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## A. Tovias, The European Communities' Single Market: The Challenge of 1992 for Sub-Saharan Africa

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# A. Tovias, *The European Communities' Single Market: The Challenge of 1992 for Sub-Saharan Africa*

Edward Kwakwa

## **Abstract**

Professor Tovias' book is a refreshing and welcome addition to the existing literature on the different aspects of Europe 1992. The European Communities' Single Market is divided into seven chapters. The introduction in Chapter One is preceded by a summary and conclusions.' Chapter Two discusses the interdependence between the EC and Sub-Saharan Africa.' The third and fourth chapters are devoted to the effects of eliminating specific intra-EC barriers and new barriers likely to arise from Europe 1992. Chapter Five comprises an analysis of the impact of Europe 1992 on various sectors, such as mineral products, tropical products, and services.' In the sixth and final substantive chapter, the discussion focuses on the implications for Sub-Saharan Africa of Europe 1992's export credit policies.' The Book concludes with a set of policy recommendations, a detailed statistical annex, and a less comprehensive bibliography. ' On the whole, *The European Communities' Single Market* is a well written and thought-provoking book. Its conclusions are clear and unequivocal. The Book could have benefitted, however, from a discussion of Europe 1992's impact on the private sector of SSA. As explained below, the private sector in African economies is gradually but inevitably supplanting the public sector in importance. In fairness to Professor Tovias, however, it must be stressed that a book as brief as the one being reviewed cannot be expected to cover all aspects of Europe 1992's likely impact on SSA.

## BOOK REVIEW

THE EUROPEAN COMMUNITIES' SINGLE MARKET: THE CHALLENGE OF 1992 FOR SUB-SAHARAN AFRICA. By A. Tovias. Washington, D.C.: The World Bank, 1990. xii + 65 pp. ISBN 0-8213-1639-7. US\$6.95 (paperback).†

*Reviewed by Edward Kwakwa\**

The next decade promises to be a decade of increased international trade and investment: the United States and Mexico are set to begin talks soon on a U.S.- Mexico Free Trade Agreement ("FTA");<sup>1</sup> Canada likely will join the U.S.- Mexico talks, which may culminate in a North American FTA;<sup>2</sup> and the European Community (the "EC")<sup>3</sup> is planning to accelerate negotiations for an FTA with the Gulf States.<sup>4</sup> In the most celebrated and publicized merger of the 1990s, the EC aims at dismantling its internal trade barriers in an effort to establish a single trading market by 1992 ("Europe 1992").<sup>5</sup> In 1986, the Member States of the EC signed the Single European Act (the "SEA")<sup>6</sup> in which they pledged to form a single or internal market by December 31, 1992.

Numerous scholars have analyzed the subject of Europe 1992, particularly in relation to the other major industrialized

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1. See Wu, *New Trading Bloc Is Envisioned*, J. of Comm., Oct. 30, 1990, at 5A, col. 3; Maggs, *First Step Near on U.S.- Mexican Free Trade Treaty*, J. of Comm., Sept. 17, 1990, at 14A, col. 3.

2. See Truell, *U.S., Canada and Mexico to Negotiate a North American Free-Trade Pact*, Wall St. J., Feb. 6, 1991, at A8, col. 5; Johns, *Mexico Pushes for Wider Talks on Free Trade*, Fin. Times, Oct. 3, 1990, at 5, col. 3.

3. The member states of the European Community (the "EC") are: Belgium, Denmark, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, and the United Kingdom.

4. See Mallet, *EC Seeks Free Trade Agreement*, Fin. Times, Sept. 28, 1990, at 2, col. 2.

5. "Europe 1992" has been described as "the symbol of the most ambitious, complex, and fascinating legislative project in the history of international law." See Schildhaus, *1992 and the Single European Act*, 23 INT'L LAW. 549 (1989).

6. Single European Act, O.J. L 169/1 (1987), Common Mkt. Rep. (CCH) ¶ 21,000.

countries.<sup>7</sup> However, a recent study focuses on the implications of Europe 1992 for Sub-Saharan Africa ("Sub-Saharan Africa" or "SSA").<sup>8</sup> To this Reviewer's knowledge, Professor Tovias' *The European Communities' Single Market: The Challenge of 1992 for Sub-Saharan Africa* ("The European Communities' Single Market")<sup>9</sup> is the first of its kind. The timing and importance of the book merits emphasis. First, the EC alone accounts for more than a third of total world trade. This makes the EC the largest trading entity in the world.<sup>10</sup> Second, Europe 1992 will establish a market of approximately US\$4 trillion in value and over 300 million people.<sup>11</sup> Third, the EC is the United States' single largest trading partner.<sup>12</sup> Finally, the EC has always been "the most important export outlet for SSA goods and services."<sup>13</sup> This suggests that the SSA countries will be directly affected by the repercussions of Europe 1992. Thus,

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7. See Fischer-Dieskau, *The Effects of 1992 Unification on European-American Relations*, 3 TEMP. INT'L & COMP. L.J. 137 (1989); Saunders, *The EEC and the U.S.A.: Will the Gates be Opened for American Law Firms in 1992?*, 3 TEMP. INT'L & COMP. L.J. 191 (1989); *Ninth Annual Symposium on International Legal Practice, Europe: 1992*, 13 HASTINGS INT'L & COMP. L. REV. 371 (1990); Sutherland, *The Dawn of a United Europe: An Introduction to 1992 and Beyond*, 9 ST. LOUIS U. PUB. L. REV. 1 (1990).

8. A. TOVIAS, *THE EUROPEAN COMMUNITIES' SINGLE MARKET: THE CHALLENGE OF 1992 FOR SUB-SAHARAN AFRICA* (1990) [hereinafter *THE EUROPEAN COMMUNITIES' SINGLE MARKET*]. "Sub-Saharan Africa" (the "SSA") refers to all the African countries south of the Sahara, with the exception of South Africa. South Africa has traditionally been excluded from this category because it has a relatively more industrialized economy. The SSA countries include Angola, Benin, Burkina Faso, Burundi, Cameroon, Cape Verde, Central African Republic, Chad, Comoro, Congo, Djibouti, Equatorial Guinea, Ethiopia, Gabon, Gambia, Ghana, Guinea, Guinea-Bassau, Ivory Coast, Kenya, Liberia, Madagascar, Malawi, Mali, Mauritania, Mauritius, Mozambique, Niger, Nigeria, Rwanda, Sao Tome, Senegal, Seychelles, Sierra Leone, Somalia, Sudan, Tanzania, Togo, Uganda, Zaire, Zambia, and Zimbabwe. Namibia has recently joined the SSA countries. Professor Tovias excludes Botswana, Lesotho, and Swaziland from the SSA group. *Id.* at 5 n.10. This is because there are no trade statistics from these three countries, which are all part of the South African Customs Union.

9. *THE EUROPEAN COMMUNITIES' SINGLE MARKET*, *supra* note 8.

10. A prominent economist has predicted that Europe is likely to remain the leading trade bloc as the 1990s get under way. See *Economist Sees 1990s The Decade of Europe*, J. of Comm., Sept. 17, 1990, at 5A, col. 4.

11. See Jarvis, *American Business and the Single European Act: Scaling the Walls of "Fortress Europe"*, 20 CAL. W. INT'L L.J. 227, 229 (1990).

12. See HOUSE SUBCOMM. ON INTERNATIONAL ECONOMIC POLICY, 101ST CONG., 1ST SESS., *EUROPEAN COMMUNITY'S 1992 ECONOMIC INTEGRATION PLAN 9* (Comm. Print 1989).

13. See *THE EUROPEAN COMMUNITIES' SINGLE MARKET*, *supra* note 8, at 5.

Professor Tovias' book is a refreshing and welcome addition to the existing literature on the different aspects of Europe 1992.

*The European Communities' Single Market* is divided into seven chapters. The introduction in Chapter One is preceded by a summary and conclusions.<sup>14</sup> Chapter Two discusses the interdependence between the EC and Sub-Saharan Africa.<sup>15</sup> The third and fourth chapters are devoted to the effects of eliminating specific intra-EC barriers and new barriers likely to arise from Europe 1992.<sup>16</sup> Chapter Five comprises an analysis of the impact of Europe 1992 on various sectors, such as mineral products, tropical products, and services.<sup>17</sup> In the sixth and final substantive chapter, the discussion focuses on the implications for Sub-Saharan Africa of Europe 1992's export credit policies.<sup>18</sup> The Book concludes with a set of policy recommendations, a detailed statistical annex, and a less comprehensive bibliography.<sup>19</sup>

On the whole, *The European Communities' Single Market* is a well written and thought-provoking book. Its conclusions are clear and unequivocal. The Book could have benefitted, however, from a discussion of Europe 1992's impact on the private sector of SSA. As explained below, the private sector in African economies is gradually but inevitably supplanting the public sector in importance. In fairness to Professor Tovias, however, it must be stressed that a book as brief as the one being reviewed cannot be expected to cover all aspects of Europe 1992's likely impact on SSA.

### I. *THE EUROPEAN COMMUNITY AND SUB-SAHARAN AFRICA*

The relationship between the EC and SSA is an obvious and very important one. As Professor Tovias explains, more than half of SSA's trade is with the EC.<sup>20</sup> This is not solely for economic reasons—geographical propinquity and historical ties between the two groups probably explain the special rela-

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14. *Id.* at vii-xi (summary and conclusions); *id.* at 1-4 (chapter one).

15. *Id.* at 5-13.

16. *Id.* at 14-20 (chapter three); *id.* at 21-23 (chapter four).

17. *Id.* at 24-38.

18. *Id.* at 39-45.

19. *Id.* at 46-64.

20. *Id.* at vii.

tionship more accurately. The majority of SSA countries are former colonies or territories of France, Portugal, or the United Kingdom, each of which are EC members. This former colonial relationship helped establish procedures and institutions favoring trade with Europe. Indeed, Part IV of the Treaty Establishing the European Economic Community (the "EEC Treaty")<sup>21</sup> established a special relationship with the former colonies and territories of the original EC Member States.<sup>22</sup> According to Article 131 of the EEC Treaty, the basic purpose of this special relationship was "to promote the economic and social development" of the former territories and "to establish close economic relations" between these countries and the EC as a whole.<sup>23</sup>

In 1963, this special association was converted from an aid-oriented to a trade-oriented relationship through the Yaounde Convention, which resulted in the first Lomé Convention of 1975 ("Lomé I").<sup>24</sup> Lomé I was signed by a group of African, Caribbean and Pacific ("ACP") countries on the one hand, and the EC on the other.<sup>25</sup> There have been three subsequent Lomé Conventions, the last of which was entered into at Lomé, Togo on December 15, 1989.<sup>26</sup> All the SSA countries are also ACP countries and signatories to the Lomé IV Convention. Thus, the special and ongoing relationship between the EC and SSA is further manifested in the recently-concluded Lomé IV Convention.

## II. THE IMPACT OF EUROPE 1992 ON SUB-SAHARAN AFRICA

In *The European Communities' Single Market*, Professor Tovias sets out to analyze the impact of the completion of the EC's

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21. Mar. 25, 1957, 1973 Gr. Brit. T.S. No. 1 (Cmd. 5179-II), 298 U.N.T.S. 3, (1958) [hereinafter EEC Treaty].

22. *Id.* arts. 131-36.

23. *Id.* art. 131.

24. For documents relating to Lomé I, see 14 I.L.M. 595 (1975).

25. *Id.* at 596-97.

26. See 19 I.L.M. 327 (1980) (Lomé II); 24 I.L.M. 571 (1985) (Lomé III); 29 I.L.M. 783 (1990) (Lomé IV). The Lomé IV Convention has been described as "the most comprehensive agreement ever reached between industrial countries and developing countries." See 29 I.L.M. 783 (1990). See generally Prouvez, *Les Relations ACP-CEE Dans le Contexte de 1992 et de Lomé IV*, 2 AFR. J. INT'L & COMP. L. 249 (1990) (analyzing Lomé IV).

internal market on SSA countries. He concludes that Europe 1992 "will have few irreversible or major effects on SSA, whether positive or negative."<sup>27</sup> This conclusion is based on the argument that most of the programs envisaged by Europe 1992 "are of no direct concern to SSA exporters or consumers."<sup>28</sup> Professor Tovias' conclusion is not widely shared. The repercussions of Europe 1992 will be felt almost certainly across every trade or regional sector, including SSA. To be sure, several authorities maintain that Europe 1992 will have the effect of restricting, rather than expanding, opportunities for trading partners outside the EC.<sup>29</sup> If this holds true, the SSA countries will be affected by restrictions on trade. The SSA will be particularly affected by Europe 1992 if the Europeans insist on "reciprocity."<sup>30</sup> On the other hand, if Europe 1992 conforms to the General Agreement on Tariffs and Trade (the "GATT"),<sup>31</sup> the SSA may not be adversely affected.<sup>32</sup>

Although Professor Tovias tells us that the completion of the EC's single market will have few effects on SSA, his subsequent discussion indicates otherwise. For example, the SSA exporters of tourism services to the EC are likely to benefit significantly from the abolition of intra-EC tax-free shopping which will result in an increase in the prices of labor and food due to the single labor and food markets. The relatively more

27. *THE EUROPEAN COMMUNITIES' SINGLE MARKET*, *supra* note 8, at vii.

28. *Id.*

29. See, e.g., Riemer, *Laying the Foundation For A Great Wall of Europe: The EC Seems to Surround Itself With New Protectionist Measures by 1992*, *Bus. Wk.*, Aug. 1, 1988, at 40 (noting that many believe "[s]igns are growing that as the EC nations eliminate trade restrictions among themselves, they will also transfer many of them to foreigners—effectively ushering in a complex era of broad European protectionism"); Jarvis, *supra* note 11, at 261 (arguing that Europe 1992 "is likely to mark the beginning of a new era of stiff protectionism").

30. "Reciprocity" refers to the opening up of competition and business opportunities in Europe to companies from countries where similar access is given to European companies. The SSA countries cannot reciprocate by offering business opportunities to European companies as easily as the EC could open up its markets to the SSA companies.

31. *Opened for signature*, Oct. 30, 1947, *entered into force*, Jan. 1, 1948, 61 Stat. pts. 5 & 6, A3, T.I.A.S. No. 1700, 55 U.N.T.S. 187 [hereinafter GATT].

32. The GATT states that the establishment of a customs union should not result in more restrictive levels of trade with non-members. *Id.* art. 25, ¶ 5(a), 61 Stat. at A68-69, T.I.A.S. No. 1700, 55 U.N.T.S. at 272-74. Inferentially, Europe 1992 will have to comply with this provision in order to be GATT-consistent.

expensive tourist destinations in Southern Europe will thus make some alternative destinations in SSA more attractive to tourists.<sup>33</sup> This will certainly have a salutary effect on SSA as a whole because, according to World Tourism Organization and International Monetary Fund statistics, tourism is one of the most important export earners for SSA.<sup>34</sup>

Professor Tovias' sector-by-sector examination of Europe 1992's impact also suggests that SSA will be affected in a very direct way, whether positive or negative. In the case of crude oil, for example, SSA countries such as Nigeria, Gabon and Angola may find their supplies to the EC reduced. As Professor Tovias explains, the supply of oil is currently monitored by individual EC countries in a manner consistent with their respective national energy conservation policies.<sup>35</sup> For this reason, the EC countries may have favored their former SSA colonies over other oil exporters. Europe 1992, however, will eliminate border controls and make it more difficult for EC Member States to monitor their petroleum supplies individually. The result very well may be an increase in supplies from Eastern Europe and other contiguous territories to the detriment of SSA suppliers.<sup>36</sup> In the plants and animals category, Europe 1992's new common health standards and certification procedures may also affect SSA adversely. SSA exports of plants and animals will be inspected at the EC's external border before being granted access into or free circulation in the EC.<sup>37</sup> The EC standards, including new rules on food hygiene and labelling, will almost certainly result in increased costs to SSA exporters.<sup>38</sup> Such increased costs, which will have to be passed on to European consumers, will place SSA exporters in a less competitive position than their domestic competitors in Europe.

Professor Tovias also discusses Europe 1992's likely im-

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33. See THE EUROPEAN COMMUNITIES' SINGLE MARKET, *supra* note 8, at x.

34. See *id.* at 10-11.

35. *Id.* at 25.

36. The SSA oil exporters may also be adversely affected by Europe 1992 because European companies such as British Petroleum and Mobil have been granted contract rights by the Spanish import monopoly Campsa, assuring the European oil companies access to the Spanish market. See *id.* This may have the effect of eliminating SSA access to the Spanish oil markets.

37. *Id.* at 26.

38. *Id.* at 27.



pact on other sectors, prominent among which are precious and semi-precious stones, services, tropical products, processed food, and manufactured goods. In each of these sectors, SSA will likely be affected by Europe 1992, whether in a positive or negative way.<sup>39</sup> The challenge of 1992 for SSA is a subject which does not lend itself to easy discussion. The EC is still actively engaged in discussions relating to the adoption and the implementation of various policies pursuant to the establishment of the single market. As a result, the final look of Europe 1992 remains somewhat unclear. This difficulty is further exacerbated by the heterogeneity of the SSA group. It is difficult and probably inaccurate to make generalizations about SSA because SSA's constituent countries are not identical in their reliance on various goods or services for trade with the EC. Thus, adoption by the EC of a policy does not necessarily affect all the SSA countries in a mechanically like fashion.<sup>40</sup>

Professor Tovias' analysis of the impact of Europe 1992 by sectors shows the difficulty and inherent inaccuracy in generalizing with respect to SSA. In the discussion on mineral products, for example, Professor Tovias points out that "[a]s far as SSA countries are concerned," the main issue relating to minerals is the cadmium content of phosphates exported by Senegal and Togo.<sup>41</sup> Inferentially, only Senegal and Togo are likely to be affected by Europe 1992's mineral products policies. In the crude oil industry, the only SSA countries likely to be affected one way or the other are the oil exporting ones, namely Angola, Cameroon, Congo, Gabon, and Nigeria.<sup>42</sup> Similarly, only a select number of SSA countries will be affected or concerned by Europe 1992's tropical products policy—in the banana trade regime, for example, only Somalia, and, to a lesser extent, Cameroon and the Ivory Coast, are vulnerable to any changes introduced by Europe 1992.<sup>43</sup>

Despite these difficulties and the complexity of the subject

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39. *See id.* at 24-38.

40. Professor Tovias rightly states in the preface to his book that the effects of Europe 1992 "will depend on the specific goods and services each SSA country exports to the EC, and the speed with which its government and exporters adjust to the new changes." *See id.* at xi.

41. *Id.* at 24.

42. *See id.* at 25.

43. *See id.* at 31-33.

matter, there is much to recommend in *The European Communities' Single Market*. Professor Tovias states at the outset that the book is meant to provide an analysis of the impact of the completion of the EC's internal market on SSA.<sup>44</sup> To the extent that he does not treat SSA as a homogeneous entity, Professor Tovias skillfully succeeds in performing the task he set out to do. But he does more than that—while Professor Tovias' instant concern is with SSA, his conclusions are inherently applicable to several other Third World countries, particularly those in the ACP group of countries. Professor Tovias' arguments and conclusions are also supported with very detailed and comprehensive data and statistics.

*The European Communities' Single Market* is not without blemish. A close reader may get frustrated with the book—a certain amount of material overlaps throughout the book and therefore appears repetitive. The discussion sometimes gets very technical, and the lay person may not easily grasp the import of the data and trade statistics or the tenor of the discussion. Worse yet, the footnotes are far from comprehensive. The reader will have great difficulty in ascertaining the sources to which the author refers. Moreover, several of the magazines cited do not have any page references. Above all, it is difficult to distinguish books from periodicals or journals.

The most serious flaw in *The European Communities' Single Market* is its failure to address adequately the implications of Europe 1992 for the private sector of SSA's economies. Recent trends in African state practice show an increased emphasis on the private sector and a corresponding de-emphasis on the public sector.<sup>45</sup> Professor Tovias' failure to discuss ade-

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44. *Id.* at vii.

45. Several SSA countries have carried out privatization programs. The emerging trend indicates that most SSA countries are granting incentives for private investment and correspondingly reducing the number of state-run enterprises. See Ottawa, *War-Torn Mozambique Attracts Foreign Investment*, Wash. Post, Dec. 7, 1990, at C12, col. 2 (discussing privatization of thirty state companies and reduction of government subsidies to state farms and factories); *Algeria Hopes to Attract US Oil Companies*, J. of Comm., Dec. 5, 1990, at 6B, col. 1 (noting Algerian state oil company Sonatrach's negotiation of joint ventures with U.S. companies for exploration of oil and natural gas deposits); Keeling, *Liberal Steps Fall Short*, Fin. Times, Oct. 9, 1990, at 10, col. 2 (discussing Togolese government's program to rid state of its loss-making enterprises through privatization or liquidation); *Tanzania Invites Foreign Investors*, Fin. Times, Mar. 29, 1990, at 6, col. 7 (noting Tanzania's introduction of more liberal investment laws aimed at revitalizing country's economy by ensuring new tax incen-

quately the private sector undermines the value of his book as a whole. This omission is especially regrettable since Professor Tovias himself shows in his final chapter on policy recommendations that SSA will be able to mitigate the adverse effects of Europe 1992 by attracting more foreign private investors.<sup>46</sup>

### CONCLUSION

Despite these deficiencies, *The European Communities' Single Market* is a very timely publication that will provide the SSA countries in particular with invaluable assistance in their strategies and approaches to Europe 1992. The book deals with a topic of considerable importance not only to SSA, but also to the ACP, the EC and even teachers, students, and government officials involved in the substantive and procedural aspects of international trade. Alfred Tovias deserves congratulations for adding this book to the World Bank's already extensive list of publications.

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tives and guarantees on investments to foreign and local investors); Brooke, *Angola Inches Toward Capitalism*, N.Y. Times, Feb. 20, 1989, at D6, col. 1 (noting Angola's opening of private sector to retail trade, industry, restaurants, and hotels, and implementing more liberal foreign investment code); Brooke, *In Western Eyes, Ghana is Regarded as African Model*, N.Y. Times, Jan. 3, 1989, at A1, col. 3 (discussing Ghanaian government's sale of thirty-two state companies and efforts to create free market economy).

46. Professor Tovias' first policy recommendation on domestic action by the SSA countries is the creation of a more liberal foreign investment regime. See THE EUROPEAN COMMUNITIES' SINGLE MARKET, *supra* note 8, at 47-48. He recommends, *inter alia*, guarantees on repatriation of profits, non-expropriation of investments or property without compensation, and the streamlining or total abolition of export controls. See *id.*