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The Single Market: A Race to the Bottom or Convergence towards High Standards? (1985-1997)

Laurent Warlouzet

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His most recent books interpret the evolution of European economic, social and environmental policies as a contest between market, solidarity and power aspirations. They are based on archives gathered in 8 countries.

On the years between 1973 and 1986, he published: Laurent Warlouzet, *Governing Europe in a Globalizing World. Neoliberalism and its Alternatives Following the 1973 Oil Crisis*, London, Routledge, 2018 (reviewed in *H-Soz-Kult* and *Foreign Affairs*, a.o.). On the period spanning 1945 to 2021, he has just published: Laurent Warlouzet, *Europe contre Europe. Entre marché, solidarité et puissance*, Paris, Cnrs éditions, 2022 (reviewed in *Le Monde* and *Le Grand Continent*, a.o.).

His textbook on European integration history -co-edited with Brigitte Leucht and Katja Seidel- will be published in February 2023: *Reinventing Europe. The History of the European Union, 1945 to the Present*, London, Bloomsbury, 2023.

Abstract:

The Internal Market Programme, which was presented in 1985 and adopted in 1986, is at the core of the European integration process, as highlighted by the recent negotiations over Brexit. This article will examine the first decade of its implementation, and will demonstrate that it was affected by strong neoliberal dynamics emanating from London as well as from European competition policy, but that it remained a compromise between different economic visions of Europe, and not solely a neoliberal one.

Introduction:

The preservation of the Single Market has been the main sticking point in Brexit negotiations. The ability to cross borders without control is seen as a central feature of European cooperation, and is subsequently desirable for a United Kingdom intending to leave the European Union. The origins of this programme date back to 1985, when it was officially launched by European Commission President Jacques Delors in his inaugural speech at the European Parliament.¹ It vowed to open up a border-free Europe by 1992. This ambitious

¹ Jacques Delors's speech before the European Parliament on 14 January 1985. On the origins of the Single Market Programme, see Laurent Warlouzet, *Governing Europe in a Globalizing World. Neoliberalism and its Alternatives following the 1973 Oil Crisis*, London, Routledge, 2018, pp. 180-197 ; Andrew Moravcsik, *The*

objective was set in stone in the 1986 Single Act Treaty, and eventually implemented in late 1992 with the opening up of EEC internal borders.² The completion of the Internal Market nevertheless remained an on-going process even after this major breakthrough.

The definition of what constitutes the Single Market is fairly extensive. In the strict sense, and in contrast to the Common Market—which was completed in 1968 after the removal of internal custom duties and the adoption of a common external tariff—the notion of a Single Market includes the removal of all non-tariff barriers, such as different technical standards. A large number of national laws had to be harmonized in order to remove these obstacles, hence the need to adopt qualified majority voting for Article 100 EEC, which dealt with the harmonization of national regulations, rather than the unanimity called for by the Treaty of Rome. The principle of mutual recognition popularized by the *Cassis de Dijon* ruling of 1979 was not sufficient on its own to create a Single Market, since 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”).³ The Commission recognized the limitations of *Cassis de Dijon* early on,⁴ with most of its proposals subsequently being stuck in the Council in the early 1980s due to the unanimity rule, thereby demonstrating that “integration-through-law” dynamics could not generate momentum on their own.

In a broad sense, the notion of a Single Market also includes the harmonization of other legislation, some of which—such as the value added tax and excise duties—were the primary source of checks during border controls, and competition policy. More generally, the completion of the Internal Market encompassed four freedoms of movement: of goods, services, capital and citizens. Article 13 of the Single 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 Single Market should be understood as a European response to wider trends, such as growing competition from the USA and Japan beginning in the 1980s. From a broader perspective, it is a cornerstone of a long-term project designed to create a unified market in Europe for both economic and political reasons. Its creation followed a classical line of liberal

Choice for Europe: Social Purpose and State Power from Messina to Maastricht, Ithaca, Cornell University Press, 1998, pp. 314-379.

² The bibliography on non-archival approaches to the implementation of the Single Market programme in the 1980s 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 Institutionalist Account of European Integration”, *American Journal of Sociology*, 107, 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.

³ 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.

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

reasoning: removing obstacles to trade would unleash growth and foster interdependence among countries, and thereby peace.

This article will firstly argue that the implementation of the Single Market Programme was affected by strong neoliberal dynamics coming from the British government and European Commissioners for Competition policy, and secondly that despite this offensive the overall programme remained a compromise between four visions of Europe: market-oriented, neoliberal, social, and neomercantilist.⁵ Supporters of a social Europe seek to protect vulnerable groups and address the negative externalities of markets. Such an approach combines legislative and redistributive measures for social insurance, working conditions (including the democratisation of companies), health, environmental protection, correcting regional imbalances, and so on.⁶ Neo-mercantilist policies combine mercantilism's aggressive stimulation of national industrial potential with tolerance of the international free trade order (hence the prefix "neo"). Blatant protectionism has not been possible since 1960s, although more discreet measures such as state aid, cartels, or technical norms favouring national producers are still possible. Lastly, "market-oriented" policies strive to foster free market dynamics, which according to neoclassical doctrine are believed to unleash growth. In this contribution, neoliberal policies designate a radicalisation of market-oriented policies, especially through an emphasis on retreating from the welfare state.⁷

Based on various archival materials collected in national and European archives, this contribution will focus on the Single Market's adoption (1985-6) and first decade of implementation (1987-97). It will fill a gap in the current literature on European integration history, which is extremely rich but rather limited on the topic of the Single Market.⁸ It will complement the existing literature in political science by unearthing many hidden conflicts over the economic implementation of the Single Market, particularly within the European Commission.

Section one will explore why Western European leaders committed themselves to this common European project, including seemingly reluctant ones such as Thatcher and Mitterrand, as well as what was at stake in the implementation of this programme. Sections two and three will explore two neoliberal offensives and their partial success, the first one coming from the British Government's agenda of "deregulation," and the second from the implementation of European competition policy.

1. The Adoption of the Single Market Programme

The adoption of the Single Market Programme in the Single Act, combined with the adoption of qualified majority voting for the removal of most non-tariff barriers, is relatively well-

⁵ This typology is central to the following book (see chapter 1 for a full presentation of the typology): Laurent Warloutet, *Governing Europe in a Globalizing World. Neoliberalism and its Alternatives following the 1973 Oil Crisis*, London, Routledge, 2018.

⁶ On Social Europe see Aurélie Andry's recent PhD dissertation, Aurélie Andry, *Social Europe in the long 1970s. The Story of a Defeat*, PhD diss., EUI, 2017.

⁷ This classification is different from the one used in the history of ideas, in which the term "neoliberal" is defined as those who took part in the Lippmann conference, along with their successors. This definition is much broader, and therefore not applicable for a cross-country comparison. See, among others: François Denord, *Néolibéralisme version française. Histoire d'une idéologie politique*, Paris, Démopolis, 2007; Hagen Schulz-Forberg, "Crisis and continuity: Robert Marjolin, transnational policy-making and neoliberalism, 1930s-70s", in *European Review in History*, 26, 4, p. 679-702.

⁸ For a comprehensive review of the recent literature on European integration history, see Kiran Klaus Patel, "Widening and deepening? Recent advances in European Integration History," in *Neue Politische Literatur*, 64, 2, 2019, pp. 327-357.

known.⁹ It stemmed from the convergence of many actors, although the central role of Delors, Mitterrand, and Kohl, with assistance from Italian Prime Minister Craxi, is generally emphasized in the literature. While not untrue, this picture should be supplemented¹⁰ with the key role played by Thatcher, who issued two memoranda on this subject in 1984 and 1985, as well as the initial reluctance of the French government under the leadership of President Mitterrand, which dithered on the adoption of qualified majority voting, while always playing the card of the good European in speeches. Neither Thatcher nor Mitterrand initially prioritized completion of the internal market in the early 1980s; they began to support this project once they understood that their initial choices—liberalization through GATT for Thatcher, national neomercantilism for Mitterrand—ended in deadlock.

The Single Act encompasses the Internal Market Programme, as well as ambitious chapters on social, regional, industrial, and environmental policies. In fact, many actors were committed to a multi-faceted approach to European integration, merging the socially-oriented, neomercantilist, and market-oriented visions into one. Delors in particular was keen to promote social, regional, and industrial policies alongside completion of the Internal Market.¹¹

The justification for the Internal Market program was chiefly economic.¹² According to neoclassical theory, suppressing obstacles to trade boosts productivity and thereby increases growth, reduces unemployment, and lowers prices. By establishing European standards, the Single Market also has a neomercantilist dimension, since it could promote European norms to the advantage of European companies. In addition, the creation of a large domestic market could allow companies to benefit from economies of scale. Lastly, from a functional point of view, creating a Single Market was helpful for other European policies such as the CAP—all the more so after adoption of the Schengen Agreement on the free movement of persons in 1985 (among five member states)—as well as for the objective of creating a European Monetary Union in 1992 (among eleven member states).¹³

Most of all, the Single Market Program had a strong political dimension. The freedom of movement of people within the EEC was originally intended for workers in the 1960s and 1970s. In the 1980s, freedom of movement was progressively expanded to all sorts of people, including students, tourists, pensioners, etc. The Erasmus programme dates back to 1987, and the Schengen Agreement to 1985, with an executive Convention being completed in 1990 between five countries, which was joined by Italy in 1990, and later by most other EU

⁹ Andrew Moravcsik, *The Choice for Europe: Social Purpose and State Power from Messina to Maastricht*, Ithaca, Cornell University Press, 1998, pp. 314-379; Gilles Grin, *The Battle of the Single European Market. Achievements and Economic Thought, 1985-2000*, London: Paul Kegan, 2003; Wayne Sandholtz and John Zysman, “1992: Recasting the European Bargain”, in *World Politics*, 42, 1, 1989, pp. 95-128.

¹⁰ This paragraph is based on Laurent Warlouzet, *Governing Europe in a Globalizing World. Neoliberalism and its Alternatives following the 1973 Oil Crisis*, London, Routledge, 2018, pp. 180-197.

¹¹ See Laurent Warlouzet, *Governing Europe in a Globalizing World*, pp. 192-3.

¹² Gilles Grin, *The Battle of the Single European Market. Achievements and Economic Thought, 1985-2000*, London, Paul Kegan, 2003

¹³ There is already a large bibliography on the history of EMU in the 1980s: Kenneth Dyson, Lucia Quaglia (eds), *European Economic Governance and Policies. Commentary on Key Historical and Institutional Documents*, two volumes, Oxford, Oxford University Press, 2010; Kenneth Dyson and Kevin Featherstone, *The road to Maastricht : negotiating economic and monetary union*, Oxford, Oxford University Press, 1999; Kenneth Dyson, and Ivo Maes (eds), *Architects of the Euro. Intellectuals in the Making of European Monetary Union*, Oxford, Oxford University Press, 2016; Harold James, *Making the Monetary Union. Making the European Monetary Union : the role of the Committee of Central Bank Governors and the origins of the European Central Bank*, Cambridge Mass., Harvard University Press, 2012; Amy Verdun, “Why EMU happened? A survey of theoretical explanations”, in Patrick Crowley, *Before and Beyond EMU. Historical lessons and future prospects*, London, Routledge, 2002, pp. 71-98.

member states (the Convention was implemented from 1995 onwards).¹⁴ From the political point of view, the Single Market helped to create a sense of belonging and a common future. This project was also at the core of the so-called “relaunch of Europe” in 1984-1986, which led to the Single Act of 1986 and the transformation of European integration from an economic project into a political one, symbolized by the transition from the European Economic Community (EEC) created in 1957, to the European Union (EU) with common citizenship established at Maastricht in 1992.

From an economic viewpoint, the effects of the Single Market were ambiguous, as its free-market dynamic destabilized many sectors (traditional manufacturing such as textiles, steelmaking, shipbuilding) but bolstered others (telecommunications and electronics). But these dynamics were global, and largely surpassed the EEC/EU. What remained in the hands of European decision-makers was interpretation of provisions from the Single European Act (SEA).

The SEA is market-oriented at heart. Its implementation sparked 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”¹⁵—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 policies, which fostered a radicalisation of market-oriented policies, especially by emphasizing a retreat from the welfare state, which protected the weakest by stringent norms.

By contrast, a social Single Market would closely follow article 100-A-3 SEA: “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 did not downgrade earlier DIN standards.¹⁶

A neomercantilist Single Market would draw on the SEA’s broad chapter on fostering research and high technology industries (new article 130F EEC), fostering norms favourable to European industrialists, and possibly discriminating 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.¹⁷ It was criticized by American and British free traders as an attempt to build a “Fortress Europe.” London quickly mobilized to defend its own vision of the Single Market.

2. The British Push for Deregulation in the Single Market

As a committed neoliberal, Thatcher was convinced of the need to unleash market forces and retrench the welfare state as much as possible. Even though the British leader was fiercely intergovernmental, she strove to promote her own vision of a neoliberal Europe once the budget issue was settled at Fontainebleau in 1984. British archives demonstrate that the British Prime Minister developed an interest for the Single Market Programme early on. As early as March 1985, just two months after Delors’s speech, the UK released a memorandum

¹⁴ Simone Paoli, *Frontiera Sud. L'Italia e la nascita dell'Europa di Schengen*, Mondadori Education, 2018.

¹⁵ S.K. Vogel, *Freer Markets, More Rules: Regulatory Reform in Advanced Industrial Countries*, Ithaca: Cornell UP, 1996.

¹⁶ Laurent Warlouzet, *Governing Europe*, op. cit., p. 183.

¹⁷ Laurent Warlouzet, *Governing Europe*, op. cit., pp. 192-4 and chapter 8.

at the EEC Council of 29 and 30 March 1985.¹⁸ Entitled “The Creation of Wealth and Employment in the Community,” it called for “measures to stimulate enterprise and competition,” including alleviating the “burdens on businesses.” It also contained an ominous attack on the Welfare State, stressing the need to “ensure that the social protection available to the unemployed does not act as a disincentive to their seeking jobs.” As a result, Thatcher seems to have supported the Single Market Programme, provided it adopted a clear neoliberal focus.

Despite the fact that the Commissioner for Internal Market was the British Conservative and former Thatcher minister Arthur Cockfield, London grew fairly concerned about what was perceived as the Commission’s excessive ambition. Lord Cockfield’s White Paper on the completion of the Internal Market, which was published on 14 June 1985,¹⁹ was deemed to be overly supranational. On 25 June 1985, Foreign Secretary Geoffrey Howe sent a letter to Margaret Thatcher, in which he stated: “The Commission, prompted by Arthur Cockfield, have come forward with proposals which are excellent in many respects, but unduly ambitious and unrealistic in others,” such as tax harmonization and the abolition of intra-Community borders.²⁰

Thatcher was later dragged into an intergovernmental conference to negotiate the future Single European Act, despite her veto at the Milan Council of June 1985. She nevertheless accepted the overall process, as she was in favour of the Single Market. But as soon as the ink on the SEA’s treaty was dry, she launched a new offensive designed to encourage what she called a “deregulatory” approach. In internal debates among British ministers in October 1986, Thatcher expressed her fears “that deregulation is not working very well.”²¹

Thatcher actually complained before Delors regarding the excessive burden of EEC social laws. In November 1986, despite being a woman, she complained about the excessive breadth of EEC legislation on equal pay for men and women.²² Thatcher referred to the 1976 Equal Treatment Directive (Council Directive 76/207 of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions). The British government initially deemed that its national laws were sufficient (Equal Pay Act 1970, Sex Discrimination Act 1975), but it ultimately modified them after Commission infringement proceedings and a subsequent ECJ ruling condemning the UK in 1981.²³ This nevertheless remained a burning issue, as the new law proved even more problematic than before, since any woman who wanted to prove that discrimination existed had to use an expert. Furthermore, the British list of exceptions to the law was the longest in Europe, hence the persistence of EEC-UK conflicts over the implementation of gender equality rules.

Internal documents reveal that the British wanted to launch a genuine campaign against EEC social laws. Kenneth Clarke, the Paymaster General at the time, remarked: “On our employment initiative, we have largely succeeded in neutralising the opposition of the European Trade Unions, who rightly see the initiative as an attempt to rid the Council agenda

¹⁸ British national archives, PREM 19/1490/1, British memorandum to the EEC Council, 29 and 30 March 1985.

¹⁹ European Commission, *Completing the internal market*, Com (85) 310, 14 June 1985.

²⁰ British national archives, PREM 19/1491, Letter from Geoffrey Howe to Margaret Thatcher, 25 June 1985.

²¹ British national archives, PREM 19/1751, Letter from Geoffrey Howe (Foreign Secretary) to Margaret Thatcher, 6 October 1986.

²² British national archives, PREM 19/1751, Note Charles Powell, Private Secretary, on a Delors-Thatcher meeting, 26 November 1986

²³ Elizabeth Vallance and Elizabeth Davies, *Women of Europe. Women MEPs and equality policy*, Cambridge, Cambridge UP, 1986, pp. 95-6.

of social engineering proposals such as Vredeling and parental leave.”²⁴ Clarke was correct when he wrote this note in 1986, since the Vredeling directive designed to democratize multinationals was dead, while the debate over the draft directive on parental leave proposed in 1983 had stalled.²⁵ However, after Maastricht the social partners adopted an agreement on parental leave, which inspired directive 34/96 adopted in 1996.

The growing ambitions of the Commission President, the French Socialist Jacques Delors, also irritated Thatcher. On 8 September 1988, Delors gave a speech at the TUC congress in Bournemouth. Among other things he proposed a common European legal framework for workers’ rights.²⁶ Thatcher’s response came a few days later in her famous Bruges speech, delivered on 20 September 1988. The British Prime Minister relentlessly promoted a vision of Europe based on intergovernmentalism, prioritization of the Atlantic Alliance, and neoliberal policies. She came back with her slogan of “deregulation.” Faced with the Social Europe agenda of Delors, she counter-attacked that “we in Britain would fight attempts to introduce collectivism and corporatism at the European level.”²⁷ She then used a bold metaphor: “It is ironic that just when those countries such as the Soviet Union, which have tried to run everything from the centre, are learning that success depends on dispersing power and decisions away from the centre, there are some in the Community who seem to want to move in the opposite direction.” This comparison between the EEC, which rested on the principle of liberal democracy, and the Soviet dictatorship, caused an outcry. It illustrated Thatcher’s growing isolation between 1988 and 1990 not only in Europe, but also within her own government²⁸.

It is worth noting that Delors’s quest for a social Europe did not fully materialize, but was not completely lost either. In these very same years the EEC adopted stringent legislation to cap car emissions and sulphur emissions from plants in order to limit acid rain and health problems, despite strong opposition from prominent member states seeking to protect their own industries.²⁹ Legislation promoting gender equality and workers’ rights, such as the 1996 parental leave directive or the 1993 working hours directive (updated in 2003), were progressively adopted. Despite representing minimum requirements rather than an enlightened welfare state, this legislation was contested by the most neoliberal. Many British Thatcherites criticized the working hours directive, and this was one reason for the TUC’s support of the EEC starting approximately at the time of Delors’s 1988 speech.

Thatcher’s ideas remained influential even after her departure from power in 1990, notably in London with her successor John Major, who shared most of her neoliberal thinking, but also in Brussels. Thatcher’s networks included Leon Brittan, who was Commissioner for Competition and later for Trade. A longstanding commissioner, Brittan was also able to forge

²⁴ British national archives, PREM 19/1751, letter from the Paymaster General (Kenneth Clarke), to Thatcher, November 1986.

²⁵ On the Vredeling directive, see Aurélie Andry, *Social Europe in the long 1970s. The Story of a Defeat*, PhD diss., European University Institute, Florence, 2017, pp. 305-24; : Francesco Petrini, “Demanding Democracy in the Workplace: The European Trade Union Confederation and the Struggle to Regulate Multinationals”, in Wolfram Kaiser, and Jan-Henrik Meyer (eds.), *Societal Actors in European Integration. Polity-Building and Policy-Making, 1958-1992*, Basingstoke, PalgraveMacmillan, 2013, pp. 151-172; Laurent Warlouzet, *Governing Europe in a Globalizing World. Neoliberalism and its alternative following the 1973 Oil Crisis*, London, Routledge, 2018, pp.57-77.

²⁶ Speech by Jacques Delors before the TUC Congress, Bournemouth, 8 September 1988.

²⁷ Speech by Margaret Thatcher before the College of Bruges, Bruges, 20 September 1988.

²⁸ Stephen George, *An Awkward Partner. Britain in the European Community*, Oxford, Oxford UP, 1994, pp. 209-215.

²⁹ Laurent Warlouzet, “The European Parliament’s role in the internal market programme: the cost of non-Europe and the car emission directive”, in *Journal of European Integration History*, forthcoming.

neoliberal networks within the Commission. One of those officials was John Mogg, who became Director General of the Internal Market, and in 1996 promoted the SLIM programme, which stood for “Simpler Legislation for the Internal Market”.³⁰ Drawing on popular opposition to the EU’s technocratic streak, this approach called for limiting the harmonization process to a minimum, thereby encouraging a shift towards a more neoliberal vision, given that less harmonization often meant less protection for workers, consumers, and the environment.

In 1999, this neoliberal orientation of the Single Market triggered strong reservations from within the European Communities. In September of the same year, the French government complained that the social policy provision enshrined in the Amsterdam Treaty had not received sufficient consideration.³¹ Within the Commission, while discussing a document on deepening the Internal Market, DG XXIV for “Consumer Policy and Consumer-Health Protection” complained that: “Overall, I find that the draft gives the impression that the Single Market is the Community’s main objective and that most of the other Community policies are subordinated to it. In any case Community policies on consumer or health protection are not subordinated to the creation of the Single Market but have equal status both politically and in Treaty terms. The document should thus clearly reflect that the Single Market is a means towards an end (not an end in itself) and that even a perfectly functioning market will not solve all the problems and achieve all the other political aims of the Community.”³² The conflict between a purely neoliberal vision and a social one is clearly visible in this assessment. At the same time, the neoliberal offensive was visible in another related area, that of competition policy.

3. The Neoliberal Offensive: Competition Policy

Competition policy, which emerged in the US in 1890 as “antitrust policy,” seeks to monitor the behaviour of economic actors in the market and ensure that they abide by free-market rules (at least those that theoretically define what constitutes a market of perfect competition). It forbids monopolies and cartels that lead to excessive prices for consumers, and hence excessive profits for companies. The Treaty of Rome that created the EEC included provisions on competition policy, but they were only weakly implemented during their first quarter of a century after the treaty’s ratification.³³

Later, from the mid-1980s onward, competition policy became one of the flagship policies of the EEC/EU for three reasons. First, the Commission managed to solve its old problem of administrative inefficiency in the cartel area. Second, it became more assertive in monitoring state aid. Third, it enlarged its scope to new fields such as the control of concentration, thanks to the merger regulations of 1989,³⁴ as well as liberalization of air transport³⁵ and

³⁰ EU historical archives, interview of the author with Heinz Zourek, 29 June 2017.

³¹ EU historical archives, BAC 254/2006/248, note from the French government, 2 September 1999, quoted in: Laurent Warlouzet, “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.

³² EU historical archives, BAC 254/2006/248, note DG XXIV, 10 September 1999.

³³ Michelle Cini, Lee McGowan, *Competition Policy in the European Union*, Basingstoke, Palgrave, 2009, chapters 1 and 2; Laurent Warlouzet, *Governing Europe in a Globalizing World*, *op. cit.*, pp. 157-9

³⁴ On the adoption of this regulation, including an 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; Simon Bulmer, “Institutions and Policy Change in the European Communities: the Case of Merger Control”.

telecommunications.³⁶ This evolution was supported by a favourable ideological context, with traditional dirigiste policies inherited from the 1940s, such as price and industrial policy, gradually being replaced by more market-friendly policies in the 1980s.³⁷

The Commission President at the time, Jacques Delors, supported the development of EEC competition policy, but not from a neoliberal perspective (targeting the elimination of all state intervention in the economy). The Commission President was a former Minister of Economics under Mitterrand. He represented a growing trend among Social Democrats, who endeavoured in the 1980s to combine their belief in social justice with market forces via European cooperation.³⁸ In his groundbreaking speech of January 1985, Delors emphasized the need to eliminate “obstacles to healthy competition.”³⁹ He stated that “competition can kill competition if the market does not permit fair contest between the different rivals,” subsequently requiring the harmonization of national laws to a certain extent. Similarly, he called for a common industrial policy “instead of the costly and ineffective escalation of national aid and incentives.” In short, Delors was in favour of state aid control, but not in order to eliminate all forms of direct support for industry, as the neoliberals wanted. His aim was to instead improve industrial policies by Europeanizing them.

In 1986, the Single Act Treaty largely ignored competition policy. It was mentioned only in relationship to other policies (such as cohesion policy in article 130f-3). The rise of EEC/EU competition policy therefore did not derive from automatic interpretation of the Single Act, but rather from the activism of neoliberal commissioners Sutherland (1985-9) and Brittan (1989-93).

When the Irishman Peter Sutherland became competition policy commissioner in 1985, he embarked on an ambiguous relationship with Delors. In their accounts, both Delors and Sutherland believed they got along well, since they both shared an ambitious pro-European agenda, although they also recognized specific conflicts over state aid.⁴⁰ One such instance involved Boussac, the largest textile firm in France. In 1985, Sutherland took over the proceedings against the state aid granted to Boussac, launched by his predecessor Andriessen in late 1984.⁴¹ In Paris, French officials argued that the powerful company was on the verge of bankruptcy. Without aid, massive layoffs would follow in regions of Northern and Eastern France already crippled by the industrial crisis. Sutherland stressed that since Boussac was an export firm, and since the subsidies were granted without a corresponding restructuring plan,

Public Administration, 72, 3, 1994, pp. 423-444; Tim Büthe and Gabriel Swank, “The Politics of Antitrust and Merger Review in the European Union: Institutional Change and Decisions from Messina to 2004”, *Center for European Studies Working Paper Series*, 142, 2007; Mark Pollack, *The Engines of European Integration. Delegation, agency, and agenda setting in the European Union*, Oxford, Oxford UP, 2013.

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

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

³⁷ Laurent Warloutet, *Governing Europe in a Globalizing World*, *op. cit.*, pp. 159-161; Susanna Fellman, Peter Sandberg et Martin Shanahan (eds.), *Regulating competition. The Role of Cartel Registers*, London, Routledge, 2015.

³⁸ See Michele Di Donato’s contribution in this volume.

³⁹ “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.

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

⁴¹ 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.

the aid was illegal under EEC rules.⁴² The Irish commissioner was also motivated by the cavalier attitude of French officials, who blatantly ignored EEC rules on state aid, and were unwilling to disclose information.⁴³ He proposed that the Commission request a massive repayment of FF 999 million by the company. This triggered a hostile reaction from François Lamoureux, a French Socialist who was a member of Delors's cabinet. He believed that there was "unprecedented disagreement" within the Commission on this question.⁴⁴ More specifically, many Commission officials contested DG IV's calculations for the illegal aid. The services in charge of the Internal Market, DG III, followed a neomercantilist line of reasoning, insisting on the importance of considering the intensity of Boussac's restructuring, as well as the problem of international competition.⁴⁵ Moreover, the Irish commissioner was in uncharted territory when he contested evidence provided by a national government, an accusation that was extremely controversial from an institutional point of view. After a difficult debate within the College of Commissioners, Sutherland ultimately secured the Commission's support for sanctioning the French government, but settled for a negotiated⁴⁶ compromise of FF 338 million.⁴⁷

Interestingly, the contest went beyond a duel between Sutherland and Delors. 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): the Spanish Socialist Manuel Marin (Social Affairs), 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).⁴⁸ Later on, in December 1986, the Italian Socialist Carlo Ripa di Meana, accused Sutherland of being "too repressive towards European industry."⁴⁹ They all believed that competition policy should also take social and neo-mercantilist aims into account. For them this did not mean abandoning control over state aid, since a subsidy race was counter-productive for everybody, but that its pursuit should not translate into a systemic attack against all of the tools available for alleviating the social plight of industrial decline.

The conflict between a balanced vision of the Single Market and its neoliberal interpretation became even more acute under Leon Brittan, the Commissioner for Competition who succeeded Sutherland. Brittan was a faithful supporter of Thatcher; he was a former minister in her government, and resigned after the Westland affair.⁵⁰ In late 1985, the British helicopter manufacturer Westland was in a dire financial situation. Brittan devised a plan to sell it to the

⁴² 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.

⁴³ 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.

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

⁴⁵ 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.

⁴⁶ EU archives, European Commission, BAC 327/1994/159, minutes of the Commission meeting 17 December 1986.

⁴⁷ 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."

⁴⁸ 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.

⁴⁹ EU archives, European Commission, BAC 327/1994/159, note Ripa di Meana to Sutherland, 16 December 1986.

⁵⁰ Stephen George, *An Awkward Partner. Britain in the European Community*, Oxford, Oxford UP, 1994, p. 171.

US firm Sikorsky, whereas Minister of Defence Michael Heseltine wanted to find a European solution instead. Brittan ultimately resigned after a leak to the press was linked to him. Thatcher soon found him another job in Brussels.

The initial tensions arose with regard to mergers. In December 1989, the Commission acquired the power to ban mergers.⁵¹ In February 1990, Brittan explored the possibility of targeting the merger of two French airlines, UTA and Air France.⁵² Delors was sensitive to the political dimension of the case: he believed that the Commission should request as many concessions from the companies as needed to keep the French market open, while abstaining from “fuelling criticism of Europe, which is currently on the rise in France.” The Greek Commissioner Vasso Papandreou and the Italian Commissioner Filippo Maria Pandolfi framed the debate within a macro-economic perspective; they emphasized the need for companies to grow in order to adapt their size to the scale of the Single Market, as well as to contend with growing international competition. In technical terms, this problem boiled down to the question of the “relevant market” taken into account by competition authorities: an overly narrow definition of the “relevant market” would raise artificial fears of abuse of dominant position.

This question of the “relevant market” was at the centre of the infamous ATR/De Havilland affair. In 1991, commissioner Brittan decided to ban the merger between ATR and De Havilland, two aircraft companies.⁵³ It was the first time that the Commission used its power to ban a concentration between companies since the merger regulation was adopted in late 1989. For many experts, the merger made sense since other competitors existed both within Europe (British Aerospace and Fokker notably) and without.⁵⁴ From the political point of view, this operation was hailed as a symbol of EEC industrial policy in high technology, which sought 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 was buying its Canadian competitor De Havilland. 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. Recently available oral archives reveal that this decision triggered reservations even within DG Competition.⁵⁵ At the Commission Delors supported the merger, but Brittan mustered support from a large coalition of mostly centre-right commissioners, and won the case.⁵⁶ Delors held back when he realized that he would lose the vote, but he clearly favoured the transaction, which was in keeping with his strong support for neomercantilist EEC industrial policy in high technology.⁵⁷

⁵¹ See the footnote above for a bibliography on the adoption of the 1989 merger regulation.

⁵² AHCE, COM(90)PV 999, second part, meeting of 14 February 1990, point XIV; quoted in Laurent Warlouzet, “The internal market”, *op. cit.*

⁵³ Mark Pollack, *The Engines*, *op. cit.* pp. 292-299; Michelle Cini, Lee Mc Gowan, *Competition Policy*, *op. cit.*, p. 129.

⁵⁴ 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.

⁵⁵ On the reservations of DG Competition, see the recording of the following interview: EU archives, oral archives, interview of Helmut Schröter by Laurent Warlouzet, 30 September 2016; on the reservations of others DGs, see EU archives, oral archives, interview of Martine Reicherts by Laurent Warlouzet on 14 December 2017.

⁵⁶ George Ross, *Jacques Delors and European Integration*, Cambridge, Polity Press, 1995, p. 178.

⁵⁷ On Delors's commitment to developing EEC industrial policy in high technology, see 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.

Archives reveal other instances of internal conflict within the Commission, for example regarding the liberalization of air transport. In a note to Delors written on 12 February 1991, Lamoureux stated: “DG IV continues to consult experts from member states regarding the Commission’s plans for state aid control, including notification of balance sheets, loans, guarantees, profits, and company acquisitions to confirm that the public company behaves like a private actor. M. Van Miert was disturbed by this project [...]. M. Bérégovoy sent Sir Leon Brittan a very firm letter stressing that it was a challenge to the freedom provided for by the treaty of Rome for a state to operate public companies.”⁵⁸ In other words, the French government (Pierre Bérégovoy was the Minister for Economic and Financial Affairs) and the Commissioner for Transport (Karel Van Miert) opposed Brittan’s quest to limit subsidies for aircraft companies.

Tellingly, it was Karel Van Miert who replaced Leon Brittan as Commissioner for Competition. It remains difficult to assess whether the Belgian Socialist conducted a more socially-oriented competition policy. Brittan’s neoliberal zeal and appetite for high-profile cases were certainly no longer present. The adoption of a first communication by the Commission relating to services of general interest showed a willingness to balance social concerns with competition rules.⁵⁹ In 1997, a section on services of general interest was inserted in the Treaty of Amsterdam. For Adrienne Héritier, this outcome was a compromise between neoliberals and those who were more socially-oriented, whereas for Mélanie Vay it was a defeat for the latter camp.⁶⁰

The neoliberal tendencies of DG Competition were still present, and the pace of liberalization measures continued at an unrelenting pace. In 1995, DG Claus-Dieter Ehlermann considered a radical solution to curb state aid: “In spite of stricter state aid control during the last 10-15 years, the overall level of State aid support in member states has hardly decreased. DG IV should therefore explore, together with DG II, whether budgetary volumes available for state aid could not be reduced through the multilateral surveillance mechanism and the implementation of the convergence criteria.”⁶¹ In the end this solution was not implemented, but it reveals the intensity of neoliberal thinking with regard to regulating the Single Market.

Conclusion

The European Internal Market Programme was adopted as a compromise between different visions of Europe, and not simply a neoliberal project, and this in spite of the two intense offensives by the British government under Thatcher and Major, along with supporters of EEC/EU competition policy. This was particularly true for Delors, who combined socially-oriented, neomercantilist, and market-oriented visions of Europe. As a result, many conflicts

⁵⁸ My own translation from the original in French: « La DG IV continue de consulter les experts des États membres sur le projet d’encadrement par la Commission des aides qui visent à notifier les bilans, les prêts, les garanties, les bénéfices, les achats de sociétés pour vérifier que l’entreprise publique a un comportement d’opérateur privé. M. Van Miert s’est ému de ce projet [...]. M. Bérégovoy a envoyé à Sir Leon Brittan une lettre très ferme par laquelle il souligne qu’est ainsi mise en cause la liberté prévue par le traité pour un état de constituer de faire fonctionner des entreprises publiques » ; EU archives, private fund François Lamoureux (FL) 562, note from François Lamoureux to Jacques Delors, 12 February 1991, quoted in Laurent Warlouzet, “The internal market”, *op. cit.*

⁵⁹ EU archives, interview of Anne Houtman by Laurent Warlouzet, 10 June 2016.

⁶⁰ Adrienne Héritier, “Market integration and social cohesion: the politics of public services in European regulation,” *Journal of European Public Policy*, 8, 5, October 2001, p. 825-852; Mélanie Vay, *La mise en problème européen de l’économie politique. Socio-histoire des mondes de l’entreprise publique au contact de la politique européenne (1957-1997)*, Phd., dir. Antoine Vauchez, University Paris 1, 2019, pp. 556-561.

⁶¹ EU archives, PL 11, note from Claus-Dieter Ehlermann for DG IV’s directors, 5 January 1995, quoted in Laurent Warlouzet, “The internal market”, *op. cit.*

occurred not just in the Council but also within the Commission, between those who wanted to accommodate free-market rules with social and neomercantilist concerns, and those who were more market-oriented or even neoliberal. The outcome was clearly more liberal than Delors intended, but the exasperation of Thatcher—as well as the passing of laws regarding environmental protection, working conditions, and gender equality—demonstrate that the Single Market did not end up as a fully-fledged neoliberal venture.

During its first decade, the Single Market Programme can clearly be seen as a market-oriented venture, with both neoliberal and social overtones, but few neomercantilist features. The forging of a common approach to high-technology companies floundered, as demonstrated by the ATR/De Havilland case.

The direction of the Single Market remains hotly contested in the twenty-first century. Criticism of the Bolkestein Directive and the Posted Workers Directive helped fuel Euroscepticism among Social Democrats. The crisis of 2008, which called into question some of the core assertions of neoliberalism, such as the efficiency of markets and the usefulness of austerity, exacerbated the problem. This being said, the Brexit debate is a useful reminder that the definition of the EU as a “social-market economy” is not completely irrelevant: the TUC supported a remain vote in order to preserve existing social legislation, out of fear that it will be stripped by a neo-Thatcherite government. Calls for President Trump to conclude a new trade agreement with post-EU Britain based on weaker norms in foodstuffs and greater competition in healthcare has confirmed their fears.