PART I

TRADING WITH THE EC

PART 1

Chapter 1

The Single European Market

The Road to the Single Market

The EC Single European Market came into effect on 1st January 1993. The Member States are: Belgium, Denmark, France, Germany, Greece, Ireland, Italy, Luxembourg, The Netherlands, Portugal, Spain and the United Kingdom.

The Rome Treaty of 1957 was the beginning of the road to the unification of Europe. The six founding member countries committed themselves to a common market. The process has been slow and it was necessary for the Member States to reinforce their efforts with the Single European Act of 1986, destined to create a Single European Market in which people, goods, services and capital could move freely. The Single European Act pledged the Member States to create "an area without internal frontiers" by 31st December 1992.

Between 1986 and 1992, the institutions of the European Community were committed to an ambitious legislative programme to create the Single European Market. The programme was essentially concerned with the need to remove a range of barriers:

- physical e.g. customs formalities
- technical e.g. different product standards
- fiscal e.g. diverse VAT and excise duties
- social e.g. social security payments, pensions.

In order to meet the December 1992 deadline, the Commission completed its programme of 282 legislative proposals, although some Member States have not yet implemented them. Most of the legislation is in the form of Directives which oblige Member States to achieve a particular result within a stated time limit, but leave them free to choose the method of implementation. The majority of Directives were due to be implemented by 31st December 1992, and the area in which greatest progress has been made is the abolition of technical and physical barriers to permit a Single European Market for goods.

Breaking down the Barriers

Barriers to free movement of goods, services, money and people may be broadly categorised into four groups: physical, technical, fiscal, and social. All these barriers need to be removed before a truly Single European Market can be realised. Legislation is being put into place to remove these barriers. Commonwealth exporters need to understand the way these barriers will be eliminated in order to know the marketing environment in Europe in the 1990s. The imminent enlargement of the EC to include Austria, Finland and Sweden means that the market will become even more important for Commonwealth trade by 1995.

Physical barriers

Physical barriers consist principally of customs formalities and immigration borders. As of 1st January 1993, customs clearance procedures throughout the Community have been replaced by a specialized computerised programme known as cooperation in the automation of data and documentation for imports, exports and agriculture (CADDIA). This system will make it much more simple for goods to move from one

Community country to another and will replace the Single Administrative Document (SAD) which was introduced by the EC in 1988. However, the SAD will still be used in Spain and Portugal for another 5 years but will not be used to move goods between the other 10 Member States.

The harmonisation of animal and plant health controls form part of the elimination of customs barriers. This is of particular interest to Commonwealth exporters as this will mean animals and plants imported into the EC will have to undergo health and veterinary checks on point of entry into the Community, and thereafter will be permitted to move freely.

Technical barriers

Since 1985 the European Commission has adopted a new approach to standardisation based on mutual recognition of standards rather than total harmonisation. Directives adopted under the new approach do not specify detailed technical standards, but rather lay down essential safety requirements with which the products in question must comply if they are to be eligible for sale throughout the Community. Two distinct and equally important European standardisation bodies, the CEN and CENELEC, specify European standards. Conformity with the European standard is proof that a product complies with the essential safety requirement, and products must carry a "CE" mark.

FIGURE 1
The C E Mark

Technical barriers have been eliminated in many areas of EC activity. Indeed, it is estimated that more than 75% of EC proposals relating to the abolition of technical barriers had been adopted by end 1991. Specific product sectors where European Community standards currently apply are:

- simple pressure vessels
- toys
- construction and building materials
- machinery and equipment safety
- personal protective equipment
- gas appliances.

The breaking down of these technical barriers should be seen as an opportunity for Commonwealth exporters. Technical standards differ distinctly between Member States. Until now differences in standards between Member States created difficulties for the producer/exporter forcing them to modify their products if they wished to sell in different EC countries. Harmonisation of technical standards will eliminate the need for the producer to comply with different national standards. Less capital investment will therefore be required to service the Single European Market.

Alongside the harmonisation legislation, the EC has adopted Directives regarding common product liability rules, consumer credit arrangements, and bans on misleading advertising. To complement these moves, the Commission has also proposed common measures regarding intellectual property, including patents, trade marks and copyright, but these have not yet been agreed.

Fiscal Barriers

Fiscal barriers in the form of disparities in national tax systems frequently distort the market and inhibit cross-border investments. As part of the Single Market programme, the Commission has proposed a range of legislation including:

- taxation of gains arising on mergers, divisions and transfers of assets
- axation applicable to parent companies and their subsidiaries
- arbitration procedures for transfer pricing disputes
- taxation on the carry-over of losses
- he abolition of taxes on securities transactions
- taxation of interest and royalty payments.

Indirect taxation, principally in the form of value added tax (VAT), is being harmonised. Member States of the EC have agreed to set a minimum rate of 15% for VAT. Currently, VAT rates within the EC vary from 0% to 38%. Similarly, excise duties, such as on alcohol, vary from 0 to 10.5 ecu per litre. The continued existence of differential indirect taxation rates ensures the maintenance of customs formalities, and so creates further obstacles to the free movement of goods and services.

Since 1st January 1993, crossing a frontier no longer gives rise to a tax obligation. During a transitional period (from 1993 until 1996) VAT will be applicable in the country of destination. All goods purchased by taxable persons and purchases by non-taxable persons in excess of 35,000 ecu per annum are subject to VAT in the country of destination. The transitional VAT scheme will expire on 31st December 1996 at the latest, and by that date there should be a common VAT system throughout the EC.

Social Barriers

Social barriers to free movement are likely to persist after 1993. The EC Social Action Programme is designed to promote more intense cooperation in this area, but the United Kingdom in particular is reluctant to accept the jurisdiction of the EC in such areas as workers' rights, pensions, and sickness and disability payments. Progress in the social sector is uncertain, and depends on the political will of the Member States.

Economic and Monetary Union

The Maastricht Treaty on European Union of 1992 commits those Member States who qualify to do so to achieve Economic and Monetary Union (EMU) by 1999. Special arrangements were made for the parliaments of the United Kingdom and Denmark, to approve this momentous step.

The EMU provisions commit the Member States to:

- irrevocable fixing of exchange rates and the creation of a single European currency (the ECU)
- establishing a European Central Bank
- defining and conducting a single monetary policy and exchange rate policy
- supporting the general economic policies of the Community.

The EMU agreement provides for the establishment of the European System of Central Banks (ESCB) and a European Central Bank (ECB), with the primary objective to maintain price stability. Assuming the ratification of the Maastricht Treaty, the transition to EMU will begin on 1 January 1994, by which time all Member States must have abolished exchange controls and seek to avoid excessive government deficits. With the establishment of the EMU and the ECB, national economic policies of Member States will henceforth be regarded as "a matter of common concern".

For EMU to be achieved the following conditions have to be met by Member States:

- price stability - which means an average rate of inflation not more than that of the average of the three best performing states by 1.5%
- low government budgetary deficits
- an average nominal long term interest rate which must not exceed that of the three best performing states in terms of price stability by more than 2%
- membership of the narrow band of the European Exchange Rate Mechanism for two years.

Commonwealth exporters selling into the European Community would do well to monitor the debate regarding the emergence of the EMU and the eventual establishment of a Single European Currency and a European Central Bank. This will eliminate much of the economic risk involved in selling across Europe. Harmonisation of exchange rates means stability in pricing long term contracts with EC importers. There will be similarity in carrying out financial transactions throughout the Community using one currency, hence greatly simplifying the task of moving goods across the Single European Market.

The European Economic Area

In October 1991 the concept of the Single European Market was further extended to embrace the EFTA countries - Austria, Finland, Norway, Switzerland, Liechtenstein, Sweden, and Iceland - which have signed the European Economic Area (EEA) Agreement and thereby committed themselves to creating a larger single market. As a result of the failure of Switzerland to ratify, the EEA will not come into force until 1 July 1993.

THE MAIN FEATURES OF THE EEA

- European Parliament to approve treaty; ratification by each state's parliament
- Freedom to live and work anywhere in the EEA
- Free movement of goods and services throughout the EEA
- Free movement of capital: some limitations on investment
- EC regulations on research and company law, education, social policy and the environment
- An independent joint court to handle EEA matters and competition policy appeals
- EC legislation to apply in the case of mergers, public procurement, anti-trust issues, state aid and abuse of privileged placement
- No votes for EFTA countries on EC laws
- First review at the end of 1993, then every two years
- Food, energy, coal and steel covered by specific provisions
- EFTA farm policies can be retained.

The market open to Commonwealth exporters will then extend not only to the 12 members of the EC but will cover practically the whole of Western Europe. Three EFTA states - Austria, Finland and Sweden - are also negotiating membership of the EC.

Eastern Europe and the EC

The historic events in Eastern Europe - the unification of Germany, the fall of the communist structure, the move towards a market economy in the former USSR and Eastern Europe - will no doubt have their effect on the rest of Europe and the rest of the world. Western Europe is seen as a paternal/maternal figure assisting these countries in the infancy of their market economies. For this reason developing countries are concerned about political and economic policies which could adversely affect trade and investment prospects.

Over the short term it is foreseen that patterns of production and volume of exports from Eastern Europe will not change significantly as expansion is limited by inefficient factories, inability to meet quality requirements and political instability.

In the medium term production capacity and capability could improve as Western Europe starts to invest in manufacturing for reexport. Being "closer to home" makes Eastern Europe a good choice for outward investment. Products most likely to be covered are those which have very short product life cycles such as high fashion garments or products which require technical expertise readily available from Eastern Europe. However, progress is slow and there are few viable operations ready for investment, and communist structures built over 40 years will take some time to dismantle.

EC economic policies will also play a primary role. Preferential market access granted to Eastern Europe could increase imports from this area at the expense of Commonwealth countries. For developing countries trade diversion will be significant if preferential treatment is more favourable to Eastern European countries.

On the other hand, liberalisation of Eastern Europe also means a new market for Commonwealth exporters. This depends on trade policies decided by new governments. Imports could be restricted to protect local industry. At present all is in a state of flux, boundaries are still changing, governments are still deciding on what direction to take. The full implications for Commonwealth countries cannot as yet be known for certain.

The Reality of "1992"

While the countdown to the Single European Market is well advanced, exporters from Commonwealth countries will find in reality that not all barriers to trade were removed by 1st January 1993. Implementation by Member States has not maintained the same pace, and there are problems regarding the slow record of implementation.

There will be an interim period during which the Spanish and the Portuguese markets will continue to be partially separated and hence protected. This results from the transitional arrangements agreed with Spain and Portugal on accession to the EC in 1986, which provided 10 years for adjustment regarding a range of products. This means that in some respects the Single European Market will not be a reality until the later 1990s.

Although the EC is organized as a single market, exporters should not be seduced by the illusion that to sell to one EC country is exactly the same as selling to another EC country. Exporting to the EC will still involve, in some respects, dealing with not one market but twelve different ones. Factors such as culture, history, taste and even climate may mean different marketing strategies for individual Member States.

Nevertheless, Commonwealth exporters must now learn to see the EC As a cohesive market rather than a patchwork of national economies. There are product groups which can be marketed throughout the EC with little differentiation. Entry into one Member State means that the other 11 markets are potentially accessible if the exporter can support that level of sales.

The Common Customs Tariff (CCT) will remain a vital feature of the Single European Market. The CCT is the foundation of the EC's foreign trade regime and provides a unified set of import rules. The Member States take a common position in bilateral and multilateral trade agreements with developing countries. Commonwealth exporters should be familiar with decision making procedures in the European Community. An ever-increasing range of decisions affecting all aspects of trade will be made at the level of the European Community rather than the Member States. Negotiations for preferential trade access to the EC must conform with the requirements of the Single European Market. These negotiations are crucial for Commonwealth exporters which fall under the different preferential trade regimes of the Community.

Commonwealth exporters must also be aware of the fact that breaking down the barriers within Europe could also imply a raising of the wall of technical standards which would make the EC market less accessible. The EC legislation on health and safety represents the minimum standards to be adopted in the EC. These minimum standards could be beyond the capability and capacity of some Commonwealth developing countries.

There is no doubt that the Single European Market presents opportunities for Commonwealth exporters while EC governments may still be discussing legislation and its implementation, the fact remains that the Single European Market is well and truly in place.