

The Single Market at 25: the Changing Political Economy of Europe

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Abstracts

Kenneth Armstrong

After 'Positive' and 'Negative' Integration: the Governance of the SEM

The Single European Act is regarded as a pivotal moment when qualified majority voting was introduced for internal market legislation inasmuch as it heralded the loss of veto power over 'positive' integration. When combined with the expansion in scope of 'negative' integration, the internal market is often depicted as a field in which states have sacrificed regulatory sovereignty for the benefits of free trade. Yet the post-Maastricht period suggests a more complex legal environment for the governance of the Single Market. The use of QMV has generated a specific type of litigation in which the EU's legislative outputs have been challenged before EU courts. Member States have also sought to enact legislative rules that are limited in scope or otherwise preserve spaces for the exercise of regulatory autonomy. Techniques of enhanced cooperation and non-legislative interventions have also been applied within the Single Market. Yet this has also generated litigation before EU courts that goes beyond the traditional more substantive role for the courts in the application of free movement rules. This essay explores the changing role of the EU courts in the governance of the SEM.

Dirk de Bièvre

The European Single Market and External Trade and Investment Policy

The four EU freedoms of movement – for EU citizens, goods, services, and capital – have long generated considerable advantages in the conduct of the Union's external policies. However, the decline in attractiveness of its own internal market relative to other world regions and the foreclosure of the multilateral path to liberalize trade and conclude regulatory agreements under the chapeau of the World Trade Organization, have dented this historically privileged position of the EU. These secular developments notwithstanding, the EU's capacity to shape international economic policy making remains substantial, especially in the conclusion of bilateral preferential trade agreements. In the field of goods, services, and international investment rules, EU external policy consists of supranational policy formation by the European Commission, closely monitored by member states in the Council and MEPs in the European Parliament – whereas the free movement of people within the Union is, for now, only flanked with mere coordination of national policies, an untenable situation. Three topics deserve further analysis. First, trade liberalization in goods and

services as well as regulatory agreements on standards have migrated from the multilateral to the bilateral level, especially with advanced industrialized countries with economic sectors involved in global value chains. Second, many member state bilateral investment treaties (BITs) with third countries are planned to be replaced with EU-wide investment agreements with reformed investor-state arbitration, most notably within the EU-US negotiations on TTIP. And lastly, the increase in economies of scale for firms has normative implications for European competition and taxation policy on multinational companies.

Michelle Egan

Reconfiguring Markets: The Single Market at Twenty-Five

The renewed attention to the single market in Europe has attracted little attention despite being the cornerstone of the integration project. Though overshadowed by the sovereign debt crisis, there have been renewed efforts to highlight the single market as providing benefits of “growth without debt” in an era where Europe faces tremendous pressures in terms of productivity, competitiveness and employment. Research on the impact of the crisis indicates that Europe did not resort to import protection through temporary trade protection measures. But as the effect of austerity measures to help debt ridden states address their public finances generates internal disagreements and populist backlashes, the single market has increasingly been identified as the solution to lift Europe out of recession. Yet political resistance to the single market has also made further progress difficult in many areas, especially in the aftermath of deeply bruising legal and political fights on posted workers, fiscal compacts, stability mechanisms and professions. Yet the single market has also continued by stealth, through incremental policy developments that have largely been ignored. How integrated is the single market twenty-five years on? This paper addresses this question by looking at the reconfiguration of markets to see how much the single market has achieved post-1992.

Brigid Laffan

The Single Market in the Shadow of the Eurozone Crisis

The EU and especially the Eurozone was racked by crisis when the global financial crisis morphed into an existential moment for the Eurozone in autumn 2009. Had the Eurozone imploded, it is unlikely that the single market would have survived the ensuing turbulence. Addressing the crisis required extraordinary political commitment from the Eurozone leadership. Managing the fall-out absorbed the energies of Europe’s institutions and member states for many years. The policy focus was not on the single market, the economic foundation stone of the Union. In May 2010, Mario Monti presented his report, *A New Strategy for the Single Market*, in the heat of the crisis. Commissioned in a different time, the Monti Report did not receive the high profile attention it would have in less troubled times. The crisis led to cleavages within the Eurozone between debtors and creditors and inevitably brought the status of Eurozone ‘ins’ and ‘outs’ sharply into focus. This paper seeks to analyse three dimensions of the Eurozone crisis and the single market. First, what were the implications of the crisis for the single market. Second, did the crisis alter the distribution of risks and opportunities between the Eurozone ‘ins’ and ‘outs’

given that all had an equal stake in the single market? Third, what is the interaction between further completing the single market and re-designing or retro-fitting the Eurozone?

Deborah Mabbett

The Socially-Embedded Single Market

Most commentaries on the social dimension of the single market examine the interaction between market integration and national welfare states. However, there is also another social face to the single market, which is that its constitutive regulations have a social aspect. The leading examples of this type of 'social regulation' are non-discrimination and consumer protection, including the prohibition on unfair contract terms and the requirement of 'good faith' in market transactions. The CJEU has been forceful in advancing interpretations of the application of non-discrimination to various situations, leaving little leeway for national courts to apply divergent norms. Consumer protection has taken a different trajectory, with more diversity envisaged in directives and less assertive promulgation of common standards by the Court. Taking financial markets as a case where there are substantial and long-standing differences among the member states in the types of contracts which consumers in different countries are accustomed to enter into, the paper examines how regulatory diversity affects the creation of a single market. On one hand, concerns are expressed about regulatory uncertainty; on the other hand, cross-border providers in any case have to deal with market differences that are rooted in socio-economic conditions and will not be eliminated by regulatory harmonisation.

Imelda Maher

Competition and the Single Market – Together but Apart?

Competition law and policy and the single market are inextricably intertwined. In this piece, written from a competition law and policy perspective, the aim is to explore the extent to which competition is a central tenet of the EU alongside the internal market. First, a snapshot of competition law 'now' and 'then' will be set out. Then three key developments are explored in order to address the question: how has the nature of the linkages between competition law and the internal market changed in the intervening 25 years. These developments are: at a Treaty level, the removal of the reference to competition from the early provision of the Treaty and their relegation to the protocol – whether this fundamental revision was little more than window-dressing; second, the 'big bang' in competition law of Regulation 1/2003: where the EU decided to do what it always did but do it better by instituting radical institutional reform in the competition sphere. And third: the relationship between the state and the competitive market. This is where competition law and internal market rules overlap most conceptually and where the greatest tensions lie politically, which in turn is reflected in the complexity and ambiguity of the law. This analysis is expected to suggest that the institutional structures of competition mean it remains a policy apart while nonetheless fundamental to the understanding and operation of the internal market.

Michael Pollitt

European Energy and Climate policy: An assessment of progress

European Energy and Climate policy is arguably a good example of what the EU can achieve. There has been significant progress since the first electricity and gas market reform directives of 1996. We seem to be observing something approximating to a genuine single market in both electricity and gas is emerging across much of the EU. Globally, this has been a significant reform effort, whose progress contrasts well with other developed markets including the US and Japan. European climate policy towards emissions trading (EUETS) continues to be world leading and is increasingly a model for other countries, such as China and the US. If this were to happen a workable global market would be possible. With hindsight, the EUETS would not have been possible without its situation within a wider set of trading agreements. However problems remain to be addressed. There is a need to co-ordinate national renewable subsidy schemes to prevent free riding on shared energy security and subsidy competition. The EUETS remains a work in progress with a need to see if it tightened further to consolidate its position as the dominate policy instrument for decarbonizing the energy sector across the EU.

Lucia Quaglia

The Political Economy of the Single Market in Financial Services

This paper examines continuity and change in the political economy of the single market in financial services in the European Union (EU). It is argued that the main 'drivers' of the single financial market have been supranational actors (first and foremost, the European Commission and the European Central Bank), transnational financial industry (especially big cross-border financial groups) and certain member states, first and foremost the UK, which has a large and competitive financial sector. This 'composite' alliance has been very prominent during the 'leaps' forwards, namely the 1992 project, the re-launch of the single financial market in the early 2000s and the ongoing debate on Capital Markets Union. The main obstacle to the single market in financial services has been the 'battle of the systems', that is the persistent differences amongst national financial systems and the reluctance of domestic financial forces, which had less to gain and more to loose from financial integration in the EU. The main current challenge concerns the repercussions of 'differentiated integration' - linked to Economic and Monetary Union (EMU) first and Banking Union later - on the single financial market. This trend is particularly problematic for the UK, which is the main EMU and Banking Union outsider. It is however challenging also for the EU, especially in the context of a potential 'Brexit', because the UK has been a key player, at times providing leadership, in the single market for financial services.

Ulf Sverdrup

The Single Market Beyond the EU: the EEA Experience

The Single Market stretches well beyond the boundaries of the EU, as it sets standards and rules for all non-members who enters the market. In addition, some non-members, like Norway, Iceland and Switzerland, are also very integrated in the Single Market, and they follow and implement most of the rules and regulations of the Single Market. In this paper, I examine empirically the

experiences of the EFTA EEA, and I look closer at some of the economic, political and legal implications for Norway and Iceland of 25 years of the Single Market. The paper will examine 1) how and to what extent the EU and the EFTA countries have been able to secure homogeneity within the Single Market, and 2) how the EU and the EFTA countries have been able to cope with the dynamic and ever expanding nature of the Single Market. The paper will also 3) map out some of the costs and benefits of the Single Market for the EFTA countries, and it will contrast some of the actual achievements of the Single Market, with the notions and expectations decisions makers had about the expected consequences in the early 1990s.