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► **To cite this version:**

Laurent Warlouzet. THE IMPLEMENTATION OF THE SINGLE MARKET PROGRAMME (1985-92) THE EXAMPLES OF THE CAR EMISSION AND OF COMPETITION POLICY. Reshaping Europe: Towards a Political, Economic and Monetary Union, 1984-1989, Nomos, pp.247-262, 2020, 978-3-8487-6674-1. hal-02977275

**HAL Id: hal-02977275**

**<https://hal.science/hal-02977275v1>**

Submitted on 24 Oct 2020

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# THE IMPLEMENTATION OF THE SINGLE MARKET PROGRAMME (1985-92) THE EXAMPLES OF THE CAR EMISSION AND OF COMPETITION POLICY

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Pre-print of: Laurent Warlouzet, 'The implementation of the Single Market Programme (1985-1992): the examples of Car Emission and of Competition Policy', in Michael Gehler, Wilfried Loth (ed.), *Reshaping Europe: Towards a Political, Economic and Monetary Union, 1984-1989*, Baden-Baden, Nomos Verlag, 2020, pp. 247-262.

## Abstract:

This contribution will focus on the implementation of the Single Market programme between its definition in the Single Act in 1986, and its “opening” in 1993. I will argue that the Single Market was a compromise between different visions of Europe, and not solely a neoliberal project. In doing so, I will use a typology that differentiates between three types of economic policies: socially-oriented, neomercantilist, and market-oriented, with neoliberal policies being a sub-group of the final category. A few examples, including legislation on mergers and car pollution, will be explored in-depth by way of illustration.

## Biography

Laurent Warlouzet is Professor of History at Paris Sorbonne University. A former postdoctoral fellow at the European University Institute (Florence) and the London School of Economics (LSE), his most recent book is devoted to the interplay between European integration and globalization: Laurent Warlouzet, *Governing Europe in a Globalizing World. Neoliberalism and its Alternatives Following the 1973 Oil Crisis*, London, Routledge, 2018 (see reviews in *H-Soz-Kult* and *Foreign Affairs*, among others).

For more information about his publications (including full-text or abstracts), see his [website](http://sorbonne-universite.academia.edu/LaurentWarlouzet) : [sorbonne-universite.academia.edu/LaurentWarlouzet](http://sorbonne-universite.academia.edu/LaurentWarlouzet).

## 1. Introduction:

As exemplified by the Brexit negotiations, the Single Market is at the core of the European integration process. The EU-UK talks stalled mainly because of this issue, especially in trying to avoid the reestablishment of a physical border in Ireland. The origins of this programme date back to 1985, when it was officially launched by European Commission President Jacques Delors.<sup>1</sup> It quickly became the European Economic Community's flagship programme, after being officially endorsed by member states with the 1986 Single Act

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<sup>1</sup> On the origins of the Single Market Programme, see the contribution by Eric Bussière in this volume, as well as Bussière, “Devising a strategy : the internal market and industrial policy,” in Bussière, Vincent Dujardin, Michel Dumoulin, Piers Ludlow, Jan Willem Brouwer and Pierre Tilly (eds.), *The European Commission, 1973-86. History and Memories of An Institution*, Luxembourg: Publications Office of the European Union, 2014, pp. 263-276

Treaty.<sup>2</sup> Even if it was eventually replaced at the forefront of the European integration dynamic by the project of European Monetary Union, the removal of controls at many border posts in late 1992 remained a major breakthrough. In his inaugural speech before the European Parliament in January 1985, Delors announced that this would become a reality in 1992, with his prediction becoming reality on schedule.

In contrast to the Common Market, which was completed in 1968 after the removal of internal customs duties and the adoption of a common external tariff, the notion of a Single Market included the removal of all non-tariff barriers. There were many of them, ranging from technical barriers to national commercial laws. A large number of national laws had to be harmonized in order to remove such obstacles, hence the need to adopt qualified majority voting for Article 100 EEC, which addressed the convergence of national regulations. The principle of mutual recognition popularized by the *Cassis de Dijon* ruling of 1979 was not enough to create a Single Market on its own, as it contained four exemptions, which is to say four types of legislation that had to be harmonized (“the effectiveness of fiscal supervision, the protection of public health, the fairness of commercial transactions, and the defence of the consumer”).<sup>3</sup> The Commission recognized the limitations of *Cassis de Dijon* early on,<sup>4</sup> with most of its proposals subsequently being stuck in the Council during the early 1980s due to the unanimity rule.

Beyond the harmonization of standards, the notion of a Single Market also includes some form of tax harmonization directly linked to the removal of border controls, such as those dealing with the value added tax and excise duties, which were the primary source of verifications (exemption and then new taxation) during border controls. By extension, it entailed the development of common tools for managing the Single Market, such as competition policy, notably through the Europeanization and liberalization of the air transportation and telecommunication sectors, which began in 1987-88, along with public procurement. More generally, the completion of the Internal Market encompassed the four freedoms of movement for goods, services, capital, and citizens. Article 13 of the Single

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<sup>2</sup> The bibliography on the Single Market programme in the 1980s that is not based on an archival approach includes: Michelle Egan, *Constructing a European Market*, Oxford: Oxford University Press, 2001; Gilles Grin, *The Battle of the Single European Market. Achievements and Economic Thought, 1985-2000*, London: Paul Kegan, 2003; Kenneth Armstrong and Simon Bulmer, *The Governance of the Single European Market*, Manchester: Manchester UP, 1998; Simon Bulmer, “Completing the European Community’s Internal Market : The Regulatory Implications for the Federal Republic of Germany”, in Kenneth Dyson (ed.), *The politics of German Regulation*, Aldershot: Dartmouth, 1992, pp. 53-78; David Howart, Tal Sadeh, *The Political Economy of Europe’s Incomplete Single Market*, London: Routledge, 2012; Nicolas Jabko, *Playing the Market : a political strategy for uniting Europe, 1985-2006*, Ithaca: Cornell University Press, 2005; Neil Fligstein, and Alec Stone Sweet, “Constructing Politics and Markets: An Institutional Account of European Integration”, *American Journal of Sociology*, vol. 107, n° 5, The University of Chicago Press, Chicago, 2002, p. 1221-1243; Bernard Jullien and Andy Smith (eds.), *The EU’s Government of Industries: Markets, institutions and politics*, Routledge: London, 2015; Andrew Moravcsik, *The Choice for Europe: Social Purpose and State Power from Messina to Maastricht*, Ithaca: Cornell University Press, 1998; for books based on fresh archival research; Laurent Warloutzet, “The internal market and competition”, in Vincent Dujardin, Éric Bussière, Piers Ludlow, Federico Romero, Dieter Schlenker and Antonio Varsori (eds.), *The European Commission, 1986-2000. Histories and memories of an Institution*, Luxembourg: Publications Office of the European Union, 2019, pp. 257-280.

<sup>3</sup> Judgment of the Court of 20 February 1979, *Rewe-Zentral AG v Bundesmonopolverwaltung für Branntwein*, case 120/78; Karen Alter and Sophie Meunier, “Judicial Politics in the European Community: European Integration and the Pathbreaking *Cassis de Dijon* Decision”, *Comparative Political Studies*, 26, 4, 1994, pp. 535-561; Michelle Egan, *Constructing a European Market*, *op. cit.*, pp. 94-103.

<sup>4</sup> Laurent Warloutzet, *Governing Europe in a Globalizing World. Neoliberalism and its Alternatives following the 1973 Oil Crisis*, London: Routledge, 2018, p. 183.

European Act (SEA) stated that: “The internal market shall comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured in accordance with the provisions of this Treaty.”

The adoption of the Single Market Programme in the 1986 Single Act, combined with the adoption of qualified majority voting at the Council for the removal of most non-tariffs barriers, unleashed a sustained momentum. Article 13 SEA specified that “The Community shall adopt measures with the aim of progressively establishing the internal market over a period expiring on 31 December 1992,” thus setting in stone the deadline of 31 December 1992 set by Jacques Delors in his keynote speech to the European Parliament on 14 January 1985.

Based on various materials collected in national and European archives, and in keeping with the recent enlargement of the historiography of European integration towards new arenas,<sup>5</sup> this article will argue that the implementation of the Single Market Programme was not unequivocal: while it was dominated by a market-oriented approach, it encompassed other dimensions including neoliberal, social, and neomercantilist orientations. The first part of this contribution will define these categories in the context of the Single Market, and the final two sections will focus on two examples of conflict between different visions of economic Europe: the 1989 car-emission directive, and competition policy regarding state aid and mergers.

## **2. A multifaceted Single Market Programme**

Article 13 SEA gives an extensive definition of the internal market. The push to build it translated not only into directives harmonizing standards, but also into directives touching on public procurement, capital flows, the harmonization of Value Added Tax (VAT) regimes, and the “television without border” directive, all of which were adopted before the 1993 deadline.<sup>6</sup>

The broad definition of the Single Market promoted by the European Commission was also present in the “Cecchini Report,” named after the former Deputy Director-General for the Internal Market at the European Commission, Paolo Cecchini. This report, which was commissioned and disseminated by the Commission, completed an in-depth evaluation of the estimated benefits of the Single Market, which were estimated at gains of approximately 5% for the gross national product, i.e. approximately ECU 200 billion. He concluded with four points:

- “business must respond to the challenge and seize the new opportunities on offer. Corporate management should also seek to make industrial relations less conflictual, encourage employee involvement in the life of the enterprise, and ensure that workers share in the jointly achieved productivity gains;
- competition policy must be effectively enforced;
- the distribution of gains must be fair, as must be the distribution of cost;

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<sup>5</sup> Kiran Klaus Patel, “Widening and deepening? Recent advances in European Integration History,” in *Neue Politische Literatur*, 64, 2, 2019, pp. 327–357.

<sup>6</sup> For further details on this legislation, see Laurent Warloutzet, “The internal market and competition”, in Vincent Dujardin, Éric Bussière, Piers Ludlow, Federico Romero, Dieter Schlenker and Antonio Varsori (eds.), *The European Commission, 1986-2000. Histories and memories of an Institution*, Luxembourg: Publications Office of the European Union, 2019, pp. 257-280; for the TV Without Borders directive, see also Kiran Klaus Patel’s contribution in this volume.

-monetary stability and the necessity to strengthen ... the European Monetary System.”

Hence, according to this definition, which was later endorsed by the Commission, the Single Market extended to competition and monetary policy, and contained a dimension of fairness and harmonious industrial relations.

The single market is actually multifaceted, since the Single Act left ample room for divergent interpretations. On the whole, one can argue that the implementation of the Internal Market Programme was dominated by a market-oriented approach, but that this approach nevertheless was multi-faceted, thereby triggering conflicts within the Commission. Since the Single Market program covered many different policies ranging from trade to taxation, a huge number of different facts, concepts, and notions must be covered. In order to facilitate comparison across countries and move beyond the mere juxtaposition of facts, the various conceptions of the internal market program have been grouped into three models for economic policy: social, neo-mercantilist and market-oriented.<sup>7</sup>

Supporters of a social Europe seek to protect vulnerable groups such as the poor and minorities, for instance women. More broadly, they are willing to tackle the negative externalities of markets that diminish quality of life. “Social policy” thus includes measures of legislation and redistribution in terms of social insurance, working conditions (including the democratization of companies), health, environmental protection, regional solidarity, and so on.<sup>8</sup> A social Single Market is based on high norms, in accordance with article 100-A-3 of the Single Market: “The Commission, in its proposals envisaged in paragraph 1 concerning health, safety, environmental protection and consumer protection, will take as a base a high level of protection.” German Länder were especially attentive to ensuring that future EEC norms do not downgrade earlier DIN standards.<sup>9</sup>

Neo-mercantilist policies combine mercantilism’s aggressive stimulation of national industrial potential with the insertion into the international free-trade order (hence the prefix “neo”). Blatant protectionism was no longer possible beginning in 1960s, although more discreet measures such as state aid, cartels, or technical norms favouring national producers are still possible. A neomercantilist Single Market would promote norms favourable to European industrialists, and possibly discriminate against non-European producers. This neomercantilist approach was particularly favoured by the French government, and when coupled with a more Europeanized angle, by Delors as well.<sup>10</sup>

Lastly, “market-oriented” policies strove to foster free-market dynamics, which according to the neoclassical doctrine are believed to unleash growth. A market-oriented Single Market focuses on removing obstacles rather than erecting new constraints on business. More generally, this translated into a debate as to whether more regulation was needed via harmonization towards higher standards—hence the paradox captured by the expression “freer markets, more rules”<sup>11</sup>—or whether a broad interpretation of mutual recognition would lead to less legislation and constraints for trade. The latter solution ran the risk of a “race to the bottom” in terms of standards. It embodied the “neoliberal” dimension of EEC/EU

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<sup>7</sup> More information on this typology can be found in Laurent Warlouzet, *Governing Europe, op. cit.* chapter 1.

<sup>8</sup> See Aurélie Andry’s recent PhD dissertation: Aurélie Andry, *Social Europe in the long 1970s. The Story of a Defeat*, PhD diss., European University Institute (Florence), 2017.

<sup>9</sup> Laurent Warlouzet, *Governing Europe, op. cit.*, p. 183.

<sup>10</sup> Laurent Warlouzet, *Governing Europe, op. cit.*, pp. 192-4 and chapter 8.

<sup>11</sup> S.K. Vogel, *Freer Markets, More Rules : Regulatory Reform in Advanced Industrial Countries*, Ithaca: Cornell UP, 1996.

policies, which fostered a radicalization of market-oriented policies, especially by emphasizing a retreat from the welfare state.<sup>12</sup>

This vision was embodied at the time by British Prime Minister Margaret Thatcher's crusade for "deregulation," which was at the heart of the British memorandum from March 1985 entitled "The Creation of Wealth and Employment in the Community."<sup>13</sup> It requested a report on "the burden imposed on businesses by existing Community legislation and the way to reduce it [and] take business costs into account in future legislation," and on decreasing some welfare state expenditures. The British prime minister tried to coordinate with the Belgian and Dutch governments (of Martens and Lubbers, respectively), but to no avail, as both of these countries were more supranational.<sup>14</sup>

These models are useful because they overcome the vocabulary differences that often hamper comparison; they also shed light on conflicts within EEC institutions, as exemplified by the debates surrounding the car-emission directive and competition policy.

### **3. Environment and Industrial Interests: The Car-emission Directive (1989)**

The environment became a new field of public policy in the 1970s in the West, and within the EEC in particular.<sup>15</sup> It therefore represented a sizeable part of the Single Market programme. The European Parliament played an important role in this field thanks to the new cooperation procedure established in the Single Act. This Treaty included environmental policy within the range of EEC competences thanks to a whole new chapter. It inserted certain provisions over environmental protection within the remit of article 100-A-3, as long as they were directly related to the Internal Market Program. This is especially relevant since they could be adopted by qualified majority voting instead of requiring unanimity. The Commission usually supported the European Parliament in its extensive interpretation of article 100 in order to put additional pressure on the Council, although the Commission and the European Parliament were not always in agreement. For example in October 1987, the Commission refused to consider that radioactivity in food (a follow-up to the Chernobyl disaster) fell under article 100 A—as argued by the European Parliament's rapporteur, the German Social Democrat Mrs. Undine-Uta von Blottnitza—and instead preferred article 31 Euratom.<sup>16</sup>

The "car-exhaust directive" was singled out by Nicole Fontaine, a former president of the European Parliament and a member of the European Parliament (MEP) in those days, as one of the most important battles in the assertion of the European Parliament.<sup>17</sup> Aimed at diminishing the most harmful car emissions, namely those linked to leaded petrol, it was a major stepping-stone in the assertion of both EEC environmental policy and the European Parliament in implementing the Single Market.

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<sup>12</sup> This classification is different from the one used in the history of ideas, since the term "neoliberal" as defined after the Lippmann conference was much broader, and therefore not applicable for a cross-country comparison. See, among others, Hagen Schulz-Forberg and François Denord's work on the history of neoliberal ideas.

<sup>13</sup> British archives, PREM19/1490/1, "The creation of wealth and employment in the Community," Brussels European Council, 29–30 March 1985.

<sup>14</sup> Laurent Warloutzet, *Governing Europe*, *op. cit.*, p. 196.

<sup>15</sup> Thorsten Schulz-Walden, "Between National, Multilateral and Global Politics: European Environmental Policy in the 1970s", in Claudia Hiepel (eds.), *Europe in a Globalising World. Global Challenges and European Responses in the 'long' 1970s*, Baden-Baden: Nomos, 2014, pp. 299-318

<sup>16</sup> EUHA, minutes of the Commission meeting, 28 October 1987.

<sup>17</sup> Interview of Nicole Fontaine by Laurent Warloutzet in Paris, 18 July 2017.

The origins of this debate are twofold. Those supporting a social Europe stressed the causal link between car emissions and acid rain, and thereby the destruction of forests in Central and Northern Europe, while neomercantilist leaders insisted on the need for European cars to follow tighter US standards in order to keep this market open for their exports.

The grassroots movement against “Waldsterben” gained powerful momentum in Germany but not in France, because the former was more affected by acid rain than the latter, and because ecological movements were stronger East of the Rhine. In Germany they were associated with the post-1968 movement, whereas in 1960s and 1970s France they were still tainted—according to Birgit Metzger and Laurent Schmit—with an anti-modernization spirit reminiscent of the Vichy era.<sup>18</sup> Acid rains were not caused by lead in petrol but by the emission of two gases, sulfur dioxide and nitrogen oxide. One of the main emitters of nitrogen oxide were cars, and catalytic converters were the main tool to reduce those emissions. However, catalytic converters required unleaded petrol. Since acid rain was in particular a problem in Germany, Bonn was one of the main proponents to introduce EEC legislation aimed at promoting unleaded petrol and catalytic converters. In Germany, car manufacturers also became convinced that it was in their interest to follow tighter rules. The mobilization against car emissions also affected the United Kingdom.<sup>19</sup>

In France the opposition to tighter emissions was driven by neomercantilist concerns. If legislation on unleaded petrol became law, carmakers would have to add a catalytic converter to their cars. While the price of these catalytic converters and the loss of motor power they entailed were relatively negligible for expensive cars, such as those produced in Germany (with the exception of Volkswagen), they were huge for small cars (such as those produced by French and Italian carmakers). Moreover, German carmakers had invested in this new technology for quite some time, while their French counterparts remained more conservative in this regard. Negotiations at the Council of Ministers were thus stalled by the French government, thereby delaying an agreement in order to protect its car industry.

Thereafter, a high-level French-German political rapprochement between Mitterrand and Kohl softened this opposition. A compromise was struck at the Council in March and June 1985, whereby the French government secured less constraining norms for mid-sized and smaller cars (i.e., those massively sold by French carmakers).<sup>20</sup> The adoption of the directive was blocked by a Danish veto (for other reasons) until July 1987.<sup>21</sup> The new procedures of the Single Act entered into force at this time, making it possible to circumvent unanimity. The Council eventually struck an agreement on 21 July 1987 by qualified majority, voting on a

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<sup>18</sup> Birgit Metzger et Laurent Schmit, “Shades of Green: Ökologische Modernisierung im deutsch-französischen Vergleich (1970-1990)”, in Martin Bemann, Birgit Metzger, Roderich von Detten (ed.), *Ökologische Modernisierung. Zur Geschichte und Gegenwart eines Konzepts in Umweltpolitik und Sozialwissenschaften*, Frankfurt: Campus Verlag, 2014, pp. 257-286.

<sup>19</sup> Martin Chick, “The changing role of space and time in British environmental policy since 1945”, *Revue française d'histoire économique*, 1, 2015, pp. 72-89.

<sup>20</sup> European Parliament archives, PE2\_AP\_RP!ENVI.1984\_A2-0132!880010EN, Report on the proposal from the Commission of the European Communities for a Council directive amending Directive 70/220/EEC on the approximation of the laws of Member States relating to measures to be taken against air pollution by gases from the engines of motor vehicles (European emission standard for cars below 1.4 litres), Com (87) 706, rapporteur: K. Vittinghof, 29 June 1988, document A 2-0132/88; British archives, PREM 19/1490/1, brief, Environmental Issues, 26 March 1985.

<sup>21</sup> European Parliament archives, PE2\_AP\_RP!ENVI.1984\_A2-0132!880010EN, Report on the proposal from the Commission of the European Communities for a Council directive amending Directive 70/220/EEC on the approximation of the laws of Member States relating to measures to be taken against air pollution by gases from the engines of motor vehicles (European emission standard for cars below 1.4 litres), Com (87) 706, rapporteur: K. Vittinghof, 29 June 1988, document A 2-0132/88.

new limitation for motors with different standards for large (powered by a motor of more than 2 litres), intermediate (between 1.4 and 2 litres), and small cars (less than 1.4 litres).

Some decision-makers considered this agreement imperfect in terms of competitiveness. Several member of the European Parliament “pointed out that the maximum emission levels proposed by the Council were the highest in the world and thus constituted a serious handicap to the competitiveness of the European Industry.”<sup>22</sup> From a neomercantilist perspective, adopting low standards would actually make it more difficult to export to non-EEC markets with higher standards, such as the US or Sweden. In the end, a first directive was adopted by the Council on 3 December 1987 by qualified majority voting. It established standards close to those in the US, except for the smallest cars, for which only an intermediate standard was adopted in 1989.

The Commission therefore announced a second directive on small engines to complement the first one.<sup>23</sup> A major debate unfolded surrounding this second directive. On 10 February 1988, the Commission issued its draft second directive for cars with motors smaller than 1.4 litres. The EEC Council discussed it and adopted a so-called “Common position,” which would serve as the basis for discussions at the European Parliament. This body debated the draft directive on 13 September 1988 as part of a first reading, with the German SPD MEP Kurt Vittinghof authoring the report on the draft directive.<sup>24</sup> He believed that the Council had taken a “half-hearted and industry friendly” stance, chiefly because the proposed standards were still too lenient. He stressed that car emissions played a role not only in “dying forests,” but also in damage to public monuments and public health, thereby widening the issue. Other MEPs, such as the British Labourite Carol Tongue, the German Social Democrat Albert Siegbert, and the Belgian Green François Roelants du Vivier, went even further by directly or indirectly challenging the lobbying of French carmakers, in particular Peugeot CEO Jacques Calvet. Calvet became an early and leading voice in the French media for Eurosceptic arguments that the EEC posed a threat to French neomercantilism. The situation was further complicated by many Danish and Dutch MEPs, who called for even more stringent caps. Copenhagen threatened to take unilateral measures, and the Commission considered accusing the Danish government of hindering the free flow of goods through its stricter national car emission standards!<sup>25</sup>

The commissioner in charge of this regulation, the British Labour member Clinton-Davies, nevertheless reinstated the Commission’s original position. In accordance with the Council, he rejected the European Parliament’s amendment for tighter emission standards. A few months later, in December 1988, the EEC Council logically adopted a Common position that still ignored the European Parliament’s call for a stringent cap.<sup>26</sup>

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<sup>22</sup> EUHA, Florence, GSPE 77/2379, note on the Environmental Committee, session of 30 September 1987-1/2 October 1987.

<sup>23</sup> EUHA, GSPE 77/2524, political report, 16-20 November 1987.

<sup>24</sup> European Parliament archives, PE2\_AP\_DE!1988\_DE19880913-169900FR, debates in plenary session on 13 September 1988.

<sup>25</sup> EUHA, European Commission archives, special minutes of the meeting of 14 December 1988.

<sup>26</sup> European Parliament archives, PE2\_AP\_RP!ENVI.1984\_A2-0026!890020FR, Recommendation by the Committee on Environment, Public Health and Consumer Protection on the Common Position of the Council with a view to the adoption of a directive amending Directive 70/220/EEC on the approximation of the laws of the Member States relating to measures to be taken against air pollution by gases from the engines of motor vehicles (European emission standards for car below 1,4 litres), 28 March 1989, part A (document A2-26/89/Part A) and part B (document A2-26/89/Part B).



After further discussion at the Council, the text returned to the European Parliament on 11 April 1989, but the context had changed in the meantime. The Commission was now represented by a new Commissioner for the Environment, Carlo Ripa di Meana, a former MEP and pioneer of environmental activism in Italy. He proved more willing to act than Clinton-Davies, for he proposed anticipating the adoption of the new standards.<sup>27</sup> The rapporteur Vittinghof actually drew applause when he praised the new commissioner during the debate in plenary session.<sup>28</sup> In his speech during the plenary session, Ripa di Meana underscored what he considered to be a “watershed in the history of Community policy over environmental protection.” This was linked to the Single Act, which “built [environmental protection] into the Community’s other policies.” The ensuing discussion followed a predictable pattern, with constant criticism of the lobbying by the French carmaker Peugeot. MEPs from various political groups stressed the importance of rejecting the Council’s common position, should the Commission refuse to accept the amendments.<sup>29</sup> Interestingly, the debates also led to a broader discussion on environmental policies, including new concepts. Siegbert Alber, a German Social Democrat, referred to the “polluter pays principle,” a concept coined by the OECD in 1970, and later taken up by early Green activists in the EEC beginning in 1972.<sup>30</sup> Another German MEP, Kurt Vittinghof, stressed the issue of “global warming,” making reference to a meeting of experts in Turin in January 1989, who considered car emissions to be “one of the main causes of climatic change.”<sup>31</sup> MEPs eventually adopted the amendments by a large majority,<sup>32</sup> which were then included by the Commission in a new draft proposal. The Council ultimately struck a compromise in June 1989, with Directive 89/491/EEC from 17 July 1989.<sup>33</sup> In this case implementation of the Single Market was characterized by an emphasis on Social Europe (in the sense of environmentally-friendly). It could muster support by relying not only on environmental concerns, but on industrial ones as well (the need to follow norms already adopted outside the EEC).

#### **4. The Neomercantilist Delors vs. the Neoliberals Sutherland and Brittan**

The creation of a unified Single Market entailed monitoring private non-tariff barriers: if companies could thwart the removal of trade barriers by market sharing via cartels, or by dominating it via abuse of dominant position, or by receiving excessive state aid, then the benefits of trade liberalization for consumers would be wiped out. This task of monitoring private practice was entrusted to the European Commission, which has implemented EEC competition policy since the Treaty of Rome. This treaty, which created the EEC, established

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<sup>27</sup> On commissioner Ripa di Meana’s inclination for environmental issue, see interview of François Roelants du Vivier by Laurent Warloutzet in Brussels on 18 October 2017.

<sup>28</sup> European Parliament archives, PE2\_AP\_DE!1989\_DE19890411-149900FR, debate in plenary session on 11 April 1989.

<sup>29</sup> EUHA, Florence, GSPE 79/468, Political report of the Socialist Group, 10 to 14 April 1989.

<sup>30</sup> Jan-Henrik Meyer, “Who should pay for pollution? The OECD, the European Communities and the emergence of environmental policy in the early 1970s”, *European Review of History*, 24, 3, 2017, pp. 377-398.

<sup>31</sup> European Parliament archives, PE2\_AP\_DE!1989\_DE19890411-149900FR, debate in plenary session on 11 April 1989.

<sup>32</sup> European Parliament archives, PE2\_AP\_RP!ENVI.1984\_A2-0026!890001FR

<sup>33</sup> Commission Directive 89/491/EEC of 17 July 1989 adapting to technical progress Council Directives 70/157/EEC, 70/220/EEC, 72/245/EEC, 72/306/EEC, 80/1268/EEC and 80/1269/EEC relating to motor vehicles

provisions on competition policy including innovative monitoring of state aid, although they were not firmly implemented during the first thirty years.

However, beginning in the 1980s competition policy became one of the flagship policies of the EEC/EU. It became more assertive in monitoring state aid, and enlarged its scope to new fields such as the control of concentration, through merger regulations in 1989,<sup>34</sup> the directive on the liberalization of air transport in 1987,<sup>35</sup> and regulations concerning telecommunications in 1988.<sup>36</sup> This evolution was supported by a context favourable to market-oriented ideas. During the 1980s, regulation of the market by competition policy rules replaced direct state management of markets through price and industrial policy, on the European level as well as that of many Western European countries.<sup>37</sup>

Jacques Delors had a somewhat ambiguous position towards EEC competition policy. He was broadly supportive, as in his groundbreaking speech of January 1985, where he emphasized the need to get rid of “obstacles to healthy competition.”<sup>38</sup> He stated that “competition can kill competition if the market does not permit fair contest between the different rivals,” therefore national laws had to be harmonized to a certain extent. Yet his vision was not purely market-oriented, as he integrated a neomercantilist perspective by calling for the development of a common industrial policy “instead of the costly and ineffective escalation of national aid and incentives.” His aim was to improve industrial policies by Europeanizing them, rather than exporting French dirigisme.

While the literature usually links the reinforcement of EEC competition policy to the Single Market Programme,<sup>39</sup> this domain was actually left largely untouched by the Single Act Treaty. The articles of the 1957 Rome Treaty addressing this domain remained in place. Competition policy was mentioned only in relationship to other policies (such as cohesion policy in article 130f-3). As a result, the rise of EEC/EU competition policy did not derive from automatic interpretation of the Single Act, but instead from the activism of competition policy commissioners, in this case Peter Sutherland (1985-89) and Leon Brittan (1989-1993).

As a French Social Democrat, Delors was sometimes disturbed by the neoliberal tendencies of his two commissioners for competition policy. In their recent accounts, both Delors and Sutherland believed that they got along well, since they both shared an ambitious agenda for European integration, although they also recognized specific conflicts over state aid.<sup>40</sup> The archives reveal that one such instance involved Boussac, the largest textile firm in France. Under the insistence of Sutherland, the Commission targeted very substantial French aid to

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<sup>34</sup> On the adoption of this regulation, including a historiographical review of the literature, see: Laurent Warlouzet, “The Centralization of EU Competition Policy: Historical Institutional Dynamics from Cartel Monitoring to Merger Control (1956–91)”, in *Journal of Common Market Studies*, 54, 3, 2016, pp. 725-741.

<sup>35</sup> Hussein Kassim, Handley Stevens, *Air Transport and the European Union. Europeanization and its Limits*, Basingstoke: Palgrave Macmillan, 2010.

<sup>36</sup> Mark Thatcher, *Internationalisation and Economic Institutions: Comparing the European Experience*, Oxford: Oxford University Press, 2007.

<sup>37</sup> Laurent Warlouzet, *Governing Europe in a Globalizing World*, *op. cit.*, pp. 159-161.

<sup>38</sup> “The thrust of Commission policy,” Statement by Jacques Delors, President of the European Commission to the European Parliament, Strasbourg, 14 and 15 January 1985,” in *Bulletin of the European Communities*, Supplement 1/85. This document is a translation of the original speech given in French.

<sup>39</sup> For example John Gillingham, *European Integration, 1950-2003. Superstate or New Market Economy ?*, Cambridge: Cambridge UP, 2003.

<sup>40</sup> EU archives, oral archives, interview of Peter Sutherland by Laurent Warlouzet on 8 September 2011, interview of Jacques Delors by Vincent Dujardin, Anne-Sophie Gijs, and Sophie Kaisin on 20 June 2017.

the firm totalling close to FF 1 billion.<sup>41</sup> French officials argued that this powerful company was on the verge of bankruptcy, and that the subsidy was justified in order to avoid massive layoffs in regions of Northern and Eastern France already crippled by the industrial crisis in other sectors of traditional manufacturing (coal mining, steelmaking, shipbuilding). But Sutherland stressed that since Boussac was an export firm, the aid would affect intra-European trade. In any event, since the subsidies were granted without a corresponding restructuring plan, they were clearly illegal.<sup>42</sup> The bold Irish commissioner was also motivated by the clumsiness of French officials, who blatantly ignored EEC rules on state aid, and were unwilling to disclose information.<sup>43</sup> Other countries also helped their textile industry, notably Belgium with its Claes plan also targeted by the Commission, although the most high-profile case was the French one.

During internal debates at the Commission, Sutherland proposed requesting a massive repayment of FF 999 million by the company. This triggered a hostile reaction from the Frenchman François Lamoureux, a prominent member of Delors's cabinet, who estimated that there was an "unprecedented disagreement" within the Commission on this question.<sup>44</sup> Lamoureux was a staunch French Socialist who later became deputy head of Edith Cresson's cabinet when she was the French Prime Minister under the Socialist government (1991-2). More precisely, two issues sparked controversy within the Commission. First, many Commission officials contested the Directorate General for Competition's calculations for the illegal aid. The Directorate General in charge of Industrial Affairs, DG III, followed a more neomercantilist line of reasoning, insisting on the importance of taking into account the intensity of Boussac's restructuring, and the problem of international competition.<sup>45</sup> Second, commissioner Sutherland dared to challenge evidence provided by a national government, an accusation that was extremely controversial from a political point of view. Sutherland compromised in the end, securing the Commission's support to sanction the French government, but settling for a repayment of FF 338 million.<sup>46</sup>

Interestingly, the neoliberal vision embodied by Sutherland annoyed other Social Democrat commissioners. This demonstrated that this was not just a matter of nationality, with the Frenchman Jacques Delors being concerned by the fate of a large French company. In July 1986, when the College of Commissioners discussed Sutherland's draft directive seeking to impose stricter control of state aid for shipbuilding, he faced opposition from multiple commissioners, all of whom belonged to the centre-left (with the exception of the Christian Democrat Lorenzo Natali, probably because Italy's large nationalized industries were often the target of the European Commission): the Spanish Socialist Manuel Marin (Social Affairs),

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<sup>41</sup> EU archives, European Commission, BAC 327/1994/159, note from the Director General to Sunnen, 11 October 1985; letter from Andriessen to Cryer, 28 November 1984.

<sup>42</sup> EU archives, European Commission, BAC 327/1994/159, note Thies for Sunnen, 11 October 1985; note on a meeting with representatives of the French government, 18 October 1985.

<sup>43</sup> EU archives, European Commission, BAC 327/1994/159, note Thies for Sunnen, 11 October 1985; BAC 408/1991/201, note on the Commission's meeting of 8 October 1986.

<sup>44</sup> EU archives, European Commission, BAC 408/1991/201, note Lamoureux for Delors, 2 and 11 December 1986.

<sup>45</sup> EU archives, European Commission, BAC 327/1994/160, note SG SEC (87) 1147/8, 13 July 1987 ; BAC 408/1991/201, note Lamoureux for Delors, 11 December 1986 .

<sup>46</sup> EU archives, European Commission, BAC 327/1994/159, minutes of the Commission meeting 17 December 1986 ; Decision of the Commission n° 87/585/CEE of 15 July 1987 « relative aux aides accordées par le gouvernement français à un fabricant de textiles, d'habillement et de produits à base de papier Boussac Saint Frères ».

the Italian Socialist Carlo Ripa di Meana (Institutions and Culture), the Greek Socialist Grigori Varfis (Regional Policy), and the British Labourite Stanley Clinton-Davies (Transport).<sup>47</sup> In December 1986, the Italian Socialist Carlo Ripa di Meana accused Sutherland of being “too repressive towards European industry.”<sup>48</sup> All of these commissioners estimated that competition policy should also take into account social and neo-mercantilist considerations.

Later on, the conflict with the neoliberal commissioner for competition intensified under Leon Brittan, the British Thatcherite who held the Commissionership for Competition from 1989 to 1993.<sup>49</sup> The most famous conflict occurred in 1991, when Brittan decided to ban the merger between two aircraft companies, with French-Italian ATR due to take control of the Canadian De Havilland.<sup>50</sup> The case was sensitive for a variety of reasons. From the institutional point of view, it was the first time the Commission used its power to ban concentration between companies since the merger regulation was adopted in late 1989. The merger made sense from the economic point of view, since other competitors existed both within Europe (British Aerospace and Fokker in particular) and without. From the political point of view, this operation was hailed as a symbol for an EEC industrial policy in high technology seeking to create European champions that could compete with mightier US firms. Indeed, it was the French-Italian firm ATR, itself an example of European industrial cooperation, that bought its Canadian competitor De Havilland. This operation embodied a new form of Europeanized neomercantilism in high technology, an approach that the British commissioner sought to deter. Brittan opposed it on competition grounds by adopting a narrow definition of the relevant market, in order to demonstrate that the new companies would have a dominant position.<sup>51</sup> The decision triggered reservations even within DG Competition.<sup>52</sup> During the debate with the College of Commissioners, Delors opposed Brittan, but ultimately abstained when he saw that he would lose the case to a coalition of mostly centre-right commissioners.<sup>53</sup> Delors’s position was logical, for he had long favoured an EEC industrial policy in high technology that combined neomercantilism with international free trade.<sup>54</sup>

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<sup>47</sup> EU archives, European Commission, BDT 323/93/210, note on the meeting of commissioner, 4 July 1986, note on the meeting of the chef de cabinet, 11 July 1986.

<sup>48</sup> EU archives, European Commission, BAC 327/1994/159, note Ripa di Meana to Sutherland, 16 December 1986.

<sup>49</sup> On Leon Brittan, see Jean Joana, Andy Smith, *Les commissaires européens. Technocrates, diplomates ou politiques ?* Paris: Presses de sciences-po, 2002.

<sup>50</sup> Mark Pollack, *The Engines of European Integration. Delegation, agency, and agenda setting in the European Union*, Oxford: Oxford University Press, 2003, pp. 292-299; Michelle Cini, Lee Mc Gowan, *Competition Policy in the European Union*, Basingstoke: Palgrave, 1998, p. 129.

<sup>51</sup> Frédéric Jenny, « Droit européen de la concurrence et efficience économique », in *Revue d'économie industrielle*, 63, 1993, pp. 202-3 ; Catherine Goybet, « La CEE a-t-elle une politique industrielle ? », in *Revue du Marché Commun*, 352, 1991, p. 753.

<sup>52</sup> On the reservation of DG Competition, listen to the record of the following interview: EU archives, oral archives, interview of Helmut Schröter by Laurent Warlouzet, 30 September 2016 ; on the reservation of other DGs, see: EU archives, oral archives, interview of Martine Reicherts by Laurent Warlouzet on 14 December 2017.

<sup>53</sup> George Ross, *Jacques Delors and European Integration*, Cambridge: Polity Press, 1995, p. 178.

<sup>54</sup> On Delors’s commitment to develop an EEC industrial policy in high technology : Laurent Warlouzet, *Governing Europe in a Globalizing World, op. cit.*, pp. 192-194 and 200-202; Arthe Van Laer, “Research : towards a new common policy”, in Eric Bussière et al. (eds.), *The European Commission, 1973-86. History and Memories of An Institution*, Brussels: European Commission, 2014, pp. 277-290.

As a result, while Delors was generally supportive of strengthening EEC policies in general, and EEC competition policy in particular, he opposed the neoliberal orientations of Sutherland and Brittan, sometimes with the support of other Social Democrat commissioners, albeit with limited success.

## **Conclusion**

The European Internal Market Programme was implemented as a mostly market-oriented project, but with visible neoliberal, social, and neomercantilist features. This was particularly true for Delors, who combined socially-oriented, neomercantilist, and market-oriented visions of Europe. This compromise can be seen in the adoption of the car-emission directive in 1989 with strong support from the European Parliament, which acquired a higher profile in EEC decision-making thanks to the Single Market Programme. The neoliberal approach nevertheless quickly gained traction, as demonstrated by the ATR/De Havilland example. This triggered internal conflicts within the Commission, particularly between Delors and competition policy commissioners. This neoliberal orientation became even more prominent from the 1990s onwards, and is one explanation for the current crisis in legitimacy faced by the EU. Paradoxically, this was recently exemplified by the Brexit vote, even though the British government was at the vanguard of the neoliberal transformation of Europe.