

# **SINGLE MARKET & the EEA**

genesis and 'inner dynamics'

**Jacques PELKMANS**

Senior Fellow, CEPS, Brussels

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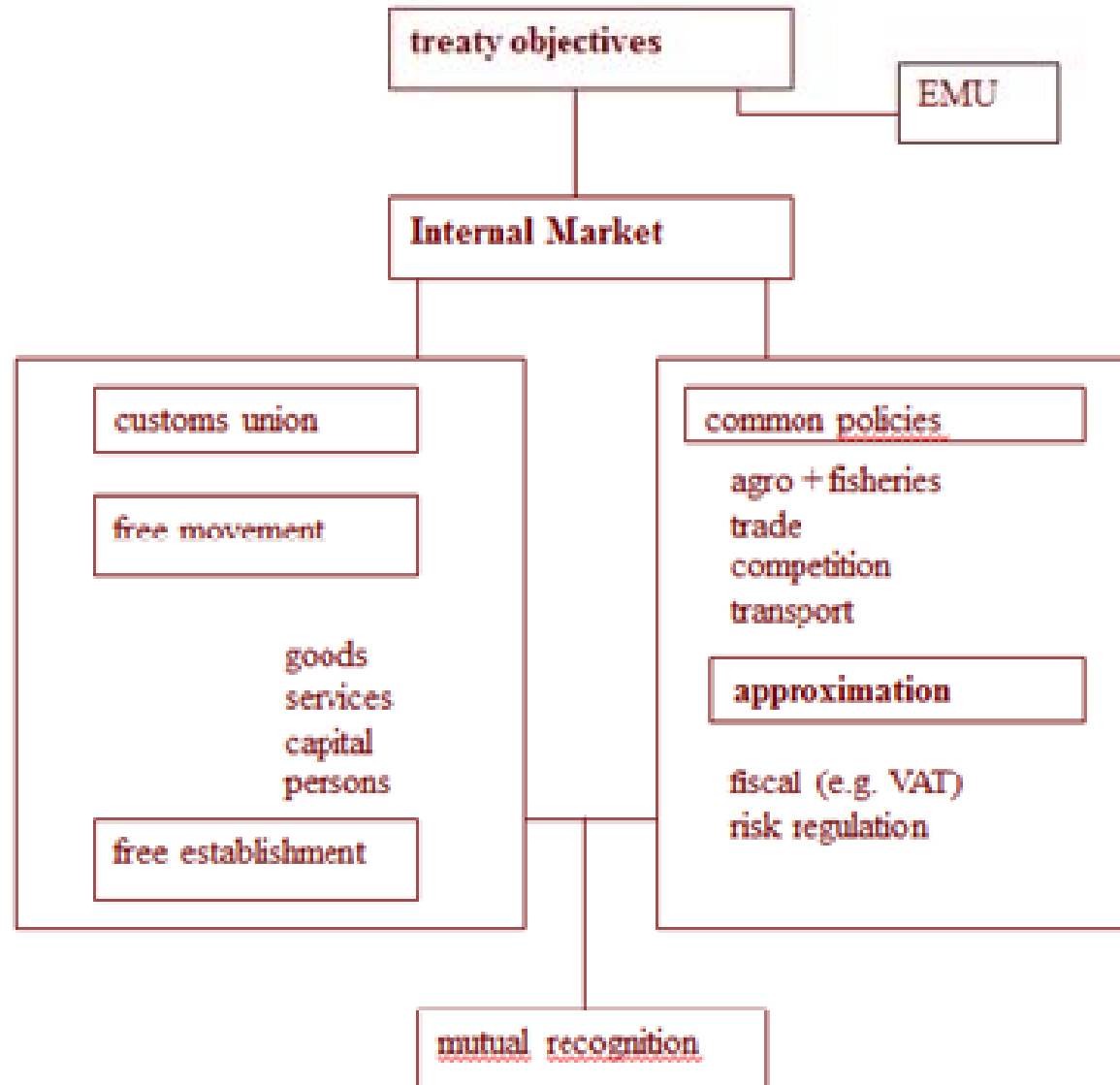
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- 7. Congratulations – 20 yrs of a credible EEA, an incredible experiment

# Single Market history fun 'quiz'

- Remember the Single Market trilemma : deepening, widening (of scope) and enlargement could not all happen at the same time. Looking back: did it so happen or not?
- Was the famous White Paper of June '85 really so decisive ?
  - >>> breakthroughs before (transport, standards, M.R., single customs doc, Narjes June '84 COM paper)
  - >>> many aspects, later attributed to EC1992, were not even in (Schengen, network industries, removal of inner frontiers, early IPRs, social dimension, external dimension)
- Is the EEA a FTA-plus-plus-plus or a Single-Market-minus ?
- The Meroni doctrine predates the Single Market (even the EEC). Can one say that it is a pre-requisite of the EEA?

# EU Internal Market Design



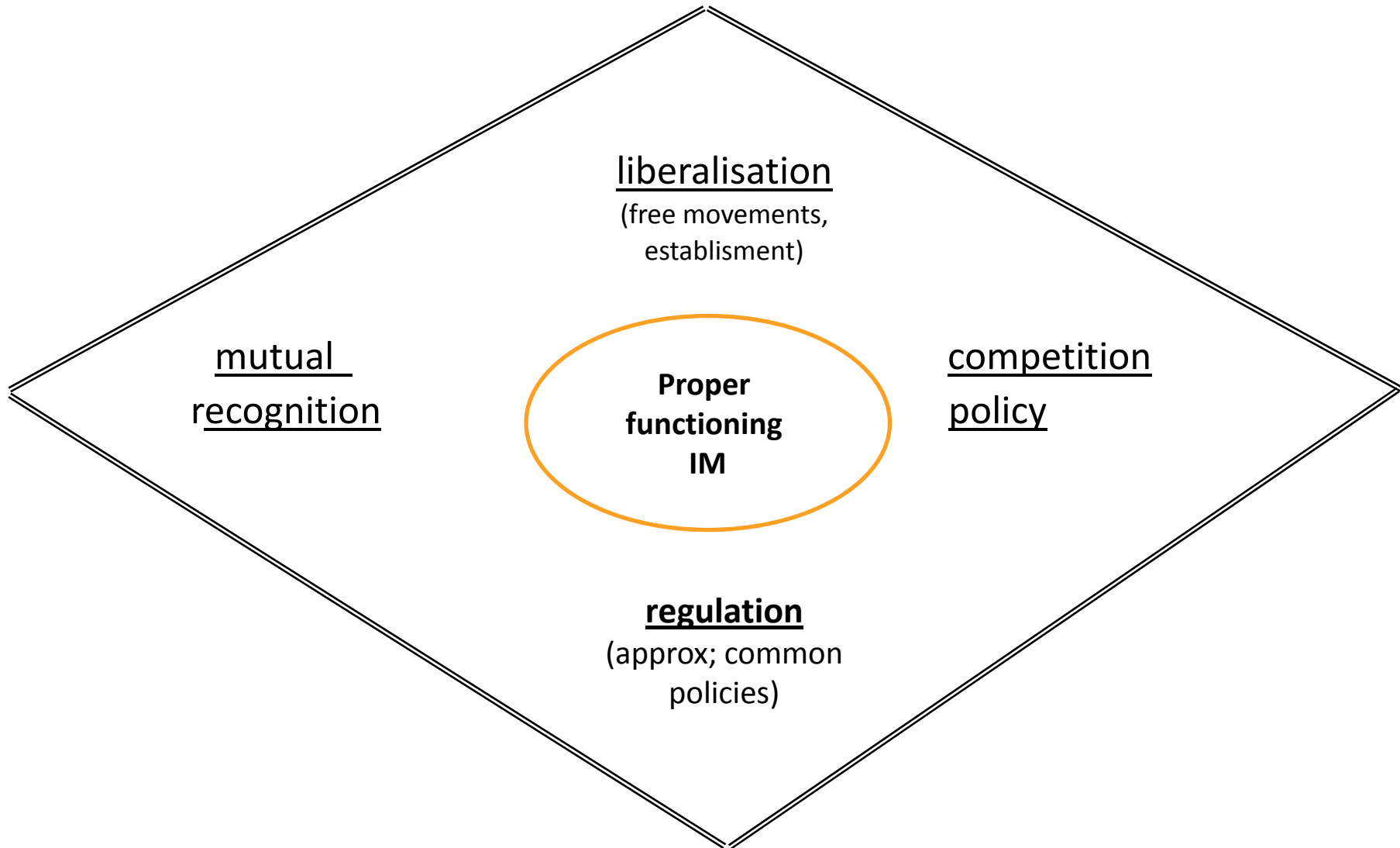
# Single Market design revisited ?

- scope and depth of the ramifications of a Single Market (a more perfected form of the ‘common market’ invented by the 1956 Spaak report) were not realized at all at the time
- 1st shock in 1968 - tariff union, but little prepared for more ; 2nd shock in 1983, “non-Europe” of Albert / Ball report
- Do not forget : the first-ever meeting of the Internal Market Council took place in autumn 1982 !!!
- Lack of appreciation of all ramifications equally true for the monetary union, as becomes crystal-clear when reading the 1970 Werner report today [ the Werner report also fails in the profound linkages between the Internal Market and EMU, by the way]

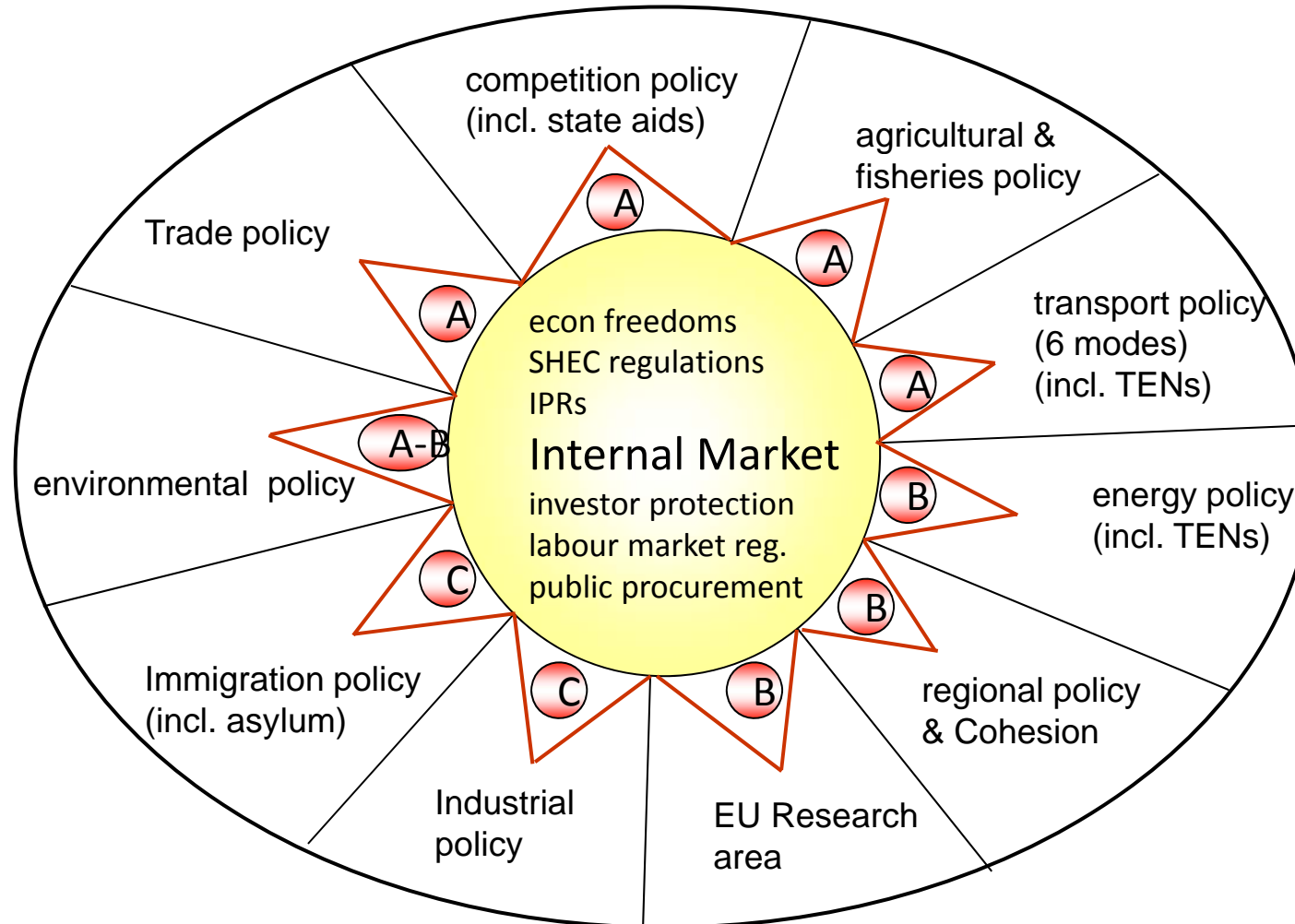
# S.M. design revisited ? (2)

- realized only very gradually that combination of negative and positive integration is extremely demanding, on both 'sides'
- 'approximation', has developed into an EU regulatory system, largely – though not entirely - on 'risk regulation' (SHEIC)
- Competition policy widened and deepened, at two gov.t levels
- mutual recognition (goods, services) invented 21 yrs after 1958
- EU institutions (as well as the EU roles of Member States) had to be developed in tandem with the Single Market : regulatory capacity, enforcement, implementation, widening of scope to many DGs, technical capacities, admin networks, Agencies,

# Internal Market Diamond



# Wider SM with Common Policies



**A** = critical for IM

**A-B** = critical for IM, but partly not at EU level

**B** = important for IM, yet, has other powerful drivers, too

**C** = (currently) of minor important for IM



## S. M. design revisited ? (3)

- Negative integration, too, turned out to be very ambitious indeed
- After 25 yrs, EEC no more than a 'C.U. Plus', that is, free mov.t of goods was unfree/distorted
- Moving into other market types was a taboo
- Services did not begin in earnest before EC1992
- 6 of 12 M.S. in '86 capital (exchange) controls
- Labour markets remained firmly national and persons were not really free to move
- Codified technology (IPRs mainly) were ignored

# Economic significance

- Economic research has itself developed a lot since the 1950s but was also inspired by EU deepening / widening / enlargement
- First wave estimated only the tariff union in industrial and agricultural goods (tr. cr. / div.), welfare gains not impressive, analysis missed out on many aspects
- Second wave on EC1992 (Cecchini and follow-up in academia ; Monti 1996 report) analysed a richer S.M. with richer economic tools, and got far stronger results ; but not really large ; far from complete coverage
- Third wave now building up with econ.s of services liberalization, FDI analysis, gains removing TBTs, gains from Better Reg.n, less regulatory heterogeneity, sectors/ infra

# Systemic Implications of S. M.(1)

- Internal Market has a radical design, based on the constitutional notion of ‘free movement / establishment’ and elastic ‘positive integration’ (esp. EU regulation & what it takes)
- Has generated a ‘neo-functional’ logic, prompting an ‘inner dynamics’ which has not petered out
- From CU-plus, to (more) common market, to the internal market (now, much more than foreseen in 1985 White paper), to the Single Market (not even a treaty notion, but more a driving force)

# Systemic Implications of S.M. (2)

- With the ever greater scope of application of free movements & right of establishment
- EU regulation became ever more important (besides M.R. where M.S.' regulation had equivalent objectives)
- Apart from fiscal, company and customs regulation, this is mainly 'risk regulation' (SHEIC) and, often, European standards behind those
- May 2011 : 1525 directives and 1347 regulations, in a fairly narrow definition of the S.M.; +/- 4000 ENs which are EU REG-related

# Systemic implications of S.M. (3)

- Positive (market) integration, notably EU regulation in a wider sense, has brought with it a far more prominent role of EU institutions
- Plus drastic changes EU institutions + how they work (QMV ; co-decision ; RIAs ; co-regulation ; CJEU ; interMS admin coop.n / networks ; 'new' comitology)
- And the emergence of 'new' EU bodies, notably EU Agencies (since 1990), with some quasi-regulatory
- But.... NOT a larger EU budget ! The EU motto has remained : **rules, not money**. (key for EEA as well)

# Systemic implications of S.M. (4)

- Deep market integration also alters the “S” word: Sovereignty is pooled and **Subsidiarity** comes up
- The idea of subsidiarity is profoundly ‘functional’: at what level of government a policy or rule is pursued best for the highest welfare of all
- It must, therefore, be a two-way principle
- In EU practice, it is politicized (and limited by treaty constraints) by ‘red lines’ and national parliaments – this is critical for political legitimacy
- Still, the functional (Single Market) logic in S-tests has, on balance, strengthened centralization trends

# Systemic implications of S.M. (5)

- Since Maastricht, the EU is an 'economic union', but we do not know what it is !
- Some say Art. 121 (on national economic policies as a 'common concern', hence, their 'coordination') is "the" economic union
- Could be : 121/4 speaks of 'not consistent' and of 'risk jeopardizing the proper functioning of economic and monetary union'
- Single Market must be the hard core of economic union ; bringing in M.S. policies as well may deepen the Single Market but creates a subsidiarity dilemma

# Systemic implications of S.M. (6)

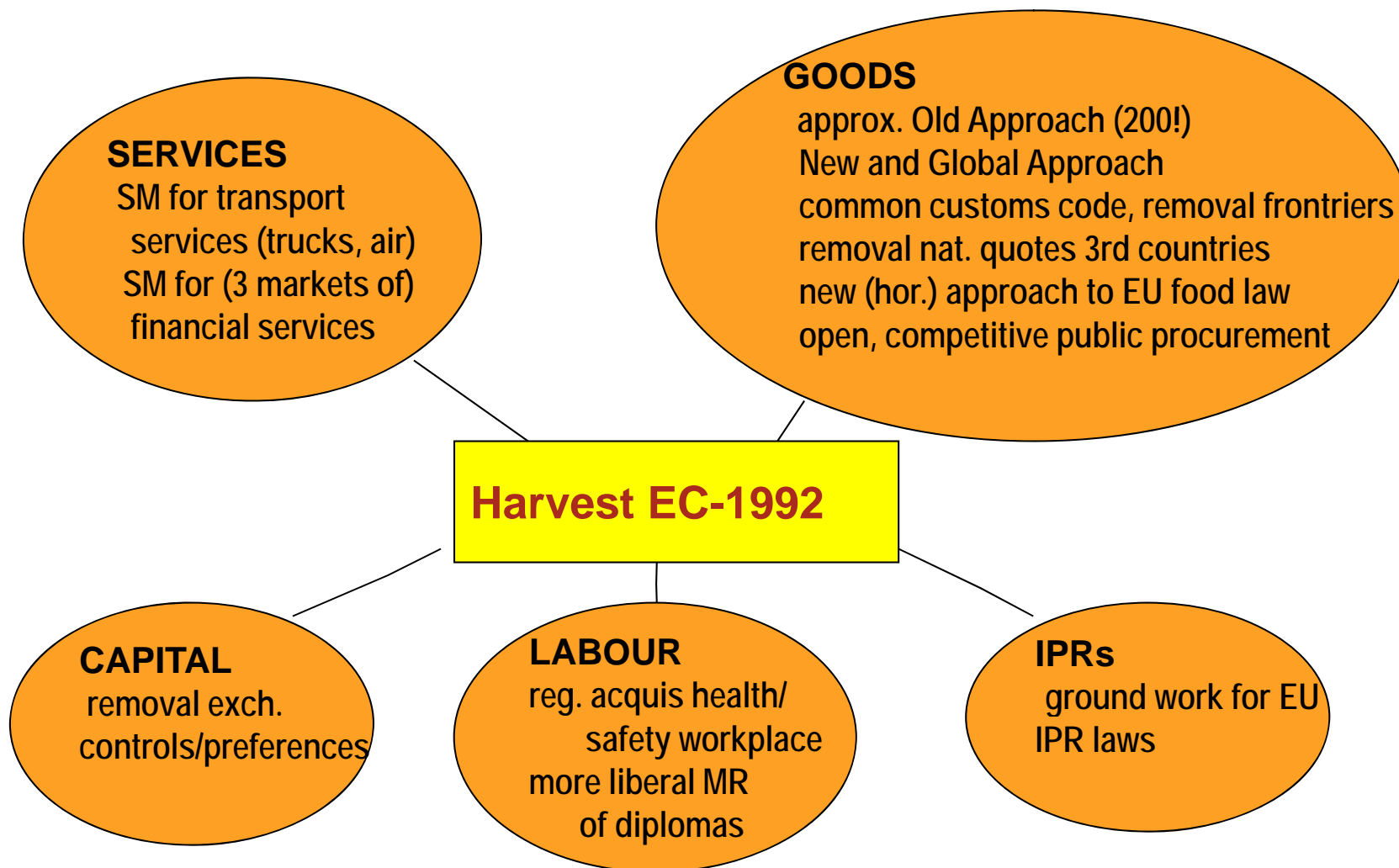
- Monetary Union also presents systemic issues to the Single Market
- First, S. M. deepening is both a prerequisite and a consequence of monetary union
- Second, monetary union for 17 prompts centralization tendencies which are less easy to justify for a Single Market of 27 (+ EEA-3)
- Third, exchange rate fluctuations between € and 'satellite' currencies in EEA-30 normally limited by EURO's dominance ; not so in severe crisis !



# Systemic implications for the EEA

- EEA treaty is a given, seems 'static' framework, so what is the problem ?
- But since 1995 a thousand or more EU directives/regulations have become EEA acquis, not to speak of case-law + new bodies
- So, in fact, EEA-3 joins a very dynamic deepening and widening Single Market
- No signs of the 'inner dynamics' petering out
- EEA having to cope with the 'systemic implications' mentioned above

# WHAT EC-1992 ACCOMPLISHED



**NOTES:** (i) CJEU case law promoted M.R.; (2) preventing new barriers in SM via 83/189; (3) merger control '89; (3) network industries not in White Paper (exc. broadcasting); began early 1990s

# I.M harvest 1993-2010

<p style="text-align: center;"><b>SERVICES</b></p> <ul style="list-style-type: none"> <li>• 3rd generation EU regulation financial services (FSAP)</li> <li>• 4th generation (id.) [since 2008]</li> <li>• opening up of 6 network industries (in stages)</li> <li>• EU Agencies (Safety, Air, Maritime, Rail; Air Traffic)</li> <li>• horizontal services dir. 2006/123</li> </ul>	<p>(selective)</p>	<p style="text-align: center;"><b>GOODS</b></p> <ul style="list-style-type: none"> <li>• 2008 Goods Package (+ MR)</li> <li>• REACH (chemicals)</li> <li>• adaptation Old Approach (+ simplif.n food specific dir.)</li> <li>• EU Medicinal, Chemical, Food Agencies</li> <li>• EU emission trading system &amp; climate policy</li> <li>• prudent liberalisation of EU SM in defence goods</li> </ul>
<p><b>More Single Market</b></p>		
<p style="text-align: center;"><b>LABOUR</b></p> <ul style="list-style-type: none"> <li>• MR for professionals</li> <li>• minimum labour market reg; + 300 sectoral agreements</li> <li>Social Dialogue</li> </ul>	<p style="text-align: center;"><b>CAPITAL</b></p> <ul style="list-style-type: none"> <li>• stock exchanges; more competitive and standardised cross-border securities trade</li> </ul>	<p style="text-align: center;"><b>IPRs</b></p> <ul style="list-style-type: none"> <li>• EU trademarks regulation and EU Agency</li> <li>• other EU IPR (copyright, design)</li> </ul>

NOTES: 1. modernisation of EU competition policy    2. RIAs (since 2003) and Better Regulation    3. better inter-MS horizontal/adm. cooperation    4. public procurement, 2nd generation

# EEA as a Grand Experiment

- The EEA is an incredible experiment
- Started as a (complex) ‘waiting room’ [with four countries about to jump on the EU train and one leaving the station]
- It has functioned well for almost two decades, absorbing enormous new acquis quite smoothly
- Implementation and enforcement records good despite complexity (but see Frommelt)
- Coping somehow (so far) with systemic implications
- **Congratulations**, the party is well deserved !