

**Broad Observations by the British Ceramic Confederation on the Balance of Competence  
Between the EU and UK**

The BCC has taken the opportunity to highlight specific concerns with regard to the balance of competence between the UK and EU within individual report consultation responses, where evidence and specific examples have been presented. However, there are a number of overarching themes that also need to be taken into account by the UK Government when considering the balance of competence, as summarised below:

1. **Although in certain instances it could appear to be desirable to restore the balance of competence from the EU to the UK, a key concern is the level of UK resources** (including financial and expertise), that would be available to implement this effectively.
2. **There are cases where although it may not be appropriate for an EU competence to be transferred to the UK, there are issues with the approach of the EU which should be addressed in order to improve performance and outcomes.** For example, the EU's stringent hazard based / precautionary approach to regulation can cause serious implementation problems for companies. In addition, the principle of proportionality often seems to be exceeded in the EU. Therefore, the EU should be encouraged to take a more balanced, risk based approach to regulation.
3. There are a number of situations where it is correct that the balance of competence is with the EU, however **it is critical that when implementing EU policy and regulation, the UK places a greater emphasis on ensuring that the UK's policy and legislative framework allows businesses to compete internationally and certainly within Europe**, in particular:
  - **There should be a more pragmatic UK transposition of Directives** in line with the purpose, as is common in many other Member States, of the Directives rather than reliance on strict legal interpretation.
  - **If the EU has exclusion clauses from Directives they should be implemented as a default** in the UK unless there is good reason not to.
  - **The implementation of national laws in the UK sometimes results in the UK manufacturing industry being at a competitive disadvantage** to companies in the EU or further afield.
4. It is sensible that in areas of shared competence either the EU or Member States may take action, but the Member States may be prevented from acting once the EU has done so. **We believe that the EU should exert its powers more consistently and robustly where the UK (or other Member States) have taken action beyond EU requirements, and where this is damaging competitiveness.**
5. **When the EU develops and implements new policy and regulation, it must take account of the cumulative regulatory burden in each Member State.** It is vital that the EU takes the whole picture into account and makes allowances for those industries already impacted by national requirements.

6. **When implementing new legislation the EU should carry out a full financial and economic impact analysis at an early stage, and this should be updated on an on-going basis.** This will help ensure decisions are made based on comprehensive and current information, and that the legislation has the desired effect, without resulting in unforeseen impacts.
7. **The complexity of the UK legislative framework can mean that it is difficult for UK industry to gain applicable exemptions as working within the requirements of State Aid becomes too difficult.** We therefore appeal to the UK Government to ensure that the UK legislative framework is kept simple and business / growth friendly.
8. **Any targets introduced by the EU or UK need to reflect what is challenging yet achievable** and there needs to be a greater commitment to supporting industry to accomplish such targets through the provision of adequate funding to adapt and develop new technologies.
9. **It is essential that UK Government represents the interests of all manufacturing industries, and their associated jobs in supply chains, in discussions with the EU.** The EU generally has a holistic approach that is potentially beneficial to all sectors rather than a handful of 'picked winners'.

2<sup>nd</sup> August 2013

**to:** Department for Business Innovation and Skills

**email to:** \_\_\_\_\_

**from:** British Ceramic Confederation

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## RESPONSE TO THE TRADE AND INVESTMENT BALANCE OF COMPETENCES CONSULTATION

Dear Sir or Madam,

The British Ceramic Confederation (BCC) is the trade association for the UK Ceramic Manufacturing Industry, representing the common and collective interests of all sectors of the industry. Its 100 member companies cover the full spectrum of ceramic products and comprise over 90% of the industry's manufacturing capacity.

Membership of the Confederation includes manufacturers from the following industry sectors:-

- |                      |                        |                      |
|----------------------|------------------------|----------------------|
| ▪ Gift and Tableware | ▪ Floor and Wall Tiles | ▪ Sanitaryware       |
| ▪ Bricks             | ▪ Clay Roof Tiles      | ▪ Clay Pipes         |
| ▪ Refractories       | ▪ Industrial Ceramics  | ▪ Material Suppliers |
|                      |                        | ▪                    |

With so many on-going regulatory changes taking place and policy initiatives under implementation, now is an opportune time to take stock of the balance of competence between the United Kingdom (UK) and the European Union (EU), and we welcome the opportunity to respond to your consultation.

Outlined below are a number of general observations on the subject of trade and investment and the balance of competence between the EU and UK, followed by responses to relevant questions posed in the consultation document. Additional broad comments on the balance of competence between the EU and UK are within Enclosure 1.

### **General observations on the balance of competence between the EU and the UK for trade and investment:**

The balance of competences exercise covers some thirty two separate reports; many of which cover specific areas of legislation which have become the competence of the EU during its gradual evolution over the years since inception. The BCC will be submitting responses to a selection of these reports.

However, there are a number of fundamental points which distinguish trade and investment from other reports and these require particular attention because they are critical to informing the debate which is currently underway. An appropriate starting point is the Department for Business Innovation and Skills Call for Evidence: Trade and Investment document, which states;

**“Trade policy has been a core of the EU since its inception.”** and;

**“The EU is the largest single market in the world and is the world’s largest importer and exporter of both manufactured goods and services. In 2011 EU trade accounted for almost 17% of world trade in goods and services (excluding intra EU-trade), significantly greater than the US (13.5% or China**

**(11.5%). The EU is the top of foreign direct investment (FDI) abroad and is the world's largest host of FDI."**

At the heart of the EU therefore is trade and investment and whilst most if not all of the other reports have emerged as areas of concern in the decades since the establishment of the EU, trade and investment represents a cornerstone for the whole justification of the EU, after all the EU was originally called the European Economic Community.

In view of this we need also to acknowledge that since the inception of the EU, structures have been put into place specifically designed to foster trade and economic development, to the extent that today major economic players throughout the world recognise the importance of the EU as a global player which is why trade Free Trade Agreements are negotiated with the EU rather than individual countries.

Because the infrastructure is so well established any suggestion that changes should be made would require very careful consideration and be based on the following question; *is the outcome of the changes likely to be more beneficial to the UK than the existing arrangements?* From the point of view of the British Ceramic Confederation the answer is probably not; for the following reasons;

1. Most of the world looks to the EU as the representative spokesperson of those countries in the Union. It is therefore unlikely that they would want to negotiate with individual countries.
2. Because the EU is the "...largest single market in the world...." it makes sound economic sense to support the EU robustly rather than to replicate the activities in isolation.
3. Many of the other "reports" relate to specific areas of legislation and in respect of which we do have significant concerns (as covered elsewhere), but with regard to trade and investment the EU should be regarded as a resource which should be supported to the full.
4. To repatriate competences back to the UK in a way which stands any chance of success, the UK would need to commit massive additional resource if the huge and complex global trade agenda is to be satisfactorily addressed, even supposing other global economic centres would be prepared to negotiate which we do not think they would.

In any event, the likelihood of the appropriate resource being allocated in the current economic climate is so remote as to crucially undermine any proposed change; more especially since the recent spending review has meant a further reduction of 7% in the budget of BIS from 2015 and economists are predicting that the austerity measures are likely to last a decade.

### **Responses to Consultation Questions:**

#### **1. What are the advantages and disadvantages of the EU's competence over trade and investment, particularly in relation to international trade and investment negotiations?**

The EU has a significant and important role to play when negotiating on a global scale, generally far more so than if the UK was to act independently. However, this can be dependent on the nations involved, for example the UK may be able to play a greater role when influencing Commonwealth countries.

#### **2. What are the advantages and disadvantages of having trade and investment promotion largely at the national level? How well has this delivered on UK objectives?**

National promotion of trade and investment means that UK specific interests can be advanced to the exclusion of all others. Therefore, it can at times be beneficial to address matters at a national level in preference to the EU level. However, circumstances will dictate the best approach to take. It is in the UK's interests for a vigorous approach to trade and investment to be adopted nationally, but also at the European level where the power and resources of the EU can be used to maximum effect.

#### **3. How well are UK objectives met and interests taken into account through a) EU trade defence investigations, and b) the EU representing the UK in trade defence cases against the EU and more generally in trade disputes with other WTO members?**

Trade defence interventions by individual countries can appear random and are sometimes best dealt with directly by the company affected i.e. by using local knowledge and contacts. However, where this is not possible or the scale of the problem is more widespread, greater forces such as the EU can be more effective. Therefore, it is important that different options are available so that any trade issues can be tackled at the appropriate level.

Thank you again for the opportunity to contribute to the balance of competences debate. Please feel free to contact us if you require any more information.

Yours sincerely,