Internal Market represents **a huge cost for Europe:**

- **The costs of redundant product conformity assessment in several countries could total from 2% up to 15% of their entire annual turnover**
- **Deficient enforcement of the mutual recognition principle for non-harmonised services prevents an increase of about 0.5 to 1% in GDP and 600,000 new jobs**
- **Fully integrated financial markets could bring about a 1.1% rise in the level of GDP in the medium term**

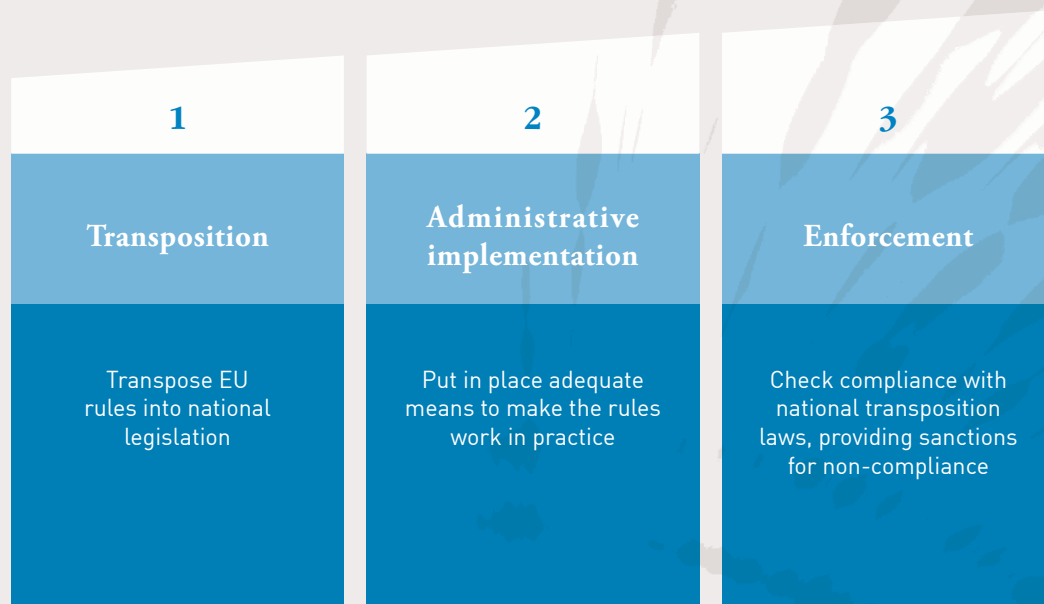
## ENFORCEMENT: THE CRUX OF THE ISSUE

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### Definition

For establishment of the Internal Market the EU has put in place a comprehensive framework of legislation, jurisprudence and standards. Correct and timely transposition and administrative implementation are of great importance and the EU and national authorities should pay more attention to it.

But to make EU legislation really effective, a three-step process is necessary. [It is at the level of enforcement where many of the problems arise.](#)



## Shortcomings

- In **non-harmonised areas**, the mutual recognition principle provides that goods which are lawfully produced in one Member State are entitled to be sold on the territory of another Member State with some possible constraints linked to “overriding reasons of general interest” as developed by the European Court of Justice. Incorrect application of this principle results in national technical rules setting up undue obstacles to the free movement of goods
- In **harmonised areas**, where Member States fail to discharge their market surveillance responsibilities or to foresee appropriate sanctions for non-compliance

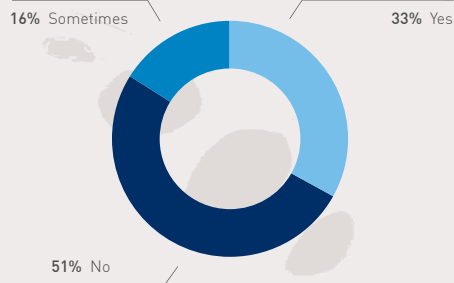
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### Mutual recognition, an unfamiliar, complex and risky principle

Source: European Commission's European Business Test Panel (2004)

- 53%** of companies consulted are not aware of the principle
- 25%** had problems when relying on mutual recognition
- 20%** never received a clear explanation when experiencing problems

*Does your company rely on mutual recognition when selling goods in another country ?*



## Now it's time to enforce better!

Better enforcement is crucial for boosting the Internal Market and has to be **a central element of the forthcoming Single Market Review**. This is of paramount importance to ensure fair competition in the market and plays a decisive role in the perception of citizens and companies about Europe.

The EU Commission, as the guardian of the Treaty, bears an important responsibility to ensure compliance with Internal Market legislation.

However, **it is the primary responsibility of the Member States to make enforcement a reality** and to ensure that citizens and enterprises fully enjoy their Internal Market rights.

Recent Community initiatives pay due consideration to enforcement aspects:

- The services directive of December 2006, by facilitating mutual assistance, cooperation and information between national authorities
- The legislative package for goods proposed in February 2007 and intended to:
  - ensure that business can better rely on the principle of mutual recognition
  - introduce more efficient rules on market surveillance activities and on accreditation of conformity assessment bodies

BUSINESSEUROPE fully endorses these initiatives but **more action from** the Commission and Member States is **needed for** better enforcement.



## KEY PRIORITIES FOR BUSINESSEUROPE

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### Action required from the Commission

#### Assistance and facilitation

- Assistance to Member States during the transposition phase should be generalised, with [exchanges of best practice](#) among national administrations
- Tools such as [one-stop shops](#) should be used more extensively: the point of single contact for information and completion of formalities outlined in the services directive should serve as a model
- A more proactive role in [advertising/information campaigns](#) targeting citizens and businesses

#### More information, facts and figures about the Internal Market

- Monitoring, reporting [tools and indicators](#) are needed to assess the implementation and the performance of Member States' enforcement of Internal Market legislation

#### Infringement procedure: more efficient and speedier

- Give priority to the most [relevant infringements](#)
- [Fast-track mechanism](#) should be made available for less substantive cases or repetitive cases
- Greater [transparency and information](#) towards complainants and the public in general

#### Promotion of non-judicial dispute resolution mechanisms/Solvit

- Greater promotion of and [support for Solvit](#), the online problem-solving and conciliation network
- Facilitate functioning of [national Solvit centres](#)

#### Promotion of the international dimension of the Internal Market

- [International standards](#) inspired by European standards should be promoted through international organisations and bilateral agreements

## Action required from Member States

### Stronger ownership

- A **high-ranking government member** responsible for the Internal Market should be designated
- **Effective means of redress** for businesses and citizens to assert their Internal Market rights should be available, easily accessible and advertised
- A **communication strategy** should be implemented on awareness of Internal Market rules and opportunities

### Better administrative cooperation and mutual assistance between public authorities in cooperation with the Commission

- Community instruments setting out **frameworks for cooperation** between national authorities responsible for enforcement should be further explored
- **Solvit centres** should be adequately staffed and financed

### Correct transposition and administrative implementation of EU legislation

- Systematic **obligation to notify** through concordance tables showing how Member States implement new EU legislation
- **Assessment of the compliance** of national transposition laws with better regulation objectives and to avoid gold-plating

### Effective market surveillance

- Market surveillance authorities should be given **adequate power and resources**
- **Cooperation** between surveillance authorities at EU and national level to avoid duplication of work and facilitate equivalence between national systems
- **Customs** must be seen as a decisive market surveillance authority on imported products in order to ensure compliance with EU standards

### Proper application of the mutual recognition principle

- Make sure that the **burden of proof** rests with public authorities in cases where access to the market has been restricted
- Specify **remedies** available against decisions by competent authorities

## CONCLUSIONS AND RECOMMENDATIONS

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The Internal Market needs a new impetus to deliver more benefits for citizens and companies and to adapt to the fast-moving environment. Better enforcement of the Treaty's principles and secondary legislation is key to the success of the Internal Market.














European and national authorities must become more committed to this objective, in particular by:

- 1** Ensuring timely and correct transposition and administrative implementation of Community legislation including administrative simplification
- 2** Stepping up Member States' efforts and resources to fulfil their enforcement responsibilities through effective and homogeneous market surveillance, efficient external border control and correct application of the mutual recognition principle
- 3** Providing more information, facts and figures on national compliance with and enforcement of Internal Market legislation
- 4** Creating a greater partnership and cooperation between the Commission and Member States
- 5** Improving cooperation and mutual assistance among Member States
- 6** Ensuring easier access to both EU and national means for asserting Internal Market rights including promotion and reinforcement of Solvit and speedier and more efficient infringement procedures
- 7** Better positioning of the Internal Market in the global context through promotion of EU standards

The above recommendations will help companies and citizens to make full use of the opportunities of the Internal Market and will reinforce their confidence and vision of the European Union. Proposals for better enforcement must be at the heart of future policy for the Internal Market of the 21<sup>st</sup> century.



## MEMBERS ARE 39 LEADING NATIONAL BUSINESS FEDERATIONS IN 33 EUROPEAN COUNTRIES

 Austria	 Belgium	 Bulgaria	 Croatia	 Cyprus	 Czech Republic
 Denmark	 Denmark	 Estonia	 Finland	 France	 Germany
 Germany	 Greece	 Hungary	 Iceland	 Iceland	 Ireland
 Italy	 Latvia	 Lithuania	 Luxembourg	 Malta	 Norway
 Poland	 Portugal	 Portugal	 Rep. of San Marino	 Romania	 Slovak Republic
 Slovenia	 Spain	 Sweden	 Switzerland	 Switzerland	 The Netherlands
 Turkey	 Turkey	 United Kingdom			