

**Mario Monti's report on
« A new strategy for the Single Market »
9/05/2010**

Here are the most interesting proposals identified concerning the issues related to FIEC ECO Commission:

➤ **Adopt EU legislation on collective redress: POSSIBLE DANGER**

According to Monti: *“Europe should thus move forward in the creation of its own model of collective redress mechanism, while at the same time avoiding the US style class action model. Action at EU level to promote both in-court and out-of court resolution (ADR) of mass claims, would increase the confidence of consumers in the single market, increase cross-border transactions and stimulate competition between businesses.”*

➤ **Speed up implementation of the Small Business Act**

Monti believes that the SBA remains the best way to promote SMEs competitiveness in the Single Market.

➤ **Adopt the Statute for a European Private Company**

This *“would allow entrepreneurs to set up their company in the same form, irrespective of whether they do business in their own Member State or in another.”*

➤ **Set up targeted EU funding for energy infrastructure: GOOD**

(issue dealt with by TEC Commission)

According to Monti: *“There is still much work to do to interconnect Member States capacity and construct new infrastructure, particularly across borders. All the EU's new regulatory and investment planning tools should be used to mobilise the highest level of private investments. One way to speed up work on major cross-border infrastructure projects - which are often delayed by complex and controversial authorisation procedures - would be to explore the possibility for an EU level consensus building/arbitration mechanism to facilitate the process. Innovative solutions for incentive setting and facilitation at the EU level would help break deadlocks and accelerate the implementation of projects.”*

➤ **Adopt new measures to deal with remaining technical and administrative barriers which prevent the establishment of a single market for rail: GOOD**

➤ **Establish a single transport document and liability regime for multimodal transport: GOOD**

According to Monti: *“Reaping the full benefits of a single market for goods depends on the existence of a seamless, flexible, and efficient logistics and transport system.” (...)* *“Europe needs a step change towards multi-modal transport, but legal, administrative and technical barriers are multiplied. There is no single transport document, but different modes of transport require different documentation. Liability rules also differ. A single transport document (hopefully electronic) and a single liability system would increase legal certainty and decrease significantly costs for business and citizens. The creation of a modern single market requires tackling the lack of interoperability and the infrastructure gaps that reduce the efficiency and weaken the global competitiveness of the EU logistics industry.”*

➤ **Examine which initiatives are required regarding the services sectors that are not or not fully covered by the services directive and make any necessary proposals: VERY OPEN...**

Monti supports the Services Directive although it did not yet achieve its full potential, and believes that further actions in this field may be required.

➤ **Explore the possibility of reinforcing financial integration through the issuance of E-bonds: GOOD**

According to Monti: *“Major public infrastructure in Europe, such as the TENs, is transnational, unfit for the currently fragmented national schemes, and their funding suffers from the absence of a liquid bond market for very long maturities.” (...)* *“Addressing the fragmentation of the government bond market requires creating new, European-wide market, with a global dimension.” (...)* *“Against this background, borrowing at large scale through a European body, and then on-lending to Member States, may represent a balanced solution.”*

➤ **Facilitate the combination of PPPs with the use of structural funds: GOOD**

Monti recognises that physical infrastructure (transport connections, electricity grids, electronic communications and water networks) are key to ensuring territorial cohesion and that the EU plays a central role in developing the TENs. Moreover *“Planning, financing and management of infrastructure projects take place predominantly along national lines. » (...) “The cross-border infrastructure gap is becoming more acute in Europe. On the one hand, bottlenecks still exist within the single market, notably in the new Member States. On the other hand, new infrastructure must be put in place if Europe wants to accelerate the transition to a green, knowledge-based economy. » (...) “One way to address the problem is to explore all combinations between public and private funding, including a wider use of innovative source of financing, such as user charges. The reduced fiscal space available for governments will naturally enhance the importance of public-private partnerships as a delivery tool for infrastructure investments. Facilitating the combination of public-private partnerships with the use of structural funds will be crucial in this respect. »*

➤ **Examine whether an ad-hoc European regulatory framework would be needed to encourage long-term investors’ focus on infrastructure projects: GOOD**

According to Monti: *“Another option is to improve the incentives for long term investors (financial institutions with a public mandate but also private investors, including pension funds) to direct their resources to long term infrastructure projects. » (...) “Recent innovative experiences, such as the €1.5 billion Marguerite fund bringing together the European Investment Bank and the public financial institutions of six Member States are a good starting point. A reflection should be made on whether an ad hoc European legal framework should be developed for long term investors, with a view to encouraging their focus on infrastructure investments, while taking into account their specific characteristics and the variety of actors within such class of investors.”*

➤ **Provide maximum legal security as regards competition policy in the area of infrastructure investment and financing: GOOD?**

➤ **Further increase the flexibility of the State aid rules applicable to financial compensation: GOOD?**

According to Monti: *“There is room to strengthen the general approach adopted in 2005 in the package of measures to increase the legal certainty about financial compensation paid for to a large number of small, often local, public services, which has been welcomed by a wide range of stakeholders. The Commission should examine, on the basis of the findings of its ongoing assessment of the package, all possibilities to further increase the flexibility of the rules applicable to financial compensation, including through an increase of the thresholds and/or through expanding the list of activities for which compensation does not have to be notified irrespective of the amounts involved. »*

➤ **Review the public procurement rules with a view to aligning them with the rules on compensation: GOOD?**

According to Monti: *“As regards the application of EU rules to the selection of the provider similar concerns have been expressed concerning the lack of legal certainty and flexibility and the administrative burden created by the EU public procurement rules. However, in the area of public procurement the Commission has not yet taken an initiative similar to the package adopted regarding financial compensation. Given the very positive overall response to the state aid package, the Commission should review the procurement rules with a view to aligning them with the rules on compensation in order to ensure a consistent approach concerning small services of general economic interest. »*

➤ **Re-think public procurement policy to make it simpler, more effective, and less onerous for national and local authorities; Strengthen SMEs participation by applying the Small Business Act Code of Conduct: POSSIBLE DANGER**

According to Monti: *“The Commission has launched an across the- board evaluation of the 2004 public procurement directives, as a basis for future reform. A re-think of the policy seems well-warranted, first of all in order to simplify, continue to modernise and sharpen public procurement rules.” (...) “Reforming public procurement should be an opportunity to address teething problems of complexity, administrative burden and SME-unfriendliness. » (...) “Member States should make extensive use of the Code of Best Practices, adopted as part of the Small Business Act to improve SMEs access to public procurements. »*

➤ **Clarify the rules applicable to “in-house” provision: POSSIBLE DANGER**

According to Monti: “EU procurement rules are perceived as restricting the ability of municipalities to provide services to citizens in the form they prefer or traditionally privilege. This is the case for instance, where they would like the “in-house” provision of services or the establishment of public-public cooperation. » (...) « Some further clarification on the concept of “in-house” would be beneficial based on recent ECJ case law. All the margins available under the WTO Government Procurement Agreement should be used to expand the scope of action for public authorities. Allowing the use of the negotiated procedure with prior publication as a standard procedure in the “classical sector” could help greatly. This could also include applying to contracting authorities (especially local ones) the more flexible regime of the ‘utilities’ directive relating to qualification lists. »

➤ **Make public procurement work for innovation, green growth and social inclusion by imposing specific mandatory requirements: POSSIBLE DANGER**

According to Monti: “EU rules are perceived as not forthcoming enough in encouraging or even requiring that public purchases support broader policy goals, such as climate change, innovation, gender equality employment or social inclusion goals. » (...) « There is probably room for a greater use of public procurement as a tool to achieve policy objectives set out at EU level. Public purchase can be a boost for innovative products and technologies in the area of climate change and energy. It may give a push to research and innovation, promote social cohesion and help meet the poverty reduction and employment objectives set out in the Strategy. Harnessing public procurement towards these goals would require assessing the possibility to impose mandatory requirements relating to policy objectives set out above in the Public procurement directives. Greater clarity regarding concrete operationalisation of the requirements should be provided through legislation based on delegated acts. »

➤ **Reform VAT rules in a single market friendly way: POSSIBLE DANGER**

According to Monti: “Variation in VAT rates affect capital and trade movements, at least in the short – medium term, and are therefore relevant for the functioning of the single market. In a context of a trend towards increasing consumption taxes, coordination of policies directed at raising standard VAT rates or limiting the application of reduced VAT rates may be beneficial.”

➤ **Develop the area of environmental taxation in the broader context of tax policy and their impact on growth and employment: GOOD?**

Monti believes that environmental taxation is likely to play a key role in the future. The idea would namely be to relieve the tax burden on labour.

➤ **Evaluate the potential impact on EU regions of the relaunch of the single market: GOOD**

According to Monti: “The Commission Europe2020 Strategy confirms that cohesion policy is anchored into the broader long term policy priorities for the Union and that the structural funds are one of the main delivery channels for the strategy goals, including social inclusion. As the debate on the future of EU cohesion policy is entering into an active phase, it is worth reflecting also an analysis on the territorial implications of the planned relaunch of the single market.” Moreover, “Cohesion policy will continue to play a key role for upgrading the infrastructure of new Member States, which is essential to ensure the interconnection of the single market.”

➤ **Introduce a conditionality clause in Structural Funds to reward the Member States most disciplined in transposing single market directives: GOOD**

According to Monti: “One idea would be to set aside at the start of the programming period of a performance reserve, for example equal to 1% of the cohesion budget for each Member States. This reserve would be allocated to Member States based on an objective indicator of their transposition performance, such as the notifications of transposition measures for single market directives. The Member State would then allocate the funds to its best performing programmes.”

➤ **Tighten up rules preventing the use of structural funds in support of company re-location: POSSIBLE DANGER?**

According to Monti: “In the cohesion policy regulations for the next programming period, some attention should be given to tighten up anti-relocation rules, and appropriate channels should also be ensured to coordinate the use of EU cohesion funding and the authorisation of state aid support in favour of the same company.”

- **Develop a new approach to industrial policy which builds on a mutually reinforcing relation with single market and competition rules: GOOD?**

Monti believes that: *“Europe needs an industrial policy that does not conflict, rather builds on its competition rules.”* However, according to him, *« It is also not true that EU state aid rules are a hindrance to financial intervention by governments per se. They set a framework that directs state aid in a direction that supports general public policy objectives and offsets market failures. »* And *“The argument that state aid control makes Europe a less attractive location for foreign capital is short on facts.”* Finally, *“Europe should thus remain confident that its single market is its first and best industrial policy. » (...)* *« The EU should move ahead to formulate its new conception of an active industrial policy to complement the relaunch of the single market. »*

- **Promote a pro-active market access agenda in the G20 and other multilateral fora, with a specific focus on subsidies: INSUFFICIENT?**
- **Press for the introduction in bilateral Foreign Trade Agreements of provisions on subsidies: INSUFFICIENT?**
- **Press for greater opening of public procurement markets, in particular in the BRICs: INSUFFICIENT?**

Regarding the external dimension of the Single Market, Monti considers that the Single Market gives the EU valuable leverage in negotiations with trading partners on market access. According to him, it creates a competitive environment that enables EU business to expand abroad.

Moreover, Monti is willing to ensure a level playing field for EU and foreign companies on the global scene but his recommendations in this field remain relatively weak: *“The 2006 “Global Europe” Communication sets out clearly that rejection of protectionism within the single market, must be paralleled by an active agenda to open up markets and ensure a level playing field for trade exchanges. » (...)* *“More has to be done to promote increased transparency and strengthen international rules on subsidies, both at multilateral level and in bilateral and regional agreements. The EU cannot give its business the impression that it will remain the only area in the world where competition and state aid rules are applied strictly. » (...)* *“In parallel, Europe should step up its effort to bring subsidies and regulatory issues to the table of bilateral negotiations. Provisions on subsidies exist in all free trade agreements (FTAs), but they lack punch and are rarely implemented in practice. » (...)* *« The EU should also press for greater opening of trading partners’ markets in public procurement, ensuring that commitments taken at international level are fully followed up. Taking into account the comparatively greater openness of EU public procurement markets, ways to improve the EU leverage in international negotiations on government procurement should be explored. »*

- **Use regulations rather than directives when possible: POSSIBLE DANGER?**

Monti supports the “smart regulation” principle: namely quality regulation, but also regulation that does not burden business and citizens with unnecessary administrative obligations and do not impose excess compliance costs. In addition, Monti also believes that, although not being the panacea, using regulations rather than directives would be more efficient, in the sense that regulations bring clarity, predictability and effectiveness.

- **Use the 28th regime as an ad hoc solution where appropriate: POSSIBLE DANGER**

Moreover, where upfront harmonisation through regulations would not be a solution, Monti believes that it is worthwhile exploring the idea of a 28th regime, an EU framework alternative, but not replacing national rules. According to Monti: *“An additional benefit of this model is that it provides a reference point and an incentive for the convergence of national regimes. (...) It should be examined further in the area of commercial contracts where a reference framework for commercial contracts could remove obstacles to cross-border transactions.”*