

Contribution to the Balance of Competences Review of the Internal Market: Free Movement of Goods; including the EU Customs Union and Intellectual Property Rights

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Submission of Evidence:

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?

The main advantage of EU action on the free movement of goods is that it provides the basis for the EU internal market, with goods accounting for about 75% of intra-EU trade¹. The internal market of the EU, the world's biggest single market, enables UK citizens and businesses to buy and sell products without barriers in 28 different Member States (including the UK) with a total population of around 500 million people².

If the UK were instead to seek free movement of goods through action at another level, such as the WTO or the Commonwealth, the advantages of being part of the EU's fully integrated single market would be lost. The free movement of goods within the EU is not solely based on trade agreements, as is the case with the WTO, but is underpinned by a customs union and harmonised products. A manufacturer can send goods from Belfast in the UK to Dublin in Ireland with as much freedom as a manufacturer sending goods from Edinburgh to Cardiff within the UK.

Moreover, the widely reported breakdown of WTO rounds suggests that the WTO decision making processes are not working properly. Achieving a similar deal to that offered by the EU internal market with harmonised technical requirements in many areas for specific products coupled with a customs union, therefore seems highly unlikely.

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

The free movement of goods within the European Union as the basis for the internal market not only gives UK businesses open, barrier free access to the largest economy in the world (with a GDP per capita of €25 000 for its 500 million consumers³) but also enables UK companies to become globally competitive by allowing them to develop first within the internal market.

Over 100,000 UK companies export to other EU countries, 94,000 of which are SMEs and over 200,000 British firms trade with the EU every year⁴. 80% of all UK businesses think the Single Market delivers clear benefits to them⁵.

From the 1970s onwards, around 100,000 technical regulations of the individual EU Member States have been replaced by EU wide rules. The economic benefits of this are clear. For example, the costs of controls to transport goods from the UK to Italy in the 1980s before the

¹ European Commission: Guide to the application of Treaty provisions governing the free movement of goods: http://ec.europa.eu/enterprise/policies/single-market-goods/files/goods/docs/art34-36/new_guide_en.pdf

² <http://www.bis.gov.uk/policies/europe/eu-single-market-introduction>

³ European Commission, DG Trade, EU Position in world trade: <http://ec.europa.eu/trade/policy/eu-position-in-world-trade/>

⁴ <http://www.theyworkforyou.com/wrans/?id=2012-03-27a.101662.h&s=section%3Awrans+speaker%3A11823#g101662.q0>

⁵ 2006MORI Poll

adoption of EU rules were estimated to be up to €8 billion for businesses annually.⁶ In the mid-90s, 76% of intra-EU trade was estimated to be at risk of disruption through technical barriers if the EU did not act.⁷ Since then there has been an end to the use of non-tariff barriers as a way of offering protection to home markets, especially in the area of goods, and the reduction of costs associated with the removal of barriers can only be seen as a help to UK businesses. The high quality harmonised rules and standards that exist for goods within the EU also contribute greatly to the development of international norms that make it easier for UK businesses to trade in goods both inside and outside the EU.

The internal market for goods gives UK manufacturers the possibility of accessing a market far larger than the UK domestic market. The free movement of goods has enabled joint ventures across borders - such as Airbus in the aerospace sector - to achieve the necessary scale to survive and compete globally. In 2012, 42% of UK aircraft and spacecraft exports went to other EU countries⁸, aided by the free movement of goods with no import duties and with the technical harmonisation of products.

The EU rules that allow the free movement of goods within the EU have reduced economic risks taken by companies. This is particularly evident for UK pharmaceutical companies who, before the creation of the single European Medicines Evaluation Agency, had to apply for individual product licences for each country they wanted to export to. This process used to take 5 years on average per country, whereas now with the EU rules, the approval time has been reduced to a year, cutting costs, boosting innovation and stimulating investment.

The automotive industry accounted for 9.2% of UK exports of goods in 2011⁹ with 40% of all vehicles manufactured in the UK exported to other EU countries¹⁰. UK automotive companies are able to tap into the large single market with the help of EU rules that remove all tariff costs to these exports. Without these EU rules, UK manufacturers would face a tariff of around 11% on car¹¹ imports into the internal market and up to 22% for other larger vehicles¹².

Other goods manufacturing sectors that are helped by the EU rules allowing for the free movement of goods include: the plastics industry (35% of all plastics made in the UK are exported and in 2012, 67% of UK exports of plastics went to other EU countries¹³); the chemicals industry (in 2012, 59% of UK exports of *organic and inorganic* chemicals went to other EU countries¹⁴ aided by the tariff free access to the internal market compared to the tariffs for exporters outside the EU that are typically between 5% and 6.5%¹⁵); and the UK Food

⁶ 1992 *The Benefits of a Single Market*, Paoli Cecchini, Wildwood House, 1988

⁷ 1996 European Commission study: http://ec.europa.eu/internal_market/economic-reports/major-study_en.htm

⁸ <https://www.uktradeinfo.com/Statistics/BuildYourOwnTables/Pages/Table.aspx> - total UK aircraft and spacecraft exports in 2012 were £10,597,431,901. Exports to the EU were £4,468,251,217.

⁹ <http://www.smmmt.co.uk/wp-content/uploads/SMMT-2013-Motor-Industry-Facts-guide.pdf?9b6f83> - page 9

¹⁰ http://www.smmmt.co.uk/wp-content/uploads/SMMT_2013_Motor_Industry_Facts_guide.pdf - page 8 - 81% of vehicles are exported, page 16 - 51% of exports went to the EU.

¹¹ <http://exporthelp.europa.eu/thdapp/taric/TaricServlet?action=tariff&prodLine=80&simDate=20130107&languageId=en&taricCode=8703211000&countryId=JP&simDateDay=07&simDateMonth=01&simDateYear=2013&nomenCmd=View> - using the tariffs for Japan which has no preferential trade relationship with the EU.

¹² <http://exporthelp.europa.eu/thdapp/taric/TaricServlet?action=tariff&prodLine=80&simDate=20120822&languageId=en&taricCode=8704213100&countryId=1011&simDateDay=22&simDateMonth=08&simDateYear=2012> - again using Japan.

¹³ <https://www.uktradeinfo.com/Statistics/BuildYourOwnTables/Pages/Table.aspx> - total exports in 2012 were £7.6 billion. Exports to the EU were £5.1 billion.

¹⁴ <https://www.uktradeinfo.com/Statistics/BuildYourOwnTables/Pages/Table.aspx> - total exports of UK organic and inorganic chemical exports in 2012 were 13,872,821,265. Exports to the EU were 8,151,204,290.

¹⁵ <http://exporthelp.europa.eu/thdapp/taric/TaricServlet?action=tariff&prodLine=80&simDate=20120903&languageId=en&taricCode=2914120000&countryId=JP&simDateDay=03&simDateMonth=09&simDateYear=2012>

and Drinks Industry, that accounts for 16% of the UK's total manufacturing sector by value¹⁶ (40% of all beverages and spirits sold abroad in the UK are sold to the European market¹⁷).

3. To what extent has EU action on the free movement of goods brought additional costs and /or benefits to you when trading with countries inside and outside the EU? To what extent has EU action on the free movement of goods brought additional costs and /or benefits to you as a consumer of goods?

The internal market has increased competition and reduced manufacturing costs – these have fallen 3.9% per cent in the top four biggest EU Member States thanks to the internal market¹⁸, leading to a reduction in the prices of goods. If considered together with services, the average UK consumer saves around £480 per person per year as a result of EU rules¹⁹.

Consumers have also benefited from EU rules on product safety that complement the free movement of goods. The collection of EU rules, including the General Product Safety directive, CE marking, Toy Safety directive, and the Cosmetic Product safety directive, help to ensure that UK consumers can buy products from any EU country knowing that they meet the same standards as in the UK. RAPEX, the EU rapid alert system for dangerous (non-food) consumer products also benefits UK consumers, making UK authorities aware of reports of dangerous goods in all other EU countries. Without RAPEX the UK authorities would have to have bilateral contacts with the 27 other national authorities, which would be more time consuming, less efficient and could lead to dangerous products not being recalled before they reach UK consumers.

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.

In discussions with UK business and consumers it would appear that harmonisation of national laws is helpful in terms of requirements for placing goods on the market. The so-called new approach directives are based on the principle that only the essential requirements are harmonised before a product is placed on the market. This allows flexibility for manufacturers to find technical solutions to meet the essential requirements, and the application of harmonised standards or technical specifications remains voluntary. An international treaty that would allow the free movement of goods between the UK and another country might be too rigid and would not have all the other elements of EU cooperation such as the customs union and the other freedoms of movement (services, people, and capital). It is therefore hard to imagine how an international treaty would be more helpful to UK businesses and consumers.

In terms of how EU rules are applied in different member states, implementation of EU and national rules is the responsibility of the national authorities. Member States have a certain amount of flexibility in the transposition of EU directives into national law, so the rules may not be exactly the same, but should always be consistent. In a similar way, UK national law may be implemented differently by different local authorities.

¹⁶ http://www.fdf.org.uk/about_fdf.aspx

¹⁷ <https://www.uktradeinfo.com/Statistics/EUOverseasTrade/Pages/EuOTS.aspx> and <https://www.uktradeinfo.com/Statistics/NonEUOverseasTrade/Pages/NonEuOTS.aspx>

¹⁸ Cited in *The economic effects of EU membership for the UK*, HM Treasury presentation, slide 22, 2005

¹⁹ <http://www.theyworkforyou.com/wrans/?id=2012-04-16b.102035.h&s=section%3Awrans+speaker%3A11823#g102035.q0>

Much of the technical harmonisation legislation that allows the free movement of goods - such as the sectoral directives of the legislative framework²⁰ - is quite specific due to the technical nature of each sectoral directive. This leads to consistent implementation from the outset as there is less room for differing implementation between member states.

The European Commission is responsible for the enforcement and uniform application of EU rules in its role as guardian of the treaties as laid down in Article 17 of the Treaty on the Functioning of the European Union, TFEU²¹. If inconsistencies exist in implementation between Member states, then the Commission has the power to act and correct this. The Commission prioritises the transposition of directives, and the current national transposition measures by Member States are published annually by the Commission in the form of monitoring reports.

Articles 34 and 36 of the TFEU govern the free movement of goods and do not allow for Member States to restrict intra-EU trade in goods. If a Member State refuses a good that is legally manufactured and market in another member state then the Commission can launch infringement proceedings.

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

The Customs Union and the controls laid down in the modernised customs code and now the Union Customs Code, as supported during the legislative process by the Liberal Democrat European Parliamentary Party, get the balance right in terms of regulating imports and exports. Within a customs union as large as the EU customs union, achieving balance can be difficult due to the different challenges presented at the external borders of the Union: on the eastern border, the focus is on controlling smaller imports of illegal goods, whereas at large ports such as Rotterdam the focus is on efficient checks to ensure that both imports and exports are regulated to protect consumers from dangerous goods, and to protect businesses from IPR infringements.

In the UK, EU law laid down in the Union Customs Code provides the flexibility needed at large centres of import and export including Heathrow airport and Felixstowe sea port. The establishment of authorised economic operators allows UK customs to prioritise customs checks and therefore reduce burdens on customs officials.

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.

Less EU action in the free movement of goods would clearly worsen the UK's ability to regulate cross-border movements of goods. Unravelling existing EU law would potentially mean the re-introduction of tariff barriers and fewer harmonised goods, which in turn would mean that limited customs resources would be spread more thinly, as there would be more import and export checks necessary for goods from the EU (and not only from large exporting countries such as China). UK exports of goods would also be adversely affected if the UK were to have to export non-harmonised goods with extra tariff barriers.

²⁰ European Commission, DG ENTR, overview of NLF directives: http://ec.europa.eu/enterprise/policies/single-market-goods/documents/internal-market-for-products/new-legislative-framework/index_en.htm#h2-4

²¹ Article 17: Treaty on the functioning of the EU: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:12012E/TXT:EN:PDF#page=9>