

Hitting a Wall

U.S. Firm's Troubles In EU Trade Highlight A Lack of Integration

Hose Maker Finds Its Exports
Largely Blocked as States
Set Questionable Standards

Challenging a National Cartel?

By TIMOTHY AEPPEL
And JAMES PRESSLEY

Staff Reporters

EXPORT, Pennsylvania—Evan Segal keeps a big cardboard box in his office to show what the European Union's single market looks like to one small American manufacturer. Inside lies a tangle of hoses used to connect things like deep-fat fryers to gas outlets.

"This one's England," he says, waving a flexible metal pipe sheathed in black rubber. The one in bright yellow plastic with brass tips is for France. And that plain stainless-steel number comes from Italy. Unfortunately for him, Mr. Segal's own brand of hose isn't approved for use in any of these places.

As president of Dormont Manufacturing Co.—a \$25 million company based in this tiny town near Pittsburgh—Mr. Segal says there's no logic to this maze of hoses, "other than that it makes it easier for them to push people like me out of their markets."

So much for the EU's promises that its 1992 single-market program wouldn't turn the union into a stronghold of protectionism.

Fortress Europe

Less than a decade ago—before the single market opened for business on Jan. 1, 1993—Dormont exported its hoses freely throughout Western Europe. Mr. Segal figured that the EU's economic integration wouldn't make it any harder to sell his hoses in Europe. At worst, he thought, he'd need one approval for this vast, unified market. Instead, he ran headlong into Fortress Europe.



The ensuing struggle illustrates how incomplete the single market remains—and how many European governments use national standards to make sure it stays that way. The rush to complete the single market has, ironically, led to a blossoming of local standards where there were none before. And little outsiders like Dormont often end up caught in the middle.

Such standards can cost small companies like Dormont millions of dollars in lost export revenues. Frustrated outsiders often suspect that such standards are influenced by cozy cartels under which local manufacturers to continue to dominate their old national markets—and expect other companies to stick to theirs. But efforts to find relief through the EU's multilayered legal system can leave exporters feeling bruised and impoverished.

For Mr. Segal, the first whiff of trouble came one day in 1989. That's when one of his top customers, Frymaster Corp.—a Louisiana-based maker of deep-fat fryers—called to alert him that the McDonald's Corp. fast-food chain was being told it could no longer use his hoses in its British restaurants. Frymaster was annoyed because it had developed a standardized frying-equipment package, complete with Dormont hoses, that it was shipping to new McDonald's eateries being built throughout the world.

Similar problems popped up elsewhere, including at EuroDisney near Paris. Even as the theme park was rushing to open in 1992, French inspectors demanded that Dormont's hoses be yanked and replaced with French-approved equipment.

Standards Scramble

Why the sudden roadblocks? With the move toward economic unity, Mr. Segal soon learned, countries like France that formerly had no separate standards for gas hoses were rushing to create them. And as he studied the new rules, he realized he could never meet them.

Written by committees often dominated by domestic producers, they spell out minutiae of acceptable hose design in a given country—such as the color of plastic that must coat them or the precise type of metal that can be used, often making it impossible for Europeans to even sell in each others' markets. Britain, for instance, specifies that hoses for commercial use be covered in white plastic, but France says the coating has to be yellow.

Many Europeans also insist hoses be made of annular tubing, rather than helical—even though they're equally effective and safe. Annular tubing is made of metal formed into concentric circles; helical tubing is molded from a continuous spiral.

"My competitors basically wrote the rules to describe their own products," says Mr. Segal. In the U.S., by contrast, standards for hoses are based on performance and safety, rather than design.

"This is clearly a case of European standards being used as a technical barrier to trade," says Sergio Mazza, president of the American National Standards Institute, a New York-based group that works to harmonize such rules. But he's quick to add that most countries, including the U.S., are guilty of similar transgressions: "Standards have really been used as barriers to trade since governments started writing regulations."

To be sure, some producers have gained from ongoing efforts to forge common European standards for everything from kidney-dialysis machines to food coloring. But many companies, notably telecom-equipment makers, are still forced to seek individual approvals to sell their products in each of the 12 member

U.S. Firm's Troubles in the EU Highlight How Standards Fragment the Single Market

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to sell their goods in each of the 15 member states.

Rene Van De Zande, a U.S. Commerce Department official in Brussels who has followed the Dormont case closely and even keeps some of the company's hoses in his office, agrees the rules are unfair. "It seems that there are national competitors of Dormont in the member states that want to keep out Dormont," he says.

What Next?

Mr. Segal seldom knows what to expect when one of his products gets shipped across the Atlantic. In some cases, clients have installed his hoses without difficulty—only to be told later to take them out. Some countries have rules, but don't always enforce them; others are still formulating their standards. Yet the four big markets most attractive to Dormont—Britain, Germany, France and Italy—all have some rules in place.

Mr. Segal never imagined it would turn out like this. Back in the 1980s, he felt pressure to make his business more international—because so many of his customers were moving that way. His domestic business was already booming, since he produces something every fast-food restaurant needs—flexible gas hoses that make it possible to put deep-fat fryers on wheels. Mr. Segal's father developed them in the 1970s for McDonald's and they are now an industry standard, at least in the U.S.

Mr. Segal initially thought he could solve the problem himself. He began shuttling back and forth to Europe to learn how to get the necessary approvals. He even hired a polyglot Amsterdam-based consultant to shepherd his products through the various approval processes. He figures he has spent at least \$1.5 million so far in his quest, including the hefty fees charged by various European testing agencies.

Dormont isn't the only company that faces this sort of problem. U.S. trade officials estimate that at least \$300 million of the \$112 billion in annual U.S. exports to Europe fall into this quirky category—goods that once needed no European approvals at all, but now force manufacturers to seek them from each country. Steel drums and outboard motors are other examples.

Antitrust Case

Meni Styliadou, Dormont's legal counsel in the Brussels office of Rowe & Maw says the company plans to fight the new standards with EU treaty rules—including, if necessary, antitrust laws that prohibit cartels. "We may even have an antitrust case," she says. "I don't rule that out."

That's an ominous threat, given that companies found guilty of operating illegal cartels face stiff fines and public embarrassment. *Ms. Styliadou makes it clear that she suspects national hose makers carved up the European market: "French manufacturers don't attempt to enter the German market, and the Germans don't attempt to enter the French market."*

The main problem with hoses is that they are crucial to the safe operation of gas appliances. And the rules forming the single European market specifically allow member states to ban the import of products that they think may threaten the public's safety. Indeed, most countries in the world reserve similar rights.

But nobody is really questioning whether Dormont's hoses are safe. The hoses have gone through rigorous approval processes in both the U.S. and Canada. And Mr. Segal thought he'd made a major breakthrough in

1993, when the British Standards Institute, one of the European agencies that test and approve equipment, issued the company a certificate authorizing it to paste a CE seal of approval on its products. The mark—short for *Conformite Europeenne*—signified that the hoses conformed with EU rules for gas appliances. It meant Dormont should have been able to sell the hoses throughout the EU.

But the victory proved short-lived. A miffed German competitor fired off a complaint to the European Commission, the EU

would likely take years more before EU governments agreed to any such changes. Yet he dismisses suggestions that European countries are using standards to block foreign products. "I'm sure this wasn't developed to make life difficult for specific manufacturers," he says.

None of that makes Mr. Segal feel any better. He frets that the problem with sending hoses to Europe is casting a shadow across his relationship with some of his best customers. "When they have a problem with my product, they don't want to hear about the intricacies of trade policy," he says. "They want me to fix it."

Package Deals

The bulk of Dormont's hoses are bought by U.S. equipment makers like Frymaster and shipped overseas with their equipment as part of a total installation package. Dormont estimates about 10% of its products end up overseas; and before 1989, the lion's share of that was going to Europe.

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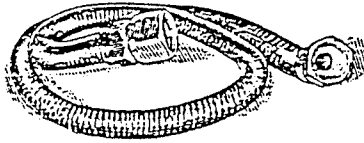
Making Inroads

"We've gone to bat in a major way for this company—because we do think they are being treated unfairly," says one senior trade official in Washington. U.S. Trade Representative Mickey Kantor has targeted such European standards as a hindrance for U.S. exporters—as had Commerce Secretary Ron Brown before his death in a plane crash last week—and the focus now is on Britain. U.K. officials now say that British standards are voluntary. But most gas installers in Britain refuse to install equipment that lacks the voluntary approval. So the U.S. is pressing Britain to redraft the rules—to drop the design specifications in favor of a performance-based standard.

And there are signs that Dormont is making inroads. Belgium recently gave the company approval to sell in that country and the company is now working on Denmark. Mr. Segal hopes that gathering enough individual approvals will strengthen his case for Europe-wide recognition.

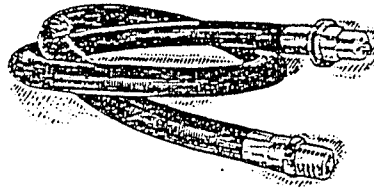
Under the EU's doctrine of "mutual recognition," member states aren't supposed to block imports of goods approved for sale in another member state. Ms. Styliadou, the Dormont attorney in Brussels, says her office wrote to France, Germany, and other big EU states in early February to inform them of the Belgian approval—and to demand the right to sell Dormont hoses on their soil.

But she doesn't expect the matter to end there. "It's likely that we'll have to take legal action," she says.



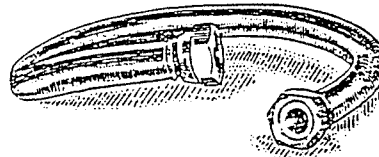
DORMONT'S GAS HOSE

- ◆ Stainless-steel helical tubing (molded from continuous spiral)
- ◆ Flare-type seals at ends
- ◆ No covering



BRITISH HOSE REQUIREMENTS

- ◆ Galvanized metal annular tubing (made of metal formed into concentric circles)
- ◆ Set length, can't be extendable
- ◆ Rubber covering



ITALIAN HOSE REQUIREMENTS

- ◆ Stainless steel annular tubing
- ◆ Must be extendable
- ◆ No covering

executive body. Commission officials familiar with the case say the rival argued that the BSI wrongly awarded the label, because hoses aren't really part of a gas appliance. Because other member states don't issue CE marks for gas hoses, the Germans argued, Dormont had gained an unfair competitive edge.

Joseph Putzeys, head of the commission office that reviewed the case, says a commission-chaired panel of representatives of EU governments, standards bodies and trade federations agreed with the complainant. So BSI yanked the CE mark.

Mr. Putzeys says the trouble isn't the hose itself, but the fittings. The size of gas hose threads varies from state to state. "If it's not compatible, you may have gas leaks," he says. "We're looking for solutions that would be quite complex," he says. "Are intermediate pieces a solution to the problem?"

Complex? Mr. Segal says gas hoses are easily adjusted to different threads with inexpensive adapters. That may be so, but for more than a year Mr. Putzeys has been mulling ways to allow such adapters in a revised version of the gas-appliance law. And it

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By Timothy Aepfel and James Pressley
04/09/96
The Wall Street Journal Europe
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[Part of an occasional series]

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