

FOOD RETAILING IN EUROPE - POST 1992

PROJECT II
THE COCA-COLA RETAILING RESEARCH GROUP
EUROPE

THE SINGLE MARKET LEGISLATION - AN UPDATE

A study prepared for

**THE COCA-COLA
RETAILING RESEARCH GROUP
EUROPE**

by

D. Gray

November 1992

The Corporate Intelligence Group Limited



THE SINGLE MARKET LEGISLATION - AN UPDATE

CONTENTS

	<u>Page</u>
SUMMARY OF FINDINGS	1
INTRODUCTION	3
THE SINGLE MARKET PROGRAMME - Background	5
1. GENERAL IMPACTS ON FOOD & DRINK RETAILING	8
- Monetary union and exchange controls	8
- Trade policy and protection	11
- Competition policy	12
- Cross-border commercial activity	14
- Movement of goods	15
- Mutual recognition of products	18
- VAT and excise duties	19
- Consumer protection	21
- Employee protection	22
- Environmental standards	25
2. SPECIFIC EFFECTS ON THE RETAILING OF FOOD & DRINK	28
- Manufacturing and processing standards	28
- Food inspection and quality control	31
- Additives and colouring agents	33
- Transport and storage	35
- Packaging and labelling	36
- Pricing and quantity measures	39
- Store handling and staff training	40
- Organic food standards	42
- Specific measures on individual food products	44
- Specific measures on individual drinks products	45

SUMMARY OF FINDINGS

The main conclusions regarding the effects of the Single Market on food retailing are that:

- * The Single Market Programme is substantially on course for the implementation of most of its main measures by January 1993, and this has already led to action by grocery retailers throughout the Community in complying with a wide range of measures.
- * Though the Programme is more directly concerned with food and drink manufacture rather than its retail distribution, the range of indirect effects on food and drink retailers covers many aspects of their business activities, especially for the larger companies.
- * The freeing of exchange controls on capital payments is likely to be an incentive to cross-border acquisitions by retailers from 1993 onwards. The more general benefit to cross-border trade through the reduction of currency charges, however, will have to wait until monetary union is much more of a concrete possibility than it is now.
- * Success in GATT negotiations and reform of the CAP are indissolubly connected, with the certain subsequent result that major grocery retailers will improve (a) the range of products they can purchase and (b) their purchasing power vis-a-vis food and drink suppliers.
- * Only the larger grocery retailers fall within the remit of EC competition legislation, but it is likely to have the effect of making the German market more open.
- * Grocery logistics will gain in efficiency from an improved transport infrastructure, but lose through higher costs brought about by stricter environmental controls.
- * The theoretical mutual recognition of products throughout the Community is not as important as their practical acceptance - or rejection - in individual markets.
- * Postponement of a truly harmonised indirect tax system has not prevented the imposition on traders of an administrative burden concerning tax collection that will lead to increased costs in 1993.
- * Compliance with the employer-employee aspects of the "Social Chapter" will be one of the most costly elements of the Single Market Programme for large grocery retailers. The impact will, however, vary widely between Member States, with that on the UK being postponed until such time as it comes into line with the rest of the Community.

- * Stricter environmental controls will obviously increase costs. A more long-lasting effect, however, is likely to be the encouragement of closer relationships between retailers, their suppliers, their customers and, not least, with the municipal authorities in the areas in which they operate.
- * Consumer legislation, while creating some new responsibilities for retailers, provides positive opportunities for building closer relationships between retailers and their customers.
- * There are substantial changes either in place or in the pipeline regarding the manufacture and processing of numerous food and drink products. The effect on retailers is mostly indirect, though new product development will have to take account of legislation that in several areas is still highly contentious.
- * New rules on food inspection place greater responsibilities on retailers, particularly for meat and fish products. Most Northern European countries, however, already have adequate methods and codes of practice in force.
- * Compliance with new rules on additives, flavourings and colouring agents will not pose a major burden, since these measures are being phased in gradually.
- * Changes in transport costs and practices will spread the benefits of modern grocery distribution more widely across the European Community although the greatest concentration of activity will continue to be in the so-called "Hot Banana" region along the central spine of the Community.
- * During the next five years, there will be considerable changes in food and drink packaging, specifically in the materials used and in the level of reclamation at the retail level.
- * For most retailers in nearly all countries, the new requirements on labelling, pricing and the measurement of quantities pose few problems or costs in compliance.
- * The establishment of common vocational qualifications in food and drink retailing is likely to prove long and difficult, especially so far as semi-skilled workers are concerned.
- * The introduction of a workable standard for organic foods may help boost the scale of their production and consumption, especially if it improves the reliability of the supply of such products to large grocery retailers.

In overall terms, while the production and retail sale of some specific food and drink products is affected markedly by the Single Market Programme, the range and variety of food and drink sold in the Community's grocery shops will definitely not be diminished. In many individual outlets, moreover, easier cross-border supply will increase the number and type of products available for sale.

INTRODUCTION

The subject of "Grocery Retailing And 1992" was discussed, under that title, in the first of the papers on 'Food Retailing in Europe - post 1992', published in March 1990.

The broad conclusions of that paper were

(a) that the removal of trade barriers within the EC Single Market would not of itself transform the essentially national structures of grocery retailing,

but also

(b) that there were several aspects of the Single Market Programme which would impact upon the business activities of grocery retailing, in both the medium and long-term. Specified aspects included the buying relationship between grocery retailers and the food industry, the employment relationship with grocery chains' staff and, thirdly, what might be called the social relationship between grocery retailers and their customers.

The 1990 paper also concluded that while most of the Single Market Programme would be in place by the target date of 1/1/1993, achievement of the tax and monetary parts of the Programme was likely to drag behind, with Member States progressing at markedly different speeds of implementation.

Now that 1993 is upon us, this is the opportunity to report on just how far the Single Market Programme has progressed, and what are proving to be its real impacts upon the business of grocery retailing in Western Europe. There have been many changes in the economic and political life of the region since March 1990, not the least of which are the enlargement of Germany and the whole context of a "Wider Europe", incorporating the countries of EFTA and the former COMECON. Another aspect is the settlement, as yet unresolved, of the Uruguay Round of GATT. These issues may not strictly be part of the EC's Single Market, but they certainly have profound implications for large companies doing business within the Community, notably in the food sector. Trade in food products is at the heart of the problems surrounding the completion of the GATT Round. Transforming the distribution of food products is perhaps the most important immediate task in the regeneration of Eastern Europe and Russia.

The conclusion reached in 1990 that grocery retailing operates within predominantly national structures has not been disproved by subsequent developments. Cross-border movement of retail grocery operations (as distinct from buying activities) has been limited in comparison with the non-food sector. But what is now showing strongly is the way in which the business of grocery retailing within each European country is being affected by

- (a) the falling into place of most of the pieces of the jigsaw of the Single Market, and
- (b) the trading relationship between the EC, the wider Europe and the rest of the world.

Changes in the international trading and regulation of food products are bound to affect grocery retailers, even if they actually sell such products only in a national or regional market.

This paper examines how grocery retailing now stands in relation to these changes in regulation and trade, in respect of what has been achieved and what developments are currently pending. Following a brief summary of the current state of the Single Market Programme, it is divided into two parts. Firstly, the impacts upon food and drink retailers as trading businesses. Secondly, details of some more specific effects upon the retailing of food and drink products. Information on the relevant pieces of legislation, together with an indication of how different Community countries are performing in their actual implementation of the new rules, is contained within each of these two parts.

THE SINGLE MARKET PROGRAMME - Background

In retrospect, the Single European Act of 1986 was a remarkable commitment by the 12 Member States of the Community, not least Britain. Following years of trying to build a proper "Common Market" through piecemeal legislation, often rendered unworkable by national protectionism, the basic idea of the Single Market was disarmingly simple. The Member States agreed in principle to accept each other's commercial (and various other) rules as adequate, and to use these as the basis for forming a common framework whose components would be assembled through majority voting between the members. Hitherto, agreement tended to be blocked by the veto of one or other individual state. In 1983, the EC had been involved in no less than 700 separate arguments arising from national objections to trade in particular products and services.

Freeing the flows of trade and business was the underlying aim of the Single Market Programme. A major economic study - the Cecchini Report of 1988 - tried to identify the most important targets for the removal of barriers by estimating what it would cost the Community if it did not remove them. Retailing was not as such an area to which Cecchini paid much attention (being mainly concerned with trade in manufactured goods), but the perceived benefit of removing barriers was expected to flow across all sectors of the EC economy. In total, the potential economic gain of completing the Single Market Programme has consistently been estimated at the equivalent of some 5 per cent of the Community's GDP (i.e. up to \$340-350 bn in 1992/93).

The Single Market is designed to work by increasing four "freedoms" of movement within the Community. These are:

Goods	Their physical distribution and sale, together with taxation and standards
Services	Their provision and availability, from banking to air transport, insurance to television broadcasting
Capital	Removal of exchange controls and full freedom of capital flow, hence more or less demanding a common monetary policy
People	Free movement for both social and economic reasons

Actual progress in achieving these freedoms has been very considerable - at least in terms of agreement at the Community level. In spite of all the arguments over "Maastricht" (the Treaty on European Union signed in February 1992) and "GATT" (the global trade agreement that remains unresolved in November 1992), the EC's Single Market Programme has remained steadily on course, often compared (not unfavourably) to a tortoise. Over 250 of the 282 individual measures in the Programme had been adopted by the EC Council by October 1992. The principal remaining hurdles concern

- (a) the removal of controls on physical movement (people, goods and, especially, animals) and
- (b) agreement on overcoming national monopolies in areas like energy and telecommunications.

Where the Programme has been less successful is in getting the commonly agreed measures actually implemented in individual Member States. The problem here is that agreement in Council does not automatically translate into national law, even if such agreement does imply that it must eventually do so. Some countries (Spain, Portugal, Ireland, the UK to some extent) have been allowed - or are insisting on being allowed - to defer implementation for several years. Other countries, notably Belgium and Germany, create unavoidable delays because their national systems require separate regional ratification of many measures. In the case of Italy, there is a combination of problems, political and bureaucratic (though a recent law has been passed there which may speed up implementation considerably). The fact that a particular Member State appears to have a "good" record on the Single Market may only be one side of the truth - Denmark, which has enacted 95 per cent of existing legislation, is of course also the country whose rejection of Maastricht has brought so much turmoil in Community politics. The UK, commonly thought of as being "anti-European", has actually been relatively swift and efficient in its implementation of Single Market legislation.

It was never intended that the first day of January 1993 would mark the beginning of an entirely new era in European integration, merely the completion of the first phase of the integrating process agreed in the Single European Act of 1985. Many of the most important current issues in Community development are not actually part of the Single Market Programme itself - including:

merger control and competition policy in general

a Central Bank

other aspects of monetary union

immigration (from outside the EC)

expansion of the Community

defence

and, the most ambitious aim of all:

ultimate political union.

The events of 1992 have shown that whatever is achieved by the beginning of 1993 still leaves very large question marks over the pace and nature of future integration between the existing 12 countries of the Community.

The immediate prospect for 1993 is that virtually all the Programme will be agreed at the Community level by March or April, but that this achievement is likely to be overshadowed by events in the monetary and political fields. The main task for both the Commission and the Member States in 1993 will be to ease the passage of Single Market legislation into practice, especially where it might be tested in the courts (both national and European). One area that will require very careful handling is that concerning indirect taxation, notably VAT collection. Success in establishing the framework for the Single Market by January 1993 will undoubtedly boost confidence in the Community. That confidence will then be tested as arguments continue over the details of how European integration is to continue in practice.

1. GENERAL IMPACTS ON THE BUSINESS OF FOOD & DRINK RETAILING

This report looks, firstly, at the ways in which different aspects of European Community integration (arising from both the Single Market Programme and other policies) impact on how major grocery retailers operate as businesses. The emphasis is upon what has actually been achieved by the end of 1992 and how the situation can be expected to develop during 1993.

Several of these areas have been previously examined in more detail in other Coca-Cola Research Papers. The relevant references are:

- "EC Retailers And Non-EC Suppliers" (trade policy);
- "Prospects For Grocery Brands" (mutual recognition of products);
- "Retail Logistics" (movement of goods);
- "Food Retailing In A Greener Europe" (environmental standards);
- "Food Retailing Alliances" (cross-border activity);

and, lastly:

- "The Social Charter And Food Retailing" (consumer and employee protection).

Monetary union and exchange controls

Monetary union is obviously a logical goal for the Single Market, but events show that it will not be easily or swiftly achieved. The Maastricht Treaty (1992) rather optimistically stated that European Monetary Union (EMU) should proceed in three stages:

- (i) ratification of the Treaty and closer alignment of member currencies and monetary policies (1993);
- (ii) setting up a European Monetary Institute (EMI), which co-ordinates the roles of national Central Banks and gradually assumes the powers of national monetary policy-makers (1994-96);
- (iii) establishment of a European Central Bank (ECB) to take over from EMI and operate all the principal aspects of monetary policy, including the introduction of the ECU as a European Single Currency (1997-98).

The plans allow for some Member States to reach the final stage (full monetary union) earlier than others, though there is no agreement on how the European Community could hold together if there were to be such a "two-speed" split. Germany is absolutely central to the entire process - the proposed European Central Bank is modelled on the Bundesbank, and the German economy and currency are the strongest in Europe, so much so that how the other currencies fare in relation to the Deutschmark will be a main determinant of whether or not those countries progress to Stages 2 and 3. Monetary Union will not be achieved if Germany chooses to keep control of its own monetary policy, while the main problem for other countries is how to create an EMU that is not in practice controlled by German interests. At the present time (November 1992), the jury is still out on all these questions. The Community will continue to have a broadly converging monetary policy, but EMU remains an ambition on the horizon rather than a clear target in view.

Should EMU and a common currency be set up, then obviously there would be no exchange controls (within the Community) to act as barriers to trade and investment. As it is, Community policy on exchange controls has already achieved considerable liberalisation. Some Member States have not had controls for many years (Germany since 1974, the UK since 1979) but others have retained barriers mainly to prevent outflows of investment capital. The Single Market Programme includes measures to remove such barriers as remain in countries such as Spain, Greece and Portugal. Exchange controls on current payments are already liberalized throughout the Community, while those on capital payments will disappear during 1993.

In reality, France, Italy and Belgium have recently finished removing such exchange control barriers as they retained. Spain has done so during 1992 and Portugal, Greece and Ireland intend to complete the process by early 1993.

The freeing of exchange controls has undoubtedly helped major retail businesses in their international purchasing of goods. The final removal of controls on capital payments to and from certain countries may assist in inward retail investment, though it has to be said that pre-existing Spanish and Portuguese controls have not hindered French retailers in their successful expansion into those countries.

Much more important is the question of currency co-ordination and possible eventual monetary union. Uncertainty over the prices of imported goods is damaging for retailers who want to offer a consistent range of products to their customers, especially at times of recession when their margins are being squeezed in every other way. The existing Exchange Rate Mechanism (ERM) has certainly helped stability in this respect, though its weakness has been exposed by events in the currency markets in September 1992. Individual governments may have doubts about losing their powers to a common monetary policy, but large businesses have everything to gain by having currency stability throughout the region within which they do the majority of their trade.

Then there is the obvious benefit of a single currency removing the need for conversion and handling charges. Large businesses already have ways of minimising these costs, but they are still significant. Their removal would also encourage smaller businesses to widen their sources of supply. Lastly, a single European currency would also play an important part in global trade. Many internationally traded commodities are still typically priced in US Dollars, for the simple reason that this was the currency of the single most powerful economy. Denomination in a European currency would be a useful counter-balance to the \$US, whose fluctuations often distort world markets in several goods, notably food products.

The relevant legislative measures are:

Articles 106-109 of the Maastricht Treaty

- plans for a European Central Bank

Article 109C of the Maastricht Treaty

- achievement of EMU Second Stage to begin in 1994

Note: At the time of the Maastricht Treaty, the UK negotiated an opt-out clause for eventual participation in Stage 3 of EMU. Following the currency upheavals in September 1992, it seems almost certain that Spain, Italy, Portugal and Greece (beside the UK) will not be able to move to either Stage 2 or Stage 3 at the same time as Germany, France and the Benelux countries. Ireland and Denmark may be able to join the "faster track" to monetary union.

Directive 88/361

- liberalizing capital movements throughout all Member States.

Trade policy and protection

Although not, of course, part of the Single Market Programme, the role of the EC in the regulation of world trade is of significance to all businesses operating within the Community. The Community dominates world trade - 40 per cent of the total in 1990, compared to 13 per cent for the USA and 8 per cent each for Japan and the EFTA countries. Success in the Uruguay Round of GATT is of particular importance for the Community countries, not least because it implies having to make long overdue changes to the Common Agricultural Policy (CAP). Reduction of agricultural protectionism is at the heart of this GATT Round and the current cost of EC farm support policies is over ECU 35 bn. Although some food prices may rise in the immediate wake of reducing subsidies, in the longer term there is a much greater benefit from freer trade in food products. Reductions in tariffs on food products imported into the EC will also improve the range and profitability of such imports for EC-based food retailers.

The potential damage posed by GATT to European interests is to food producers rather than food retailers. The EC has had a growing surplus in food and drink (almost ECU 5 bn in 1990) and this may be reduced by the concessions required by GATT. In particular, there is scope for low-cost imports from several countries on the fringe of the Community. Several major EC food retailers are now becoming much more directly involved in sourcing their supplies in other countries - through joint ventures with food processors in Eastern Europe, for example. Such deals can be expected to increase in number and scope.

The principal components of the GATT Uruguay Round (1986-92) are to:

- * Expand the scope and resources of GATT so that it becomes a Multilateral Trade Organisation, including the settlement of disputes and the scrutiny of national trade policies.
- * Reduce protectionism in agricultural trade.
- * Establish rules for trade in services and protection of intellectual property rights.
- * Reduce global tariff levels (general) by 30 per cent.
- * Improve regulation on trade in textiles and clothing.
- * Improve the compliance of developing countries with trade rules.

The main EC country that would lose out through a settlement of the Uruguay Round is France, whose farmers currently benefit from almost 20% of the total of CAP support (compared to the UK, which receives only 7.4%).

Competition policy

The EC has three strands to its competition policy, all of them with a long and tortuous history of development. In the first place, particular attention is paid to mergers of public companies in which there is held to be "a European dimension". This is defined as being where

- (a) the aggregate worldwide turnover of the parties is more than ECU 5 bn, and
- (b) the turnover within the Community of the parties is more than ECU 250 mn.

Secondly, differences between company laws in Member States should be removed or reduced where they are seen as acting as obstacles to "cross-border industrial co-operation". This involves trying to impose common rules within the national company laws to cover takeovers and share-trading in public companies. In third place is a longer term aim to establish a framework of pan-European company law, including the concept of a European Company (known as an "SE" after the Latin phrase "Societas Europaea"). Introducing such a company depends on having previously harmonised national company laws sufficient for it to be acceptable throughout the Community. Thus far, progress has been much faster on Merger Control than the other aspects of EC Competition Policy.

There are many major European grocery retailers with intra-Community turnover of more than ECU 250 mn, but relatively few that are publicly listed companies (except in the UK and France). As a result, the current and immediately proposed EC legislation on mergers and takeovers is unlikely to have a direct effect on the sector. Of the 52 cases examined by the Merger Task Force in its first year of operation (1990/91), none involved retailers of any kind. As for takeovers, the separate characteristics of each national market have not yet been influenced by EC legislation. In France, the past two years has seen considerable change in the ownership of grocery chains, but none of this activity has been referred to the authorities in Brussels. Equally, the major developments in Germany (including the break-up of the Co-op) have been policed exclusively by the Federal Cartel Office.

It is indeed questionable how much pressure there is for cross-border merger and takeover activity in the grocery sector in the Community. Two discernible flows have clearly emerged - French-based multiples moving into Southern Europe and German-based discount grocers spreading into adjacent markets in Northern Europe. Apart from these, relatively little movement has taken place. A European Commission study in 1992 (carried out by The Corporate Intelligence Group) identified almost 1,400 cross-border retail operations throughout the Community in all sectors ; only 176 (13 per cent) of these were in the food and drink sector.

Most Northern EC countries already have merger and takeover laws that comply in principle and practice with the aims of EC legislation (the UK Takeover Code was used as a model for the EC's Directive). The main problem is that EC legislation concentrates on public companies, whereas the majority of those in Germany, the Netherlands and several other countries do not fall into this category. German corporate law - and the prevailing business culture - is hostile to the idea of cross-border mergers and will find ways of continuing to resist them.

The legislation concerned consists of:

Merger Control Regulation 4064/89 (in force September 1990)

- applies to cross-border mergers with "a European dimension" and is regulated by a Merger Task Force.

Takeover Directive 88/823

- to protect the interests of takeover targets (listed companies only), supervised on a national basis

Regulation on a European Company Statute 89/268

- to establish a framework for an "SE" company which is independent of the national laws of individual Member States.

Cross-border commercial activity

Apart from developing policies that attempt to regulate competition throughout the Community, the EC is also trying to lay down new rules for other aspects of cross-border commercial activity, in particular the relationship between parent and subsidiary companies. Few of these measures are yet in place and the most important of them, dealing with the relationships of companies within a group, is still at the discussion stage. The guiding principles are for the protection of minority shareholders and employees, especially where the parent company is foreign-owned. Existing German law and practice has been used as the basis for several aspects of the proposed legislation.

As with the cross-border merger rules, this is an area where relatively few grocery retailers are likely to become involved. The exception is for the very large multiple groups that have developed a group structure across several Member States. These include Metro, Aldi and Spar (Germany), Carrefour, Auchan, Docks de France and Leclerc (France), GIB (Belgium), Ahold (Netherlands) and Marks & Spencer (UK). Of these, the French companies will have to make the greatest changes to conform to the EC's proposed rules, but bearing in mind that they are not yet finalised and may well alter significantly before being adopted in 1993 and 1994.

So far as individual countries are concerned, substantial changes will have to take place in French company law for it to conform with EC requirements on the relationship between parents and subsidiaries. Dutch law will also have to adapt to the suggested new rules. The UK and Italy are having to change their rules in respect of information disclosure on branches of foreign companies.

The Directives proposed include:

Proposed Directive on taxation of Parent and Subsidiary Companies 85/360

- to attempt to reduce the problems of double taxation, including allowing giving a parent company the choice of being taxed in its home country on a consolidated basis.

Proposed 9th Directive on Relationships between Parent and Subsidiary Companies

- to protect minority shareholders, employees and creditors within such groups of companies.

Proposed 11th Directive on Disclosure Requirements for Branches of Foreign Companies 88/153

- to establish a minimum standard for the compulsory disclosure of basic information on a company's ownership, address and officers.

Movement of goods

The efficient physical movement of goods throughout the Community was given a high priority in the Cecchini Report, which estimated that the road haulage industry alone represented some 7 per cent of Community GDP and restrictions within it were costing the EC economy the equivalent of ECU 415 mn in 1988. Certainly, the Community countries suffered from a long-established network of restrictive quotas, rules and trade practices in almost every aspect of transport. Removing these restrictions was an important task for the Single Market Programme and, to a large extent, it has succeeded in achieving its goals. There remain problems in the German market, but the most significant recent development has been agreement with the Swiss to permit easier trans-shipments through Switzerland, a key route between north and south Europe (especially since the closure of roads through the former Yugoslavia).

An earlier Coca-Cola paper ("Retail Logistics" 1991) emphasised how important physical transport was to the efficient running and profitability of retail businesses, especially in the grocery sector. Deregulation was seen as a definite boost to both efficiency and cost-cutting, with savings being particularly welcome because they could balance the rising costs that will derive from stricter environmental standards and ever-increasing traffic congestion. The importance of these findings is that they apply to major grocery businesses even when they confine themselves to selling in their home markets - such retailers are typically increasing the range and volume of supplies they source from around the Community, thereby benefitting from better transport facilities in all the Member States. Of relevance to the carriage of certain products (high-value and seasonal foodstuffs, fresh fish, flowers) is the EC's current move to try and liberalise the market for air freight, finally coming into line with its general policy for air transport in general.

Apart from deregulation of the haulage industry, the EC is also improving the efficiency of transport by backing the improvement of the Community's infrastructure - on the roads, the railways and, in certain countries, canals and rivers. In respect of the latter, the recent completion of the missing link in the Rhine-Main-Danube canal could be an important conduit for goods, including foodstuffs, from South East Europe.

Germany was the country that continued for a long time with objections to liberalising road transport (especially cabotage), but since 1991 has started to implement the main measures. Italy, by contrast, put up few objections but has yet to actually draft the EC rules into its national legislation. Although not yet part of the EC, it is Switzerland that has posed the greatest problem to road transport between the north and south of the Community; only in September 1992 was a compromise reached by which transit through Switzerland will be greatly eased with the building of new Trans-Alpine routes.

The legislative measures to note are:

Regulation 1841/88 on Community Quotas and a Free Road Transport Market

- to remove the pre-existing system of quotas that limited the activities of haulage companies outside their own domestic markets.

Directive 89/4059 on Cabotage and subsequent Draft Regulation of October 1991

- to permit full cabotage throughout the Community by 1/1/93.

Proposed Regulation 91/293 on a Community Road Haulage Licence.

Directive 89/4060 on the Removal of Frontier Checks and subsequent Amendment OJ 1991 C 117/6

- to abolish all frontier checks within the Community, including (the Amendment) checks on food products.

Directive 89/4058 on Road Transport Prices

- to liberalise the existing national systems of "reference prices", but only for cross-border journeys.

Proposed Directive 91/66 on HGV Vehicles Speed Limits

- affecting heavy vehicles carrying either goods or passengers (still under discussion).

Regulation 294/91 on Air Freight Services

- to liberalise the air freight market within the Community in line with other measures (the 3rd Liberalisation Package) to remove barriers to free trade in air transport in general).

Mutual recognition of products

The mutual recognition of goods is one of the key planks of the Single Market Programme, although the basis for enabling legislation was laid down in the original Treaty Of Rome (Articles 7 and 30). What the Single European Act succeeded in doing was to specify that mutual recognition would be more or less automatic, unless examined in the European Court against highly specific tests on whether the proposed restriction was acceptable for purely health and safety reasons. This procedure has proved much more effective at speeding up the acceptance of products in different markets than the previous system of having to agree a new common standard for every contentious item. The role of the Court is essential to the new policy of mutual recognition. The most major recent judgement concerned the sale in Germany of beer which contained additives not permitted under the traditional German "beer purity" laws ; because the additives could not be proved to be actually harmful to health, the European Court overruled the national rules, only allowing that the additives in question should be clearly labelled on the products.

With the principle of mutual recognition now effectively in place throughout the Community, attention is devoted to removing the remaining national barriers on health grounds to trade in specific products, most of them either foodstuffs or medicines. All these developments are potentially beneficial to retailers who want to stock the widest possible range of goods and be able to source its supplies from all around the Community. The only potential cloud on the horizon is that mutual recognition is likely to be tested with the increase in products coming from countries on the fringe of the Community, not to mention problems of integrating some of the EFTA members as they apply to join the system. Lastly, it remains the case that there is nothing to prevent a national legislation from applying a stricter standard to a home-produced product than an imported one ; this is one barrier to free trade not yet addressed by the Commission.

Bureaucratic barriers to the principle of mutual recognition still remain in some countries, notably Spain, Portugal and Italy. More important are the restrictions that continue to exist based on health, safety and veterinary rules governing specific food and drink products. The Single Market Programme is still working through the elimination of these barriers at the national level.

The key legal requirements are:

Article 7 of the original Treaty of Rome

- prohibits discrimination against goods imported into one Member State from another.

Article 30 of the Treaty of Rome

- prohibits duties, quotas and all other national measures that may make the importing and sale of any product from another Member State more difficult or expensive for no other reason than that it comes from another State.

Article 100B of the Single European Act

- which introduces the concept of mutual recognition, that "the provisions in force in a Member State must be recognized as being equivalent to those applied by another Member State".

The European Court Judgement in the "Cassis de Dijon" case (1978)

- which permitted national rules to block the distribution of imported products, but only in highly specified circumstances (such as consumer or environmental protection) and where the use of such national regulation was the least restrictive means of achieving that end.

VAT and excise duties

The harmonisation of VAT and excise duties has proved one of the thorniest aspects of the Single Market Programme, while also being one of the most necessary elements of the Programme's success. Quite apart from the problem of trying to iron out the very large differences in rates and tax structures between Member States, there is also the question of setting up a workable system for the collection of indirect taxes on products as they are moved (increasingly) around the Community.

After much argument, an accord was finally reached in October 1992 - this consists of a package of eight Directives which fix a legally binding minimum VAT rate of 15 per cent across the Community until 1996, together with minimum excise duty rates on a range of products, including tobacco, alcohol and mineral oils. In fact, the accord is a weak compromise on earlier plans, since it will leave most existing rates virtually unchanged. Exceptions include the removal of excise duties on some basic foodstuffs in Germany, the reduction of VAT in the Netherlands (already achieved) and a small increase in excise duties on alcohol and tobacco in Belgium, France, Italy and Spain.

Following the October 1992 agreement on VAT and excise duties, considerable differences will remain between the rates levied in Member States, though a common system of collection is agreed from 1/1/1993. France has the widest variation from other countries in respect of VAT rules and there will be great difficulty in bringing them into line during 1993. Germany still levies excise duties on a number of food products not so taxed elsewhere (including tea, coffee, salt and sugar) ; this will have to change during 1993. Excise duties on alcohol products in all Southern European Member States remain significantly lower than elsewhere in the Community.

The plans for common collection and administration of VAT are almost certain to cause problems for all businesses trading goods in the Community. Because border controls and customs posts are abolished from 1/1/1993, the job of monitoring VAT payments (and collecting intra-Community trade statistics) falls on businesses themselves. The fact that the compromise on VAT rates has left existing differences little changed means that the administrative load will be enormous - the Japanese company Sony, for example, has had to employ 200 staff to develop 12 reporting systems for VAT returns and statistics collection. A further complication is that having to register for VAT collection in some countries (notably Italy) may incur a corporation tax liability. Lastly, the whole process is not helped by several countries still only having draft legislation on VAT and duties, while in Italy, Belgium and Portugal there was no official information available on the new procedures as late as October 1992.

These changes on VAT and excise duties are bound to cause at least a temporary increase in costs for all major retail businesses. Certain food products are taxed at low rates in some Member States and grocery retailers that source throughout the Community cannot expect the benefits of a truly harmonised system until 1997 at the earliest. Differences in rates on alcoholic drink and tobacco products will continue to cause problems for the foreseeable future.

The measures relating to VAT and Excise Duties include:

6th Directive 77/388 on a Common System of VAT (and subsequent amendments)

- to establish common rules for VAT throughout the Community.

18th Directive 89/465

- to iron out national differences in VAT arrangements and establish a timetable for the approximation of rates.

Commission Communication 89/260 on Harmonisation of Excise Duties

- to be brought in over a period of several years.

Proposed Directive (January 1992) on the Movement of Products Subject to Excise Duties

- to permit the free movement of such goods throughout the Community, with the excise duties being levied in the country of retail sale.

Consumer protection

The EC has developed a firm structure for rules on product liability, based on safety rather than fitness for use. Full implementation, however, will not take place until mid-1994, particularly for agricultural products. The situation on consumer rights is much looser, mainly because the Commission sees this as an area for national legislation (influenced hopefully by ideas developed in Brussels). There is a general aim that consumers should have a "collective right" which has easy access to national courts. In addition, there are a number of specific measures aimed at protecting consumer interests when and how they pay for goods (credit protection, electronic payments, price displays etc). It is possible that the Commission will help set up a European Consumer Agency, though this remains at the discussion stage.

Many of the largest and most successful grocery retailers have already made a point of supporting moves to better product liability standards, consumer rights and services. They therefore have nothing to worry about in respect of EC policy in these areas. The tightening up on standards for agricultural products, however, will lead to a re-appraisal of suppliers and some changes in the storage and presentation of goods. Lastly, as electronic and credit payments become more common for basic, everyday shopping, retailers will have to keep abreast of new EC rules on consumer protection.

All EC Members except France and Spain have brought product liability legislation into line into force, though there are considerable differences in the nature and amount of damages that can actually be applied. Inclusion of agricultural products, however, will in most countries have to wait until 1994 (89/193 above). The situation on consumer protection is very different. Many of the EC's proposals are based on existing UK legislation, so that country is ahead of most others in this respect. Consumer rights in representation are strong in France, Germany, the Netherlands and Belgium; much less so in Italy, Spain, Portugal and Greece.

The measures to be noted are:

Directive 85/374 on Product Liability

- to make the manufacturer (in the EC) or importer (into the EC) of any product liable for damage caused by a defect in its safety (not in its fitness for use).

Directive 89/193 on General Product Safety

- to establish a general requirement of safety for any manufactured, processed or agricultural product (agricultural products were not fully covered in Directive 85/374 above). This was adopted in June 1992 and will come into force in June 1994.

Commission Communication 87/210 on Consumer Redress, developed in the EC Consumer Policy Action Plan (1990)

- to encourage a common policy and standards for consumer representation, information given to consumers, safety for consumers (in shops, for example) and protecting consumer interests in sales transactions.

Employee protection

The increasing role of the Community in determining protection standards and rights for employees is one of the most significant areas of concern for businesses operating there. Grocery retailers have to pay particular attention, since they typically employ large numbers of staff in categories (women, part-time) which are given specific attention in EC legislation. In the Maastricht Treaty, all Member States except the UK agreed to comply with an extensive package of measures under the heading of the "Social Chapter". These are being introduced during the period 1992-94 and the most relevant ones are listed in the Appendix.

An earlier Coca-Cola paper - "The Social Charter And Food Retailing" (1990) - examined this subject in detail. It concluded that while the implementation of employee protection legislation would raise costs and reduce profitability in the short-term (to 1994), it would eventually bring benefits in terms of increased competitiveness, productivity and employee skills. Certain countries were judged to suffer higher levels of increased costs and greater dislocation of their traditional labour patterns - notably Ireland, Greece, Portugal, the Netherlands and the UK. In Germany and Denmark, by contrast, the adoption of Social Charter legislation would not have any such negative impact, for the simple reason that high enough standards were already in place.

The UK is the only Member State not to have signed the Social Chapter of the Maastricht Treaty (1992), the other 11 countries all adopting it in the form of a Social Protocol. There are, however, problematic areas for some of the other countries, notably in respect of worker participation in Spain and Belgium. So far as the health and safety aspects of employee protection are concerned, however, the position is reversed - the UK, along with Germany, is in the forefront of adherence to the standards proposed by the Commission. Implementation in Italy is particularly problematic, while some of the social security and pension provisions are requiring considerable changes to existing legislation in the Netherlands, Belgium and Germany.

This makes the position of the UK particularly interesting, since it is most implausible that the country could remain in the Community in the long-term (through the 1990s), and not eventually fall into line with standards that had become universal in all other Member States. Any cost-saving through not implementing legislation at the present would therefore merely postpone - and almost certainly increase - the costs of having to comply at a later date. Grocery retailers that are based in the UK and then set up in other Community countries would have the greatest difficulty in attracting qualified workers with conditions of employment completely out of line with the rest of the EC.

There are some specific employment and social protection measures that will impact considerably on grocery retailers. The introduction of new health and safety requirements in the workplace will mean possible structural changes to many premises, a particular problem for smaller and medium-sized retail locations in town centres. The contracts of employment for part-time workers will in many cases need to be changed, with businesses employing more than 1,000 staff (full and part-time) will have certain obligations to adjust the balance of full and part-time employees. Legislation is proposed (but still tentative) to regulate working time to a maximum of 48 hours a week ; it will, however, be up to each Member State to decide on the role of Sundays in the working week. Lastly, the prospect of a minimum guaranteed income for all Community citizens, even if based on different national standards of living, would threaten an increase in costs for grocery retailers in all the Member States, especially the UK, Ireland, Spain, Italy, Greece and Portugal.

The legislation affecting employee protection consists of:

Social Charter 89/568

- containing 45 specific proposals on social and employment rights and standards, 25 of which are intended to be legally binding on the Member States.

Directive 89/391 on Health and Safety of Workers (General).

Directive 90/276 on Standards for Work with VDU's.

Directive 90/394 on Protection of Workers against Carcinogens.

Directive 90/269 on Handling Heavy Loads.

Directive 75/117 on Equal Pay

- sex discrimination.

Directive 76/207 on Equal Treatment at Work

- sex discrimination.

Draft Directive 89/268 on Worker Participation.

Proposed Directive 90/281 on Rights of Pregnant Workers.

Directive 91/533 on Written Employment Contracts.

Environmental standards

The EC has made environmental protection one of its most important aims and ambitions, though actual compliance by the Member States remains very laggard in many areas. In 1992, the Commission announced an "Action Programme" for 1993-2000, intended to improve energy efficiency, reduce pollutants of every kind and strongly encourage better waste management and greater use of recycling and reclamation. An Environmental Agency is to be established, at first just to gather data, but potentially with powers of inspection and control. The concept of "Green Auditing" is being encouraged. Underlying the EC's approach is the theory that the environment is one subject that demands a collective approach, while also recognising the potential danger of a split between a highly regulated North and less regulated South of the Community.

The impact of environmental issues on food retailing have already been examined in a Coca-Cola paper - "Food Retailing In A Greener Europe" (1991). This identified packaging materials and their disposal as posing the most important potential problem for retailers. It also, quite rightly, drew a distinction between the Commission's environmental ambitions and what was actually likely to happen in individual Member States. In fact, these two observations can be combined into a single conclusion. Retailers will have to improve their environmental efficiency in recycling and waste disposal, but the extent will depend on the country in which they operate. A "greener" environment can only be achieved where there is a collective will to help it come about ; a single business in isolation can do virtually nothing. Member States such as Germany and the Netherlands are already requiring retailers to take part in extensive waste management schemes, but they are only able to do so because of massive investment in and subsidies for the necessary facilities. The same process can be seen at work in the market for recycled and reclaimed products, especially paper and board (which grocery retailers produce in abundance) ; a viable market, as in Germany, needs to be supported by some form of price intervention, especially in its early stages of development. The position in the UK is precisely the reverse - the market for such materials is consequently both small and fragile. In Italy, as a third example, there has been a flurry of legislation that encourages waste recycling, but hardly any organisation on the ground to bring it into practice.

Lastly, there remains an interesting imbalance in the current European environmental legislative package. There is nothing to prevent a Member State government from imposing national rules that are stricter than the standards laid down by the EC, even if it could be argued that this represented a barrier to free trade. A European Court Judgement upheld this position in respect of the Danish Government in 1989. Retail businesses operating throughout the Community will therefore have to look out for such national differences.

Although the Commission sees environmental legislation as one of its most important responsibilities, this is an area where almost all Member States have dragged their feet in implementing the rules that have emerged from Brussels. In general terms, the countries of Southern Europe have been slowest to conform ; in Italy and Spain there is no clearly defined organisation responsible for environmental matters. Progress on waste management and the use of recyclable materials has been greater in Germany, Denmark, France and the Netherlands than elsewhere in the Community. Apart from water standards and the disposal of hazardous waste, the UK has environmental legislation either in place or in prospect that more than meets EC rules.

Articles 130R and 130S of the Single European Treaty (1986)

- established principles of Community environmental law to (a) enable preventive action, (b) direct such action to the source of environmental damage, and (c) apply the rule that "the polluter pays".

Directive 91/156 and Community Strategy COM89/934 on Waste Management

- obliges Member States to give preference to waste recycling and reclamation for a wide range of materials (including many food and drink containers), to come into force from April 1993.

Directive 91/689 on Hazardous Waste

- details all types of hazardous waste which Member States have to inform the Commission concerning their methods of disposal, to enter into effect from the end of 1993.

Proposed Directive 89/282 on Civil Liability for Damage by Waste and Proposed Directive (1992) on Liability for Environmental Damage

- measures to make Member States introduce rules that impose liability for damage on all non-domestic producers of waste materials (including retail businesses).

Directive 88/76 on Air Pollution by Motor Vehicles

- to provide a framework for increasingly rigorous standards on minimum emissions by all types of motor vehicles, bringing the Community into line with existing US standards by July 1992 and with provision for even stricter rules from 1996.

Commission Recommendation 89/349 on CFC's, amended in 1992

- to set a deadline of the end of 1995 for the total elimination of all Chlorofluorocarbons (CFC's).

Council Regulation 90/1210 for a European Environmental Agency

- to establish such an agency, initially for the collection of information, but, after 1994, to be given powers of inspection and control throughout the Community.

Proposed Regulation (1992) on Certified Environmental Auditing

- suggesting a system (initially voluntary) for the evaluation of environmental performance in industrial activities, including food and drink manufacture and processing.

2. SPECIFIC EFFECTS ON THE RETAILING OF FOOD & DRINK PRODUCTS

This second part of the report examines the effects of European Community integration on the retailing of specific food and drink products. Most policy areas affect entire categories of products, though there are also some relevant policies on trade in specific product items.

Manufacturing and processing standards

The Single Market Programme laid considerable emphasis on food and drink manufacturing, less so on the retailing of these products. This reflected not only the size of the EC food industry, but also the fact that it was very highly regulated at the national level. The Cecchini Report estimated that the net cost to industry of all the barriers to free trade in the food sector was equivalent to some \$1.1 bn (1988). This is of course a speculative figure - so much of the food industry is localised in manufacture and consumption, suggesting that the removal of barriers between countries would not necessarily lead to a surge in cross-border trading. But at the highest level of concentration in the sector - branded groceries, toiletries, drinks - it is clear that freer trade leads to higher volumes and potentially greater profits.

An earlier Coca-Cola paper - "Prospects For Grocery Brands In The Single European Market" (1991) - observed how international food manufacturers were investing heavily in the search for successful "Euro-Brands". That paper sensibly suggested that such brands had to be built up appropriate to varying market demands, rather than launched in the hope that a "European" market already existed for them. It also identified the spectacular growth of retailers' own-label brands in nearly all the EC countries. Both retailers and manufacturers therefore have an increasing stake in the success of the Single Market Programme to encourage a larger, more efficient flow of food and drink products around the Community.

The concept of mutual recognition is tailor-made for the food and drink business, given its vast multiplicity of products. To have to legislate for each individually - the old "vertical" approach of the Commission - was obviously a hopeless task. There is no doubt that the new approach has greatly speeded up the intra-Community flow of food and drink products, making it possible for manufacturing and processing plants in one country to serve markets in other ones. From the retailers' point of view, notably the very largest grocery chains (multiples, associated and co-operative), it is becoming possible to have a purchasing strategy that treats the whole Community as one market. If such chains start to do their buying through alliances, then the potential economies of scale multiply, without in any way diluting their position in their respective home markets. Several papers in the Coca-Cola series have identified the importance of this changing balance of power between food manufacturers and food retailers. It is the Single Market Programme that is providing them with their new battlefield.

But mutual recognition is not of itself enough to remove all the barriers between food manufacturing and processing industries in different countries. These industries are of course concerned to protect their own markets and will resist what they see as unfair or inappropriate imports. They often see no good reason why they should change manufacturing and processing methods that have served them and their markets well for many years. Similarly, retailers and consumers will also resist changes to products and/or their presentation with which they are familiar and which they do not want altered in any way.

It is this side of the Programme - its effect on traditional products made in the home market, rather than the introduction of products brought in from other markets - that is causing the most problems. Almost all national arguments against EC-imposed standards are based on a defence of traditional custom. Some of the largest markets in Europe - France, Germany and, especially, Italy - are proving resistant to such changes. Nothing that happens on 1 January 1993 will make the slightest difference to this. The food and drink products that do succeed on a European scale will be those which can be viably marketed where there is a demand for them. The Single Market Programme cannot impose such conditions, even if it does make it easier for such appropriate products to be made and sold.

The other basic issue on manufacturing and processing concerns the introduction of entirely new types of products and processes. Modern technology comes up with these new developments and, by definition, there are no agreed standards in all 12 countries for ingredients, safety, transport and so on. Irradiation (for longer shelf-life) is one such process, developed first in the Netherlands and currently being discussed for its acceptability throughout the Community. Other examples include rapid freezing, chilled distribution of prepared foods, synthetic proteins and almost all applications of biotechnology to food production. Under the environmental policies of the EC, there remain provisions for individual countries to impose stricter rules than those agreed as a minimum Community standard. It may well be that some of these new methods of food production and processing are contested in certain Member States on these grounds.

Implementation of the legislation proposed varies very widely between the individual Member States, mainly where local taste and custom precludes conformity to a hypothetical European "norm". In the case of extraction solvents, the Germany food industry permits much greater use of these than elsewhere and will have to change considerably to fall in line with the EC Directive. On issues of food safety, however, most countries now have legislative standards (in theory if not in practice) that conform to EC intentions. The UK Food Safety Act of 1990 is likely to prove hard to implement - Belgium and the Netherlands have a liberal approach to this form of treatment, while several other Member States are resisting it strongly. The Dutch have also had to postpone their implementation of the Directive on Quick-Frozen Foods.

The measures concerned include:

Directive 89/108 on Quick-Frozen Foodstuffs

- to lay down standards for both the initial freezing and subsequent processing, handling and storage of such foodstuffs.

Proposed Directive 89/596 on Foodstuffs Treated with Ionising Radiation

- intended to harmonise the standards of equipment and methods used in the irradiation of foods. A further Directive will be required to list the foods which may be treated in this way. These are hotly contested measures and may not survive into legislation.

Directive 88/344 on Extraction Solvents

- to establish a list of permitted extraction solvents, together with their uses, standards of purity and other issues. Compliance with the new rules is being staggered during 1992 and 1993, with prohibition of non-authorized solvents from 1/1/1994.

Council Regulation (O.J.L. 350 14/12/1990) on Pesticide Residues

- to set maximum levels for such residues, as defined in lists to be developed by the Commission. Compliance will be the responsibility of national food inspection agencies.

Proposed Regulation (1992) on the Reduction of Contaminants in Foodstuffs

- gives the Commission the power to draw up lists of such contaminants, with subsequent legislation to encourage the reduction in their use.

Food inspection and quality control

A Single Market for food inspection and quality control is proving less contentious than for manufacture and processing. This is mainly because there is a greater consensus on basic rules for food safety, covering the whole chain from manufacture to final consumption. The legislation has been developed to share the responsibility for safety protection between growers, manufacturers and distributors, so this is an area where grocery retailers have to keep up with requirements as they come into force.

One problem, however, is the role of inspection at the Community level. Originally, the Commission planned a European Food Agency with full powers (and budget) to pursue a "hands-on" approach to food inspection. One advantage of this would have been that new testing and monitoring techniques could have been brought in quicker when they were applied centrally than if developed piecemeal. It is also accepted that there are wide variations between Member States in the practical efficiency of their food control (even if they have all signed up in theory to maintain the same standards). The European Agency plan has been postponed for lack of funds, with responsibility at the European level remaining with the Scientific Committee on Food (SCF).

The area where changes in inspection and control is having the greatest effect on the existing market structure is in the meat industry, specifically in slaughterhouses and wholesale meat markets. Not only are hygiene standards much stricter, there are also new rules that greatly increase the extent (and costs) of inspection. In the UK, over half the existing 600 slaughterhouses are almost certain to close because they cannot afford to conform to the new EC rules, which are administered by the national regulatory agency (as with all other aspects of EC inspection and quality control legislation). Similar closures are occurring in France, Spain and Italy. The Irish, Dutch, Danish and German markets are relatively unaffected.

All the countries of Northern Europe have inspection and quality control regimes that are unlikely to fall foul of proposed EC legislation. German standards are indeed considerably more rigorous. Spain intends to implement the Control Directive (89/397) during early 1993, but this may be delayed. The situation in Italy is unclear. Implementation in Portugal and Greece will be slow and patchy.

The measures proposed covering food inspection and quality control include:

Plans for a European Food Agency

- an EC-funded Food Agency remains an ambition of the Commission, but current developments rely on existing national Food Regulatory Bodies, co-ordinated by the Brussels-based Scientific Committee on Food (SCF). Eventually, food products given approval by the national organisations will have to have this confirmed by the SCF.

Directive 85/591 on Food Sampling and Analysis

- established that national food agencies could conduct tests to EC standards (as they are developed), but at the same time prohibited the continued use of certain types of tests previously employed by national agencies.

Directive 89/397 on Official Control of Foodstuffs

- a Framework Directive that established general principles for the control and inspection of foods throughout the Community, the underlying intention being to protect consumers while also not imposing too great a burden on food producers and processors.

Proposed Directive 91/525 on the Hygiene of Foodstuffs

- to develop further the basic standards of 89/397 (above), also covering the standards of training of food inspectors and EC-approved quality standards for inspecting laboratories.

Proposed Directive (1992) on Harmonisation of Hygiene Rules

- an ambitious plan to set harmonised rules for quality control along the entire distribution chain, from manufacture right through to ultimate sale to the consumer.

Additives and colouring agents

The Commission has been trying for a long time to harmonize Community use of additives, flavourings and colouring agents. There are longstanding national differences in this area - France, for example, banned in the 1970s several colouring agents that are still in use in the UK and Spain. Many flavourings are of such local preparation and consumption that it is unlikely they will ever appear on a common EC list. Additives, including those used in animal feedstuffs, are a particularly difficult issue because of the heavy investment in their use. Sweeteners, used extensively in drinks, are influenced by national taste as much as anything else. Once again, variation in tastes puts a brake on the rapid implementation of EC-wide legislation.

The general principle of Single Market legislation in this area is to build up lists of approved products and eventually prohibit the use of those that are not permitted. Because of their number and long history of use, the disallowed products cannot be banned overnight - it is expected that in most cases Member States will have up to three years to comply with legislation. Minerals and vitamins are classed as nutrients and are subject to separate legislation (see below). The use of the word "natural" in respect of additives (etc) is also covered elsewhere - under requirements on labelling and product claims.

Nearly all Member States are proving slow to implement EC legislation on additives and colours. In Germany (again) most of the objections arise because local practice and tastes do not permit such agents and the new common standards are seen as being too liberal. In France, the use of many colouring agents was disbanded in the 1970s following consumer campaigns. The situation in Spain, Greece and Ireland, on the other hand, is that there are numerous additives in use that are unlikely to be included on the EC-approved lists.

The legislation comprises:

Directive 89/107 on Food Additives

- a Framework Directive that establishes basic rules for the use of additives in general, with the subsequent development of lists of authorized additives.

Proposed Directive on Sweeteners

- to attempt to lay down maximum permitted levels for specified artificial sweeteners. This is having to be amended to allow some countries (including France and Denmark) to ban certain sweeteners in drinks.

Directive 88/388 on Flavourings

- lays down basic rules on the purity of flavourings and the percentage composition of additives used in them. Subsequent draft legislation (1991 and 1992) is intended to define the use of the word "natural" in flavourings.

Directive 92/4 on Emulsifiers, Stabilizers, Thickeners and Gelling Agents

- to update previous Directives (from the 1970s and 1980s) and bring them into line with 89/107 (see above).

Proposed Directive 91/444 on Colours in Foodstuffs

- to bring the legislation on colouring agents in line with that now in place for additives (89/107, see above). Existing EC rules on food colours date back to 1962.

Transport and storage

The overall Single Market strategy for transport has already been discussed. On balance, it is and will prove of considerable benefit to grocery retailers, particularly those who source from all around the Community. Activity is, however, likely to be concentrated in the central part of the region - France, Germany and the Benelux countries. This is because neither southern Europe nor the UK yet has an appropriate modern transport infrastructure. A further reason is the increasing success of the Schengen Agreement in removing all border delays between these central countries of the Community. Denmark will be brought into the net with the completion of major new links up from Germany (and across to Sweden), while Swiss policy is now making it easier for shipments to and from the Italian market. It is no accident that the major French grocery retailers who have set up in Southern Europe have concentrated on areas with relatively good transport links - northern Italy, the largest Spanish cities (especially Barcelona), Lisbon and Oporto in Portugal.

In Spain, the food market still presents many barriers to the free movement of products. The Spanish government is introducing new rules to try and reduce these barriers, but there is still a long way to go. So far as physical transport is concerned, Germany still presents some barriers to free movement (see earlier Section). The requirement to refrigerate all fresh fish products (see below) is causing problems in several countries, including the UK and France.

Deregulation of the haulage industry will further help grocery retailers as they, rather than their suppliers, determine the physical chain of distribution. UK-based retailers, who are among the most successful in Europe, have made a point of contracting out much of their transport to specialist companies (especially in chilled and frozen distribution). By heavy investment in information technology, these grocery businesses are in a position to make the most efficient use of such distribution, while their sheer size gives them a strong position to secure advantageous contracts with the specialist distributors. Deregulation means that similarly efficient retail grocers can take the benefit of such transport networks on a Community scale. The freeing-up of the German market is particularly important in this respect.

The two chief measures involved are:

Directive 87/220 on Refrigerated Road Transport

- introduced new energy-saving standards for the insulation of such vehicles, covering the transport of both frozen and chilled products.

Commission Communication 1989 C271 on the Free Movement of Foodstuffs

- this reinforces the mutual recognition principle that any foodstuff legally made and sold in one Member State should be able to be moved to and marketed in another Member State.

Packaging and labelling

The use of packaging materials and the disposal of packaging waste are major issues for grocery retailers and the Single Market Programme encourages them to change their attitudes towards the whole subject. The EC has estimated the total volume of retail, office and services sectors packaging waste throughout the Community at 15mn tonnes (1990), of which just 2.5mn tonnes are currently recycled. This compares with only 10.4mn tonnes of such waste produced by manufacturing industry (4.5mn tonnes recycled). A large proportion of estimated domestic packaging waste (25mn tonnes) comes of course from products bought in retail groceries. These figures, even if only estimates, show the scale of the problem - and the potential for recycling and reclamation.

The most important Single Market measure in this area is the proposed Framework Directive on Waste Packaging (1992). This aims at recovery rates of up to 90% of all such waste, with a target for recycling of up to half that volume. The Commission realises that implementation will have to be (a) introduced over a considerable period, and (b) will be applied at very different rates in individual Member States. As mentioned earlier, you cannot implement a waste management strategy without the infrastructure for doing so, plus ensuring there is a viable market for the reclaimed and recycled materials. It is likely that particular products will be early targets for action, notably one-way drinks containers (of all materials), canned goods and board packaging. Retailers will have to establish relationships with all the other parties involved - their suppliers ; the municipal authorities responsible for collection and disposal in their areas ; and, not least, their customers, who may be bringing waste materials back to the store for collection.

The situation on labelling is also a key subject of the Single Market Programme. The general rules on food labelling are almost all in place, with the majority of grocery businesses having no difficulty in complying with them. The principle of "Use By" rather than "Sell By" is now established throughout the Community for highly perishable foods. Uncertainty remains, however, on how the EC proposal for an "Eco-Label" will develop. Who, for example, will judge that a given product is less "environmentally damaging" than its competitor(s) ? The Commission has already shown it does not currently have the resources for a European Food Agency, so it is unlikely to be able to directly operate this scheme.

A further cause of problems is the proposal to try and closely define the "Geographical Indications and Designations of Origin" for food and drink products. Apart from the obvious absurdities (Yorkshire Pudding, Frankfurters, Mars Bars etc), there are the costs of complying with product registration and proving that the item does actually come from the claimed place (or has been prepared in the claimed manner). These would be far too high for many of the small producers of such regional specialities. Retailers would be deterred from stocking products that might be subject to legislation of this sort. On the other hand, there are genuine cases of speciality producers needing to protect their exclusivity (the makers of Parma hams are one example). The likely outcome is that the present proposal will be watered down, while a mechanism will be found for producers to use the Courts to settle any disputes.

Packaging is a particularly contentious issue and nearly all Member States have examples of traditional practices that fall foul of current and proposed EC legislation. France and Italy are likely to conform slowly (if at all in the case of some products). Provision for the recycling of food and drink packaging is much greater in Germany, Denmark and the Netherlands than elsewhere. As of January 1993, French law imposes minimum recycling requirements on food and drink producers and importers (^Snot^S retailers). The UK was slow to conform to earlier EC rules on labelling, but has now caught up. Several countries, including the Netherlands, are insisting that certain information on food labels should continue to be in their own language (the EC legislation only states that it should be in a language easily understood by the purchasers).

The measures to be considered involve:

Directive 89/395 on the Labelling, Presentation and Advertising of Foodstuffs

- an important Directive that updates original legislation from 1979 and covers foods that are sold both retail and through catering channels (but not when sold either wholesale in bulk or for export in any quantity).

Directives 89/109 and 90/128 on Materials Coming into Contact with Foodstuffs

- important Framework Directives that give the Commission powers to regulate the use of all such materials, including plastics. They update previous legislation (from 1976) and will use the EC Standing Committee on Foodstuffs to draw up lists of permitted and banned materials. In the case of plastics, compulsory compliance comes into force on 1/1/1993.

Directive 90/496 on Nutritional Labelling

- this fits in with other legislation on nutritional foods (89/398, see below) and requires that any food for which the manufacturer makes a "healthy" claim should substantiate this with detailed labelling. A related Directive (90/339 on Compulsory Nutritional Labelling) prohibits any type of labelling that does not conform to the new standards, to take effect from October 1993.

Proposed Directive (1992) on Waste Packaging

- a major Framework Directive that is intended to establish a waste management strategy for the whole Community. Member States will have to conform to specific targets in reducing and/or recycling waste materials, with an eventual aim of recovering between 60 per cent and 90 per cent of all packaging waste and, even more ambitiously, of recycling between 40 per cent and 60 per cent of such waste. Full implementation is not expected for at least five years after adoption (in 1993).

Council Regulation 92/880 for an Eco-Label

- provides for a "European Ecological Label" (a 12-starred flower with the letter E in the middle of it) which is awarded to products meeting an approved standard. The standards (as yet undeveloped) will apply to every aspect of the product - from manufacture through use and to final disposal - and will require that suitable products be less environmentally damaging than other ones in the same category.

Proposed Council Regulation (1990) on the Protection of Geographical Indications and Designations of Origin for Agricultural Products and Foodstuffs

- intended to protect the consumer from false claims by food manufacturers. This is proving a highly contentious measure, encouraged by Germany but rejected by nearly all the other Member States. Well meaning in theory, but unlikely to survive in its present form.

Pricing and quantity measures

Policies to harmonize the pricing and quantity measurement of food and drink products do not pose any notable problems for large grocery businesses throughout the Community. Food producers and processors have already made the changeover to "mandatory dual pricing" for the goods where this is required. The situation in the UK is different from elsewhere, solely because of the retention of so many non-metric measures, but a sufficiently long timetable (to the end of the decade) has been agreed for the conversion that it will not impose significant costs on either producers or retailers.

One potential problem does present itself over plans to harmonize national standards (BSI in the UK, DIN in Germany, AFNOR in France etc). As with the ideas for an EC Food Agency and an EC Eco-Label, the Commission does not have the resources to set up an effective standards regulatory body of its own, while the existing national bodies are naturally resistant to losing the right to set their own standards. This does not affect many food and drink products in terms of their ingredients (dealt with by other legislation), but it does impact on the machinery and equipment used in the food trades, including at the retail level.

All the Member States are falling in line with the pricing rules. The situation on standard weights and measures is mainly a matter of the UK versus the rest. Although the UK started to switch to the metric system in 1963, it will be the end of the 1990s before it is completed. Even then, certain products (milk, draught beer and cider) can continue to be sold in pints. Packaged groceries have to be metric from 1995, while goods sold loose (e.g. from greengrocers) can remain in pounds and ounces until 1999.

The measures proposed are:

Directive 88/315 on the Indication of Selling Price and Measurement of Foodstuffs

- this amends earlier legislation (1979) and is intended to provide consumers with clear pricing information, particularly when comparing products sold in differently sized packs. It relies on mandatory dual pricing - the price of the article and the price by weight (or volume). Full implementation is spread over a long period - to 1995 for most countries and even later for the UK and Ireland.

Directive 90/189 on Non-Automatic Weighing Instruments

- sets out minimum standards for such instruments (in force since mid-1992).

Directive 90/384 on Units of Measurement (Metrology)

- to bring all Member States into line with a common system of weights and measures.

Commission Green Paper on European Standardization (OJ 1991 C 20)

- proposes a European Standards Office to co-ordinate the harmonization of national standards (eg BSI in the UK or DIN in Germany). Although mainly concerned with industrial products, the food and drink sectors also fall under the remit of this proposed European organisation. Criticism of the cost and complexity of the proposal is leading to a compromise whereby the national Standards Offices retain most of their existing powers.

Store handling and staff training

Retail grocery businesses are very important in the labour market in every Community country. Equally, the largest such grocers are significant employers on an individual basis. Because of this, the implications of the EC's "Social Chapter" are considerable for the whole sector, except, for the time being, in the UK, which has opted out of almost all the main provisions of such policies.

Most of the general impacts have been discussed earlier, but there are a number of specific effects that must be mentioned. In the first place, there are new standards for the operating of equipment common in large retail businesses. These include : fork lift trucks (new safety specifications since 1989) ; the avoidance, wherever possible, of the manual handling of heavy loads (from 1993) ; health, safety and ergonomic aspects of working with VDU's (also from 1993) ; and increased responsibility for employers in respect of equipment such as meat slicers, frozen food handling and electrically operated machinery (from 1992). Secondly, there are potential (as yet undetermined) changes in the training obligations for retail employers. Particular attention is paid to young (16-18) employees, who will have rights to "complementary vocational training" - paid for by the employer and during normal working time. Eventually, there is planned to be a system of mutually acceptable vocational qualifications for retail workers in food preparation, food handling and various levels of store management. Community funds will be available to encourage such training, especially in countries where it is undeveloped (Spain, Portugal and Greece in particular).

In terms of variation by country, Dutch and German vocational qualifications for the retail trade are more highly organised than elsewhere, so these countries may resist mutual recognition. France, with its elaborate system of training in food processing and production, may do the same in that area. Retail training in Spain, Portugal and Greece remains undeveloped. The fact that the UK has opted out of the "Social Chapter" means that most of these proposals will not apply at all.

Retailers need to pay particular attention to:

Directive 86/663 on Fork Lift Trucks

- in force since 1989, this measure laid down Community-wide safety specifications for such vehicles.

Directive 90/269 on Handling Heavy Loads

- sets health and safety requirements for handling such loads, mainly through encouraging a reduction in manual handling generally. This Directive comes into force in July 1993.

Proposed Directive on the Mutual Recognition of Vocational Qualifications

- this extends the principle of mutual recognition of professional qualifications to a wide range of trades where workers have only basic secondary education plus the relevant national trade diploma. Several trades in the food and retail sectors are included.

Council Decision 90/267 on a Programme for Continuing Vocational Training

- a measure that forms part of the "Social Chapter", this proposes that employees, especially those aged 16-18 years, should receive "complementary vocational training" during working hours. Employers would have to fund this programme.

Organic food standards

The Commission first proposed legislation to regulate the production, processing and sale of organic foods back in 1989. Apart from responding to consumer pressure in this area, the Brussels authorities also had an eye to the fact that organic produce achieves high prices, thereby offering a potential boost to farmers' incomes at a time when CAP subsidy cuts were beginning to reduce them. Whatever the likelihood of the latter trade-off, the regulation of organic production is now in place, at least for plant products (organic meat and fish products are still being discussed for inclusion later). Each EC country has had to appoint a national body for regulating such production (during 1992) and the legislation becomes binding from the middle of 1993.

The Commission drew heavily on the experience of existing national organic associations in preparing this legislation - the Soil Association in the UK, Nature et Progres in France, Bioland in Germany. In some Member States there has been little difficulty in setting up a regulatory body (in the UK it is the United Kingdom Register of Organic Food Standards), but others have presented problems (Greece, because there was no established association ; France, because there are 16 competing ones). As part of the package of requirements, organic products must be suitably and accurately labelled. If, for example, the organic ingredients make up less than 50% of the product, then the packaging cannot make any claim at all to be organic. Drinks, including wine, are included in the 1992 regulations.

A related measure is proposed to cover what the Commission calls "Novel Foods". These include products made by chemical synthesis, biotechnology and the use of natural organisms which are being used for the first time for food manufacture. The basic idea is to appoint control bodies who will build up expertise in assessing such products from the health and safety point of view. Suppliers will have a duty of care imposed upon them. Given the role of technology in food production (and the constant search for new products), it will be interesting to see how the EC will be able to define what is and is not a truly "novel" food.

The UK has a fairly long-established system for maintaining the content and quality of organic foods. Similar but less developed organisations now exist in France, Germany, Denmark and the Netherlands. Other Member States will have to look to the new EC rules to set the relevant standards.

The two measures that deserve special attention are:

- | |
|---|
| <p><u>Council Regulation 91/2092 on Organic Production of Agricultural Products</u></p> <ul style="list-style-type: none">- to set strict rules on every aspect of organic foodstuffs, including production, processing and labelling. It also suggests a system of inspection and regulation (to be undertaken by national authorities). <p><u>Proposed Directive on Novel Foods (1991)</u></p> <ul style="list-style-type: none">- an ambitious proposal to cover new types of food that are developed by chemical synthesis, biotechnology and similar methods. The aim is to make it easier for such foods, if approved, to be sold throughout the Community. |
|---|

Specific measures on individual food products

The old "vertical" approach to harmonization, together with the incredible length of time that such measures typically took to come into force, means that the Single Market Programme still contains legislation that is specific to particular products or narrow categories of products. The most relevant of these are listed in the last section of this survey.

Of these, the measure on fish products is causing the most difficulty. It imposes a refrigeration requirement from the handling stage right through to final sale. For many products - and in distribution areas of limited size - refrigeration has never been used before and the cost of introducing it is proving cripplingly expensive for the typically small firms involved. Similar problems may arise with the implementation of the Poultry and Poultry Products Directive, which seeks to define differences between "battery" and "free range". Retailers will have an obligation to ensure that the products they stock should be correctly described. Similar requirements, already in place, cover all foods (and drinks) for which a "nutritional" claim is made. Lastly, in this group of specific products, there will be a ban from mid-1994 on all infant foods (formulae) that do not conform to EC standards in place since 1991.

Because of the highly localised nature of many European food products (their manufacture, distribution and consumption), any blanket legislation imposed by the EC is bound to cause problems with specific foods. National pressure groups are proving quite successful at lobbying for exemptions from such legislation, including kipper smokers in the UK, jam makers in Portugal and ham producers in Italy.

The measures proposed for food products include:

Directives 88/658 and 88/288 on Trade in Meat Products

- to establish rules on the preparation and description of many meat products, including minced meat. This covers both intra-Community trade and imports.

Directive 88/47 on Fish and Fish Products

- to impose minimum standards for the handling, processing and transport of freshly caught fish and fish products. This includes refrigeration of such products to under 2C, a rule that has been fiercely criticised by some trade interests in the UK, France and elsewhere.

Directive 90/539 on Poultry and Poultry Products

- to set down basic rules for the inspection and certification of such products. A related subsequent proposal is for a four-part classification of poultry according to rearing conditions (Indoor, Free Range etc).

Directive 89/398 on Nutritional Foodstuffs

- this is a Framework Directive that updates rules dating back to 1977 and lays down that such foods should be "suitable" not just in use but also in their marketing and presentation. The Directive has been in place in national legislations since early 1992, but the EC has given a 5-year transitional period for manufacturers to change their products and presentation (for rules on nutritional labelling, see above).

Directive 91/321 on Infant Foods

- to set standards for infant formulae and follow-on formulae, with the banning of non-conforming products from June 1994.

Directive 88/593 on Fruit Jams

- a specific piece of legislation that dates back originally to the 1970s, but did not in fact come into effect until 1991. This is mainly concerned with the sulphur dioxide content of such products.

Specific measures on individual drinks products

Specific measures from the era of "vertical" legislation cover fruit juices and chicory-containing coffee (see later section for details). There is also a proposed Directive that seeks to set minimum reclamation and recycling targets for drinks cartons (all types of drink).

Apart from the environmental aspects of packaging, the main interest in the drinks sector concerns the EC's aim to eventually approximate the rates of duty that apply throughout the Community on alcoholic drinks of every kind. This has been discussed earlier under VAT & Excise Duties. One thing is certainly clear - if the EC had persisted with its original plans for approximation, then all the countries of Southern Europe would have faced an almost impossible task in raising their levels of duty. Market distortion would have been greatest at the level of normal retail distribution, since purchasers would have been likely to bypass such channels in search of untaxed products. This particular problem has now effectively been postponed until later in the decade, by which time gradual changes in duty rates in all Member States may have rendered it harmless.

Implementation of the current compromise on excise duties is unlikely to cause major problems in any Member State, though the position will of course change if and when the EC tries to approximate rates more closely. As it is, taxes on wine will have to increase slightly in all the wine-producing countries, including Germany. Belgium has already increased its rates in anticipation of EC legislation. So far as non-alcoholic drinks are concerned, Germany will have to remove the excise duties currently imposed on coffee and tea.

The most important Directives that have been proposed are:

Directive 89/394 on Fruit Juices

- similar to the legislation on Fruit Jams (88/593, see above).

Directive 85/573 on Chicory Extracts in Coffee

- a measure to permit the trade in this (mostly French-made) product, with specifications on its labelling.

Proposed Directive on Drink Cartons (1992)

- intended as part of the EC's environment strategy and aimed specifically to force manufacturers of drinks (of all types) in cartons to recycle up to 70% of their packaging materials.

Directive 86/197 on Labelling and Advertising of Alcoholic Drinks

- this brought drinks labelling in line with that for foodstuffs. Any alcoholic strength greater than 1.2% by volume has to be indicated on the new labels. Subsequent measures are still being developed on labelling the other contents of such drinks (water volume, cereals, fruit content etc).

Directive 89/525 on Duties on Alcoholic Drinks and subsequent Communication 89/260 on Excise Harmonization (see above)

- establishes minimum rates of duty of alcohol and aims to set target rates for Member States to achieve during 1993-97. The excise duty is to be calculated per hectoliter of pure alcohol at 20C and based on the quantity actually available to consumers.