



## **Joint response of Universities UK and the UK Higher Education International Unit to the UK Government Review of the Balance of Competences between the United Kingdom and the European Union – Research and Development**

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## **Universities UK**

Universities UK (UUK) is the representative organisation for the UK's universities. Together with Higher Education Wales and Universities Scotland, its mission is to be the definitive voice for all universities in the UK, providing high quality leadership and support to its members to promote a successful and diverse higher education sector.

[www.universitiesuk.ac.uk](http://www.universitiesuk.ac.uk)

## **UK Higher Education International Unit**

The UK Higher Education International Unit (IU) represents all UK higher education institutions internationally and delivers a number of programmes and initiatives to support the development and sustainability of the UK HE sector's influence and competitiveness in a global environment. It supports the sector's engagement in European Union and Bologna Process policy debates.

The IU is funded by the Higher Education Funding Council for England, Higher Education Funding Council for Wales, Scottish Funding Council, Department for Employment and Learning (Northern Ireland), GuildHE, Universities UK, the Higher Education Academy and the Quality Assurance Agency for Higher Education. It is located at Universities UK.

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## Introduction

1. This document sets out the response of Universities UK (UUK) and the UK Higher Education International Unit (IU) to the UK Government Department for Business, Innovation and Skills' Call for Evidence on the Balance of Competences between the United Kingdom and the European Union (EU) in the field of Research and Development.
2. The response has been developed jointly by UUK and the IU, in consultation with higher education institutions, sector bodies and individual experts from across the UK higher education sector.
3. The division of competences between the EU and its Member States is set out in the Treaty of Lisbon, in effect since 2009. Article 4 of the Treaty on the Functioning of the EU (TFEU)<sup>1</sup> sets out that the EU and the Member States have shared competence in the field of research and space. However, for the field of research in particular, the Article sets out an exceptional definition of shared competence: 'the Union shall have competence to carry out activities, in particular to define and implement programmes; however, the exercise of that competence shall not result in Member States being prevented from exercising theirs.'<sup>2</sup> The TFEU therefore explicitly sets out that the exercise of the EU's competence in the field of research therefore is not limiting the competence of Member States; and the latter may take action on their own account.

## Impact on the national interest

### EU Research Funding in the UK

4. Article 4 of the TFEU explicitly refers to the activities the EU might carry out under its competence in the field of research as 'define and implement programmes.'<sup>3</sup> The EU indeed has the greatest impact on UK research and technological development in the form of the Framework Programme (FP), which is the European Union's primary funding instrument for supporting collaborative, transnational research and development, with a primary focus on science and technology. The programme is currently in its seventh phase (FP7) which runs from 2007–2013, during which time it will distribute over €53.2 billion (£45.5 billion) to as many as 10,000 research projects.<sup>4</sup>
5. Thanks to the high quality of its research landscape, the UK has been a consistently strong player in the FP, securing a disproportionately large share of available funding and maintaining a leading position in terms of the share of all FP projects in which it is involved.

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<sup>1</sup> See <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:083:0047:0200:EN:PDF>

<sup>2</sup> Article 4 TFEU (introduced by Lisbon), *Ibid.*

<sup>3</sup> *Ibid.*

<sup>4</sup> 'Interim Evaluation of the Seventh FP – Report of the Expert Group' (2010), p1

6. The UK has received €5,205 million in funding through the first six years of FP7 (2007-2012),<sup>5</sup> which is greater than the spending power of five of the seven UK Research Councils. UK academia leads the way in FP7 accounting for 61.2 % of all UK participations and receiving 10.9 % of all FP7 funding (€3.708m).
7. Compared to other EU states, the UK receives 15.2% of the total FP7 funding; only Germany has received more funding overall. Due to its very high levels of participation, it is likely that the UK will continue to retain a significant share of FP funding. Thus far, UK institutions have participated in more FP-7 funded projects than any other EU member state.

## Benefits of EU Research Funding

8. As an EU-wide funding scheme, the FP brings a number of opportunities and positive impacts, which in many cases differ from those provided by national sources of funding: it provides access to large, transnational, multi-disciplinary projects as well as access to collaborative networks, it offers flexible funding for areas that national funders might not support and has an industry focus. As such, it is a source of funding that is more accessible to a wider range of institutions, thus playing a significant role in supporting UK research capability. FP funding therefore represents a substantial investment in economic growth and enables international collaborations in a form rarely offered by domestic funding.

### CASE STUDY 1

The IDEAL consortium researches the role of early life environment on aging with an international consortium of sixteen institutions across eight countries. Project Leader Professor Mark Hanson, Director of the Academic Unit of Human Development and Health at the University of Southampton, states that:

*“The consortium has allowed a large study which has an element of ‘Blue Sky’ speculative research... that would otherwise be unlikely to be supported by conventional UK funding streams... IDEAL makes possible the integration of diverse data sets and expertise in a manner that no single member state would be able to support. This strength is of critical importance if the health challenges of global importance are to be met.”*

Case study provided to IU/ UUK by the University of Southampton. Project website: <http://www.ideal-ageing.eu/>

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<sup>5</sup> e-CORDA FP7 grant agreements and participants database, Vs 14.0, released 1 July 2013

### ***Fostering economic growth and employment***

9. It is well established that investment in science and research offers substantial returns in terms of economic growth. The rate of return for publicly funded research usually exceeds 30%.<sup>6</sup>
10. FP funding has had an enormous impact on the economy and employment: for example, the long-term impact of FP7 is estimated at 900,000 additional jobs and a growth in GDP of nearly 1%. Across all member states, every €1 of FP7 funding has been calculated to lead to an increase in industry added value (contribution to growth) of €13 on average.<sup>7</sup>
11. In comparison to the government's ringfenced national grant funding for science and research (S&R), which stands at £4.6bn a year,<sup>8</sup> this approximate annual income of £698m per year over the course of FP7 represents an additional 15% on top of national funding. Given that FP spending has continued to increase each year, and is likely to do so in the future, whilst the UK's S&R budget has remained frozen at £4.6bn (hence is decreasing in real terms with inflation), the FP represents an increasingly important component of research funding in the UK.
12. The TFEU provides the EU with the competence to adopt the FPs, and their funding levels, under the ordinary legislative procedure<sup>9</sup> <sup>10</sup>. The UK as a Member State has two means to influence the shape of the FPs: through the UK government's representation in the European Council and through MEPs representing the UK in the European Parliament.

### ***Fostering international and cross-institutional collaboration***

13. The benefits of international collaboration in research projects are profound and wide-ranging. They encourage excellence by bringing together the most outstanding researchers in the field, provide opportunities to share best practice across partner institutions, provide access to international facilities and large international datasets and tend to result in high publication and citation rates. Cooperation and collaboration among researchers are set out as one of the aims of EU research policy in the TFEU.<sup>11</sup>
14. International collaborative research has a greater impact at a global level: citation rates tend to be significantly higher for papers published with multiple international authors compared to those with only domestic authors.<sup>12</sup> Using citation rates to calculate 'normalised citation impact' where 1.0 is the global average, it has been shown that in the UK, international

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<sup>6</sup> Horizon 2020 Impact Assessment Report, p7.

<sup>7</sup> Horizon 2020 Impact Assessment Report, Annexes, p3

<sup>8</sup> <https://www.gov.uk/government/publications/allocation-of-science-and-research-funding-2011-12-to-2014-15>.

This figure does not include the £1.9bn allocated for capital expenditure on S&R, or any ad hoc additions announced in spending reviews.

<sup>9</sup> Article 182 (ex Article 166 TEC) TFEU

<sup>10</sup> The ordinary legislative procedure denotes the EU's legislative process in which the European Commission initiates the legislation through a proposal which is then negotiated and adopted by the European Council and the European Parliament.

<sup>11</sup> Article 179 (2) (ex Article 163 TEC) TFEU

<sup>12</sup> The Royal Society: 'Knowledge, networks and nations: Global scientific collaboration in the 21<sup>st</sup> century'. 2011, p59.

collaborative papers have an impact of 1.72, compared with 1.21 for papers with only domestic authors.<sup>13</sup> The UK's citation impact is already high for single authored or nationally co-authored papers. International collaboration enhances this: the UK's citation rates stand at 11% of the global share and 46% of UK-authored papers in 2010 had at least one international co-author, leading to higher impact rates globally.<sup>14</sup>

15. Through providing funding for international research mobility, the FP facilitates the development of consequential and enduring partnerships overseas, making a substantial contribution to the UK's ability to attract Europe's best talent to its labs, with all that this means for scientific excellence and productivity, and to the country's reputation as a preferred international partner.<sup>15</sup> Similarly, it provides UK researchers with the opportunity to work abroad, enhancing careers and building networks for future joint projects.
16. Researchers who have spent an extended time abroad tend to be significantly more productive in terms of articles published than those who have remained in the UK. The UK's leading position in terms of research efficiency is therefore in part due to its effectiveness in attracting productive and internationally mobile researchers, and providing opportunities for mobility amongst UK-based researchers.<sup>16</sup>
17. FP funding has "a positive impact on the nature and extent of collaboration between the UK academic and industrial communities and their counterparts abroad."<sup>17</sup> Universities are at the heart of innovation and entrepreneurship. The World Economic Forum survey of businesses found the UK second in the world on university-industry collaboration in R&D, first in the EU and ahead of the USA.<sup>18</sup> UK universities create more spin out companies relative to research expenditure than the US<sup>19</sup> and UK university income from interactions with business and the community reached over £3,4bn in 2011-12, more than doubling in real terms since 2001.<sup>20</sup>
18. The EU's competence in the field of research enables it to enhance its funding with unique benefits in terms of research collaborations. Because it has already established a common framework for collaboration, it offers a substantial simplification: institutions do not need to negotiate and re-negotiate the terms of collaborations every single time, as they do with other funding types.

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<sup>13</sup> Adams, Jonathan, 'The Fourth Age of Research'. In *Nature*, 30 May 2013, Vol. 497, p559

<sup>14</sup> BIS 'International Comparative Performance of the UK Research Base – 2011', cover page 2.

<sup>15</sup> 'The impact of the EU RTD FP on the UK' 2010, p85

<sup>16</sup> Department of Business Innovation and Skills: 'International Comparative Performance of the UK Research Base – 2001'

<sup>17</sup> 'The impact of the EU RTD FP on the UK' 2010, p87

<sup>18</sup> The World Economic Forum competitiveness report 2012.

<sup>19</sup> USA Research expenditure per spin-off is £44.5m, UK £31m based on AUTM and HESA data.

<sup>20</sup> HEFCE, Higher Education Business and Community Interaction Survey 2011/12, May 2013.

## CASE STUDY 2

The BIOPTRAIN project looked at ways to interpret the vast amounts genetic data generated by the decoding of genomes, seeking to unlock the information coded into DNA for use in clinical science, received €2.1m from the Marie Curie Actions. According to Project Coordinator, Professor Jon Garibaldi (University of Nottingham), the most important result

*was that it helped build a multidisciplinary knowledge base in the emerging bioinformatics field, and one that has already led to new careers in academia and industry, with one researcher working in Imperial College, London, another taking a research position in Luxembourg, while another moved to the US. "We brought together researchers from different backgrounds and perspectives and started to form a European approach to the problem, gaining new insights and spreading good practises," he says. "This is the new breed of scientist comfortable in different domains and with a new way of looking at problems that straddle different domains."*

DG Research and Innovation database, <http://tinyurl.com/mfm4cba>

19. Similarly, the EU uses its competence to create access to common levels of research infrastructure across the EU. While one state on its own is endowed with the same competence, the expense of such an undertaking means it is unfeasible to do so. In this area, the EU's existing competence in the field of research therefore has a hugely positive effect. For science which tackles global challenges for example, such as health issues or climate change, this can take the form of providing access to large datasets, for instance public health statistics, through international collaboration.

## CASE STUDY 3

The EARLYNUTRITION project involved 36 universities, research institutes and industry partners in studying the long-term effect of early nutrition on later health. Project Leader Professor Keith Godfrey (University of Southampton), explains:

*"EARLYNUTRITION, has provided a significant expansion in the scope of expertise, disciplines and unique resources/data sets available to the Southampton Team.... The ability to bring together international academic, commercial, clinical and NGO players under a common project is significant for addressing the key research issues and seeing our work translated into public benefit."*

Case study provided to IU/UUK by the University of Southampton. Project website: <http://www.project-earlynutrition.eu/>



20. The EU also has the competence to introduce new bodies, and has in the field of research exercised this competence to create the European Research Council (ERC), the Joint Research Centre and the European Institute for Innovation and Technology (EIT). The ERC is particularly valued in the UK. The ERC Starting Grant, for example, a 'fellowship' fund for early-career researchers, has proven a highly effective alternative to smaller and fiercely competitive national schemes, allowing HEIs to retain a larger proportion of the most talented academic researchers.<sup>21</sup> The UK was the top country for the ERC's Starting and Advanced grants in 2012 receiving €244.42 million from this programme.<sup>22</sup>

#### CASE STUDY 4

One now-famous recipient of a Starting Grant was Professor Sir Konstantin Novoselov, who worked in the Netherlands before coming to the University of Manchester under an FP6 grant, where he was to co-discover graphene, for which he, and his colleague, Professor Sir Andre Geim, have since been awarded a Nobel Prize and been knighted.

The FP has provided funding for a slew of projects researching the unique electrical, quantum and optical properties of this remarkable material and exploring its revolutionary potential in electronic applications. Most recently, the European Commission announced €1bn funding for a flagship graphene project under the Horizon 2020 programme, which will involve more than 100 research groups, 136 principal investigators and four Nobel Laureates.

21. The EIT is an example of the coordination across various policy areas which is continuously increasing and is more and more visible, in particular in the new programmes. The EIT brings research and industry together in its Knowledge and Innovation Centres (KICs). The Climate KIC that features UK participation is a particularly successful one. With EIT funding being dependant on the creation of a legal entity, this is an instrument that could successfully facilitate the research to innovation chain.

## The European Research Area

22. The Treaty of Lisbon introduces a legal basis for the creation of a European Research Area.<sup>23</sup> The European Research Area (ERA) aims at the **free movement** of researchers, scientific knowledge and technologies. The Treaty further conveys competence on the European Parliament and the Council to 'establish the measures necessary for the implementation of<sup>24</sup> the ERA under the ordinary legislative procedure.

<sup>21</sup> 'The impact of the EU RTD FP on the UK' 2010, p87-8

<sup>22</sup> UK Research Offices, Brussels.

<sup>23</sup> Article 179 (ex Article 163 TEC) TFEU

<sup>24</sup> Article 182 (5) (ex Article 166 TEC) TFEU

23. Economic success depends increasingly on the capacity to compete at the global level. The creation of a world class ERA, which promotes the open flow of information, knowledge and researchers, will allow Europe to compete with major economies such as the US and, increasingly, China. The large-scale, international projects enabled by the FP/ Horizon 2020 are an essential component of this.
24. The UK higher education sector supports the creation of the ERA and the drive to enhance research and development intensity, and strengthen research institutions. The UK research base will play a vital role in progressing towards the ERA.
25. Overall, the UK is well advanced in terms of meeting the ERA objectives. In a number of areas the UK sector has good practice that can be shared at a European level and take a leadership role in the process, in particular in areas such as HR excellence in research and research careers, research integrity and performance-based research funding.
26. However, as the TFEU is unclear about the precise competences it gives the EU regarding the progress towards the ERA, we are concerned that this competence might be exercised in a prescriptive way. For example, a legislative solution would run the risk of restrict the autonomy of HEIs and/or funders and ultimately be counterproductive through constraining high-performing HEIs and Member States such as the UK. This would not be an appropriate or effective route towards the ERA and would raise very serious concerns.

## **Other EU Policy Areas**

27. Given the broad range of areas in which the EU has competences, actions in other areas might affect the area of research and innovation both intentionally and unintentionally – with the possibility of these effects being positive as well as negative. As the power of initiating legislation lies with the Commission only.<sup>25</sup> The Commission is divided into different Directorates-General (DGs) and the coordination between the different DGs in these cross-cutting areas is often not optimal. A particular DG will have established stakeholder groups and it is sometimes difficult to get other voices recognised by that DG.
28. Structural Funding is another area in which greater coordination with the field of research is sought. The EU aims to create ‘synergies’ between the different types of funding, and connects these in turn to improving the quality of Europe’s research base (‘stairways to excellence’).
29. EU Data Protection legislation is another area that impacts on UK research, and one where the EU has power to act in a way that could seriously damage research. The removal of scientific research from the legitimate exemptions for the processing of personal data, as proposed by the European Parliament, would have a substantial negative impact on UK research.

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<sup>25</sup> Article 17 Treaty on European Union (TEU), <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:083:0013:0046:EN:PDF>.

30. A further policy area where initiatives taken forward by one Directorate General (DG) will also impact on the area of research and innovation is copyright. It is the Internal Market and Services Directorate General that is responsible for copyright legislation at EU level, and not DG Research and Innovation. Here, there have been issues in the past of the former DG responding more to its established stakeholders in its policy-making. Overall, all of the Directorates-General involved (Internal Market DG, Research and Innovation DG, Connect DG and Education and Culture DG) need to cooperate more closely to reflect the cross-cutting nature of copyright.
31. In terms of copyright legislation, we see a non-exhaustive list of exceptions that have cross-border application, so as to allow for the incorporation of new technologies as they emerge and join up the copyright regime with the European Research Area (ERA), as necessary. Related to this, all exceptions made in reference to the research, education and cultural sectors should be mandatory at member state level, and not be over-ridable by private contract. As set out in the Hargreaves Review in the UK, an exception for text and data mining should allow for commercial as well as non-commercial uses.

## Future opportunities and challenges

### Possible Improvements

32. The EU's existing competence in the field of research is defined as not limiting the competence of Member States as they may also take action on their own account. This is as such positive. The EU could improve the exercise of its existing competences in a number of ways in different areas.
33. Maintaining and increasing the level of funding distributed via future FPs is within the EU's competence and this will be the biggest boost for scientific progress. Public investment in R&D encourages private investment: it has been shown that a 10% increase in university research increases private R&D by 7%.<sup>26</sup> If the EU was to spend the equivalent of its 2012 budget for agricultural subsidies on research instead, this would add 0.3%<sup>27</sup> to the EU gross domestic expenditure on research and development (EU-27 GERD) – with the EU-27 GERD average of standing at 2.03% of GDP in 2011<sup>28</sup>, this would mean a third of the way to the Europe 2020 target of investing 3% of GDP in R&D.

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<sup>26</sup> Jaffe, *Universities and Regional Patterns of Commercial Innovation*, 1989; and Jaffe and Trajtenberg, *Patents, Citations, and Innovations: A Window on the Knowledge Economy*, 2002.

<sup>27</sup> Based on the 2012 budget where 40.5bn were spent on CAP and the EU GDP was 12.449bn, see [http://ec.europa.eu/budget/library/biblio/publications/2012/budget\\_folder/186978\\_2011\\_4429\\_EU\\_BUDGET\\_2012\\_EN\\_V2.pdf](http://ec.europa.eu/budget/library/biblio/publications/2012/budget_folder/186978_2011_4429_EU_BUDGET_2012_EN_V2.pdf) and [http://epp.eurostat.ec.europa.eu/portal/page/portal/product\\_details/dataset?p\\_product\\_code=NAMA\\_GDP\\_C](http://epp.eurostat.ec.europa.eu/portal/page/portal/product_details/dataset?p_product_code=NAMA_GDP_C).

<sup>28</sup> <http://www.ons.gov.uk/ons/rel/rdit1/gross-domestic-expenditure-on-research-and-development/2011/stb-gerd-2011.html>

34. Achieving this target could create 3.7 million jobs and increase annual GDP by close to €800 billion by 2025.<sup>29</sup> It is already within the EU's competences to do this.
35. The design of the rules of participation in FPs also falls within the EU's competence, under the ordinary legislative procedure, and it is vital that excellence is maintained as the main funding criterion, on the basis of international peer review. This presents the greatest value for money for EU taxpayers.
36. It would also be beneficial if the EU was to use its existing competence to reduce red tape and administrative overhead as this is essential to further promoting science and research across Europe. This also ties in with the aim of reducing barriers to completing the ERA without increasing bureaucracy.
37. An acceptance of national accounting practices used by institutions by the European Court of Auditors would be extremely beneficial to Member States' research sectors as it would relieve research institutions of having to accommodate for two different accounting systems.
38. More transparency, in the development of the FP Work Programmes, for example, and evidence-based policy-making would also enhance the EU's work within the competences it already has. The newly-created role of the Chief Scientific Adviser to the Commission could further this.
39. More investment in large research infrastructures, as part of the FP as well as under Articles 185 and 187 TFEU, would be valuable as it is here that the EU competence in setting these up can provide a critical mass and a scale that one state alone could never achieve.

## Enlargement

40. Any further future enlargements will affect the composition of the European Council as well as that of the European Parliament and therefore the way the EU's competency to lay down the rules and regulations of the future FPs is exercised. Altering the EU's competences is only possible through Treaty change. If there was a potential future Treaty change, this would be negotiated by the Member States and enlargement could therefore also affect the competences as such.
41. The UK HE sector welcomes new partners and is looking forward to establishing enduring, mutually beneficial relationships under the appropriate policy and resource.

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<sup>29</sup> European Commission, Communication on Europe 2020 Flagship Initiative Innovation Union, based on: P. Zagamé (2010) The Cost of a non-innovative Europe, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0546:FIN:en:PDF>

## **Associate Countries**

42. It is worth noting that Associate Country status is by no means a given status for any country. Other countries, such as Switzerland and Norway for example, that are able to participate in FP7 do so on the basis of individually negotiated science and technology cooperation agreements. These involve contributing to the FP budgets and are based on bi-lateral negotiations between the EU and the state in question.
43. There is no certainty or guarantee that any particular non-EU country would be able to secure such an agreement, even a former EU member; or what the terms and level of contribution would be.
44. Although they do take part in Committees at later stages in the policy process, Associate Countries have no influence at all in the initial shaping of the FPs' rules and budgets as this is the prerogative of the Member States.

## Related balance of competences reviews

45. Universities UK and the UK HE International Unit would like to comment on the following other balance of competences reviews as these contain some important cross-cutting themes between their area and that of research and innovation:

- Internal market: Free movement of persons – Home Office and Department for Work and Pensions
- Asylum and immigration – Home Office
- Internal Market: Free movement of goods – HM Revenue and Customs, BIS and Intellectual Property Office
- Trade and investment - BIS

46. We believe that the UK HE sector's perspective from the area of research and innovation will have valuable insights to add to these reviews.

## Internal market: Free movement of persons and Asylum and immigration

47. Both the Internal market: Free movement of persons and asylum and immigration reviews of the balances of competences are concerned with the ability to enter the UK as a non-UK citizen. The former looks at EU citizens and their ability to exercise free movement rights under the TFEU while the latter reviews non-EU citizens. As the UK research and HE base is dependent on the free circulation of talent both from within and outside the EU, the following comments apply to both reviews.

48. The mobility of researchers and students is of unequivocal importance for the UK research sector as the free movement of talent is fundamental to excellent research. The EU's competence to create free movement rights within the EU and remove barriers to mobility<sup>30</sup> has been extremely beneficial to the UK research sector in terms of attracting talent as well as offering UK nationals the opportunity to study and work abroad. This is a field where the EU's competence to create an overarching framework is beneficial as the multilateral coordination of free movement across European borders would be much more difficult and unfeasible.

49. One example of how the UK HE sector benefits is the range of EU mobility programmes. In the researcher one Marie Curie Actions, the UK is the top host country for mobile researchers: 3,604 researchers have come to the UK under FP7 so far.<sup>31</sup> Correspondingly, 780 British researchers have been funded to work abroad and the EU budget allocated so far

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<sup>30</sup> Article 20 (ex Article 17 TEC) and 21 (ex Article 18 TEC) TFEU

<sup>31</sup> European Commission, *FP7 People Marie Curie Factsheet*, June 2013, [http://ec.europa.eu/research/mariecurieactions/documents/funded-projects/statistics/eu-countries/marie-curie-actions-country-fiche-uk\\_en.pdf](http://ec.europa.eu/research/mariecurieactions/documents/funded-projects/statistics/eu-countries/marie-curie-actions-country-fiche-uk_en.pdf)

to British institutes is €790.3 million.<sup>32</sup> For student mobility, the Erasmus programme is of similar importance to the sector.

50. The strength of the UK sector means that the UK is a more attractive destination country than an active sending country within the EU. This is a huge competitive advantage for the UK as it has the means to attract the world-leading individuals into its academia and research. It is of fundamental importance that these researchers are able to enter the UK easily, regardless of whether they are EU or non-EU nationals.
51. The EU's competence in the field of immigration does not directly impact on the UK given its opt-out of the border and visa aspects of the Schengen Acquis.<sup>33</sup> The main advantage of the Schengen Acquis is that it has created an area of free movement for non-EU nationals once they have obtained a Schengen visa. In discussing the advantages or disadvantages of the UK opt-out, it is therefore worth pointing out that an excellent non-EU researcher employed by a German university could be more easily enticed away by a French or Norwegian university than by a UK one as coming to the UK would entail a new laborious visa application. The same applies to student mobility.
52. The freedom of movement in the Schengen Area is enhanced by the EU Blue Card Scheme which aims at making Europe a more attractive destination for highly- skilled and educated persons from outside the European Union by guaranteeing working and salary conditions equal to nationals, entitlement to a series of socio-economic rights and a permanent residence perspective. All Member States, except the United Kingdom, Denmark and Ireland, participate in the scheme. This might disadvantage the UK in the long-term.
53. We would also wish to highlight that the EU's common visa policy is more welcoming towards third country students than the UK's current approach.

## Trade and investment

54. The EU has exclusive competence in the common commercial policy<sup>34</sup> of the Member States. This affects the area of research and innovation in the form of the research to market-chain and the uptake of innovation. The sector supports the access to the single market, although less regulation would be beneficial here.
55. UK universities are truly global businesses. While they do gain from the European single market, they are also substantially engaged with all other markets around the globe. Internationalisation is an area where UK universities are particularly strong, from international student recruitment to student exchange, research collaboration and transnational education - UK HE contributed £10.2bn to UK exports in 2011.<sup>35</sup>

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<sup>32</sup> Ibid.

<sup>33</sup> Article 4 of Protocol (No 19) on the Schengen Acquis integrated into the framework of the European Union (OJ C 83, 30 March 2010, p. 290)

<sup>34</sup> Article 3 (1) TFEU

<sup>35</sup> HM Government, *Industrial Strategy: government and industry in partnership - International Education: Global Growth and Prosperity*, p.22

56. The UK has a global reputation both as a host country for international students and as a leader in the field of transnational education.
57. The UK higher education sector is keen to underline that EU activity must continue to respect the autonomy of higher education institutions and of Member States. Above all, an appropriate flexibility must be guaranteed in order to accommodate diverse national and institutional contexts. Multilateral and bilateral policy dialogues with the EU in particular must not undermine national policy dialogues and the ability to promote distinctive strengths with key international partners in the field of higher education.

### **Internal Market: Free movement of goods**

58. UK universities are among the largest producers of copyright in the UK. A strong research and education sector is central to Europe's global competitiveness and that strength is dependent on a copyright regime that creates the lowest barriers to access, lawfully sharing and building on the work of others.
59. Copyright is a policy area where initiatives taken forward by one Directorate General (DG) will also impact on the area of research and innovation. It is the Internal Market and Services Directorate General that is responsible for copyright legislation at EU level, and not DG Research and Innovation. Here, there have been issues in the past of the former DG responding more to its established stakeholders in its policy-making. Overall, all of the Directorates-General involved (Internal Market DG, Research and Innovation DG, Connect DG and Education and Culture DG) need to cooperate more closely to reflect the cross-cutting nature of copyright.
60. In terms of copyright legislation, we see a non-exhaustive list of exceptions that have cross-border application, so as to allow for the incorporation of new technologies as they emerge and join up the copyright regime with the European Research Area (ERA), as necessary. Related to this, all exceptions made in reference to the research, education and cultural sectors should be mandatory at member state level, and not be over-ridable by private contract. As set out in the Hargreaves Review in the UK, an exception for text and data mining should allow for commercial as well as non-commercial uses.
61. We welcome the creation of unitary patent protection across the EU and the establishment of a Unified Patent Court. If successful, this will accelerate the provision of patent protection considerably which is vital to research commercialisation. With the single patent system not expected to come into force until January 2014, implementation remains to be evaluated.