

The Crop Protection Association represents companies in the UK engaged in the development and manufacture of plant science technologies including pesticides (plant protection products); a full list of Members can be found at: <http://www.cropprotection.org.uk/members.aspx>

In summary our industry sees the benefits of free movement of goods within the EU but there need to be additional controls to prevent abuse of the parallel trade arrangements for plant protection products.

1. What do you see as the advantages and disadvantages of EU action on the free movement of goods? How might the national interest be served by action being taken in this field at a different level (for example, at the WTO), either in addition to or as an alternative to EU action?

Actions should be done at the EU level, as there are common interests between the countries. At WTO level conflicting interests of countries like China, India, Brazil or the US could be detrimental. Free movement of goods makes goods cheaper and overcomes hurdles like customs, etc., which is good. However, there is not enough control at some outer borders on the goods entering the EU (e.g. from China) and which afterwards travel freely (due to the “free movement of goods”) between Member countries as EU goods or under the guise of parallel imports.

2. To what extent do you think EU action on the free movement of goods helps UK businesses?

If no abuse of the system happens, it is beneficial, as it lowers costs, prices, taxes and administrative work

3. N.A.

4. What types of EU action would be helpful or unhelpful for your activities as a business and/or as a consumer in the Internal Market?

The Crop Protection Association supports free trade and welcomes the possibilities that the internal market and free trade provide to our member companies. The internal market also allows parallel trade and the crop protection industry supports legal parallel trade of plant protection products.

Parallel trade in a plant protection product means the importation into a Member State of a plant protection product which is authorised and on the market in another Member State and which is identical to and made by the same company as a plant protection product (“reference product”) already authorised in the Member State of importation. However, parallel trade permits are increasingly being misused to introduce illegal plant protection products from outside the EU into the EU market with no regard to health and safety of operators or to the crops on which they are used or to the environment. There is a trend towards importing active ingredients into the EU in order to formulate and package plant protection products which are claimed to be intended for re-export but which in fact are sold illegally under the guise of parallel imports. Illegal, finished plant protection products also continue to be imported into the EU directly. These products are all untested and unregulated. It is therefore important that there are coherent and effective activities at EU and Member State level to safeguard European farmers and the crops they produce as well as European business. Current legislation fails to define in sufficient detail the obligations of EU Member States in terms of monitoring and controlling the production of plant protection products and in particular for checking the specific details of products to be imported under parallel import permits. The present situation of differential rules and implementation of those rules in the various EU Member States facilitates the illegal trade in plant protection products.

Therefore the crop protection industry is calling for EU-wide action to strengthen and harmonize the monitoring and control of plant protection products entering the EU as well as those which are formulated without authorisation within the EU. Controls should apply at EU external borders and throughout the supply chain, not just at the point-of-sale and use. Such action would ensure that only tested and authorised plant protection products are reaching European farmers

5. To what extent do you think the harmonisation of national laws through EU legislation (as opposed to international treaties) is helpful or unhelpful to your activities as a business and/or as a consumer in the Internal Market? In your experience do Member States take a consistent approach to implementing and enforcing EU rules? Please give examples.

Harmonisation through EU legislation should be helpful, but Member States do not take a consistent approach in implementing/enforcing EU rules, especially not in the eastern part, e.g. the Polish Customs to date are not willing to use the “simplified procedure” of the EU Product Piracy Regulation. While Poland has opted to implement a simplified procedure according to Article 11 EU Product Piracy Regulation, authorities apparently only approve destruction of halted goods if the owner, holder or importer explicitly agrees to the destruction in writing (unlike most other national provisions on the simplified procedure, Polish authorities do not consider silence of the owner, holder or importer during the response term as implied consent). Therefore Polish Customs asks the right holders to pursue the issue through criminal proceedings.

6. Do you think that the EU strikes the right balance between regulating imports and exports and facilitating international trade?

No. EU-interest should be better maintained vs. international trade. For example, the alleged transit of counterfeits should not be allowed via EU territory. There is no way of ensuring that such goods do not enter the internal market and EU rights holders are left carrying a huge burden of proof without any investigative means such as Europol, etc.

7. Do you think the UK’s ability to effectively regulate cross-border movements of goods would be better, worse or broadly the same as the result of more or less EU action? Please provide evidence or examples to illustrate your point.

It would certainly be easier.

Intellectual Property Rights

Questions to help guide responses from stakeholders with a particular interest in Intellectual Property Rights:

8. To what extent are specific national rights provided through EU legislation (e.g. Supplementary Protection Certificates) helpful or unhelpful to your activities as a business and/or as a consumer in the Internal Market?

Helpful

9. To what extent are specific Community-wide rights provided through EU legislation (e.g. Community Trade Mark, Community Design, Geographic Indicators and Community Plant Variety Rights) helpful or unhelpful to your activities as a business and/or as a consumer in the Internal Market?

Helpful

10. To what extent do wider EU rules (e.g. on free movement of goods or services) impact helpfully or unhelpfully on the conduct of your business or your experiences as a consumer in relation to intellectual property rights?

Helpful, as long as there are safeguards to ensure that all parallel imports are indeed goods that have been placed on the EU market (see “4” above).

Future Challenges

11. What future challenges/opportunities do you think will affect the free movement of goods and what impact do you think these might have?

New countries joining the EU (Croatia, etc.) must be required to implement and harmonize quickly and to safeguard their borders as needed. This will be more and more difficult as this cannot even be met by some of the existing (newer) members.