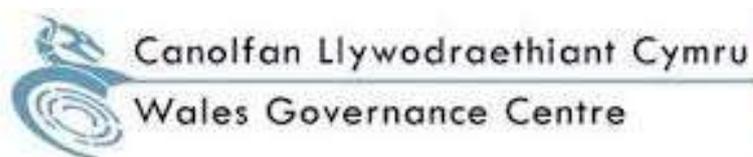




# The **UK** in a **Changing Europe**

## **WALES AND THE EU SINGLE MARKET TRADE IN GOODS**



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**This report is one of a series examining the implications of EU membership for Wales, and the legal and policy considerations presented by the EU referendum vote. The full set can be found at <http://sites.cardiff.ac.uk/wgc/eu/>**

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# SINGLE MARKET – TRADE IN GOODS

The referendum on 23<sup>rd</sup> June 2016 sees the UK electorate vote on whether the UK remains a member of the European Union (EU). This is one of a series of briefs which outline the current division of power between the EU, UK and Wales, and the possible implications of a vote to leave or to remain, across a range of policy areas. This brief looks at the Single Market, and intra-EU trade. It complements the brief on International Trade.

## IN BRIEF

- At the centre of the European Union is the Single Market. This market covers the 28 EU Member States and the members of EFTA, together forming the European Economic Area. In essence, the single market creates one single territory without borders in relation to trade, in both economic and legal terms. The single market should stimulate trade and competition, leading to greater efficiency and economic growth.
- At the core of the single market is a customs union, in which goods are traded between participating states without any customs duties being levied. This removes artificial cost barriers to trade.
- Crucially, the single market also prohibits measures which may restrict trade in goods on the basis of where they are from. This includes some forms of government support to home industries and purchasing policies, as well as national rules which discriminate against products from other Member States.
- A very wide range of national rules may be caught by the prohibition on trade restrictions. The Court of Justice of the European Union in Luxembourg as well as courts across the Member States are empowered to rule on the legality of national measures, such as the challenge to Scotland's minimum alcohol pricing policy, brought by drinks companies. States must demonstrate that their policies can be justified for reasons such as public health grounds and there be no less trade restrictive approaches that could be taken to achieve the aims. This would apply to any re- introduction of Wales' proposed ban on vaping.

- The single market project also involves the adoption of single market legislation or harmonisation of rules across the EU, such as common rules on product safety, or energy usage. These rules often serve multiple aims - both consumer protection/environmental protection, as well as trade facilitation. Once the standards are met, the product can be traded anywhere across the EU. Mutual recognition is an alternative to legislation: Member States agree to recognise each other's regulatory requirements as equivalent to their own.
- The EU has power to legislate both on the Single Market and on the Customs Union: the EU's power to legislate on the Customs Union is exclusive while its power to legislate on the Single Market is shared with Member States. Where the EU has legislated on a specific matter, Member States no longer have the right to act or to behave in a way that is contrary to that legislation. Any legislation adopted by the Welsh Assembly and Government must comply with EU law obligations, and it may be set aside if it conflicts with the free movement obligations.
- Welsh companies exported more than £13.2bn worth of goods worldwide in 2014, of which more than £5.6bn or 42.8% went to the EU.
- If the UK leaves the EU and an alternative trading relationship is agreed with the EU, the majority of single market legislation will remain in place although this will depend on the depth and breadth of the agreement e.g. sectors covered. Under an EFTA/EEA type agreement the UK would have a much reduced role in influencing EU regulations and standards. In order for UK goods to be accepted in EU Member States' markets, UK businesses will need to comply with EU standards and regulations whether or not the UK is part of the Single Market.

## **WHAT DOES THE EU DO IN THIS AREA?**

### **Single Market**

At the centre of the European Union is the Single Market. This brings together the 28 Member States of the EU, to form a single territory for trade in economic and legal terms. Since the original Treaty of Rome in 1957, the EU treaties have stated that the

EU shall establish an 'internal market' 'to promote .. a harmonious development of economic activities'.<sup>1</sup> Article 26 of the Treaty on the Functioning of the European Union (TFEU) states that the EU shall 'adopt measures with the aim of establishing or ensuring the functioning of the internal market' and that 'the internal market shall comprise an area *without internal frontiers* in which the free movement of goods, persons, services and capital is ensured'.

A functioning Single Market is expected to stimulate trade and improve efficiency, offer better quality, choice and cost for consumers and enhance competitiveness, innovation and commercial opportunities for business. At its base is a customs union, in which goods circulate without customs duties being levied, removing artificial cost barriers to trade.<sup>2</sup> Critically, the Single Market allows for the free movement of the factors of production i.e. the four fundamental freedoms outlined in the EU Treaties – goods, services, capital and labour. This is ensured through the removal through law of barriers to trade or regulatory obstacles across the 28 Member States.

National rules which protect domestic products or make it more difficult for products from other EU countries to get on the market will in principle be removed. There are two main ways this is achieved. The first is through the enforcement before of treaty commitments to the principles of free movement, prohibiting or eliminating any national restrictions on cross-border activity. It is essentially deregulatory and can be used before national courts as well as, in some circumstances, the Court of Justice of the European Union to challenge national laws that discriminate against manufacturers from other Member States. Member States must ensure that when they introduce national laws, these do not unreasonably create restrictions on trade from other EU countries. This approach is sometimes referred to as 'negative harmonisation'.

A second approach, known as 'positive harmonisation' involves the adoption of common EU wide rules on products. Once a producer complies with single market legislation, their product will in principle have access to the rest of the EU market. Bringing rules into line across the 28 Member States gives greater certainty for producers, making compliance easier and, arguably, leading to increased trade. It works best where there is the need for a single standard, the need to maintain high consumer confidence and where standards can be easily assessed, for example

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<sup>1</sup> Currently Article 3(3) of TEU

<sup>2</sup>EU Member States are responsible for managing their own customs services and for implementing and enforcing EU customs legislation. This gives Member States the flexibility to have different agencies operating at their borders carrying out customs functions.

medical devices.<sup>3</sup> Articles 114 and 115 TFEU are the Treaty provisions which give power to the institutions to introduce of internal market measures; roughly half of all trade in goods across the single market is covered by harmonising legislation under positive harmonisation.

As an alternative to legislation, the EU operates a system of mutual recognition - that Member States agree to recognize each other's regulatory requirements around goods or services i.e. that if it has met the requirements of one state it is accepted on the market of all Member States. It reduces the requirement for legislation, enables greater flexibility in relation to changes in business or technology, and reflects the principles of subsidiarity<sup>4</sup> and proportionality<sup>5</sup> laid out in the Treaties.

Some elements of the Single Market are highly developed, however, it is far from complete and progress varies from sector to sector. Further liberalization is possible in a number of areas and some formal and informal barriers still remain. In the movement of goods, financial services, capital and payments the EU can, to all extent and purposes, be considered a single market, whilst in other areas markets are still essentially national (e.g. energy, telecoms). Additionally, it is often difficult to isolate single market legislation from that of other legislative areas.

The internal market is an area of shared competence between the EU and Member States meaning legislative power can be exercised at EU or national level. Where there is EU legislation the Member State must act in accordance with it and enforce it; where none exists, the Member State can exercise its own power as long as it is compatible with the Treaties.

The 1986 Single European Act changed Member State voting requirements in relation to most Single Market measures from unanimity of all national governments to a qualified majority in Council, to avoid blocking Member State vetoes which had

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<sup>3</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/227069/2901084\\_SingleMarket\\_acc.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/227069/2901084_SingleMarket_acc.pdf), p.29.

<sup>4</sup> Subsidiarity is a principle enshrined in Article 5 of the Treaty on European Union (TEU). It seeks to ensure that all decisions are taken as close as possible to the citizen and that the EU will not take action unless it is more effective than action taken at national, regional or local level. There are two Protocols annexed to the Treaty of Lisbon: Protocol No 1 encourages national Parliaments' involvement in EU activities before the Council takes a decision and Protocol No 2 that requires the Commission to take into account the regional and local dimension of all draft legislative acts and ensure the principle of subsidiarity is respected.

<sup>5</sup> The principle of proportionality (Article 5.4 of the TEU) stipulates that the content and form of EU action shall not exceed what is necessary to achieve Treaty objectives and hence limits the scope and intensity of Union action.

previously stalled cooperation in this area. The European Parliament also became a co-legislator with the Council i.e. it must also agree to the law if it is to enter into force.

## Free Movement of Goods

There are a number of elements to the free movement of goods provisions with regards to negative integration: the removal of financial barriers to trade (involving the establishment of a customs union (Article 28 TFEU), the elimination of all discriminatory and protectionist taxation (Article 110 TFEU).) and the removal of unlawful regulatory barriers to trade (Articles 34 and 35 TFEU). These latter rules have a particularly significant impact on the scope for legislators within the different Member States to adopt their own laws. With limited exceptions, any national rules which hinder the access of goods from one Member State to another's market or even the slightest effect on trade could be deemed unlawful unless they can be justified. Rules adopted by Member States or by Devolved Administrations must not amount to quantitative restrictions on trade (e.g. quotas or a total ban on imports) or a measure having equivalent effect. Measures having equivalent effect could include rules on the shape, content, packaging and labelling of goods for example, or even simply a national practice or policy, such as a ban or restrictions on the sale or use of products.

National measures or rules caught by this can be considered either 'distinctly applicable' when different rules apply to imported products and domestically-produced goods, or 'indistinctly applicable', that is, they appear to apply equally to all goods but in practice are capable of impeding imports.<sup>6</sup> Distinctly applicable measures can be justified however by using one of the exemptions in Article 36 TFEU - "public morality, public policy or public security; the protection of health and life of humans, animals or plants; the protection of national treasures; ...or the protection of industrial and commercial property." This is a closed list and exemptions are vigorously policed by the European Court of Justice. Where national measures could apply equally to national and domestic goods but still inhibit trade, Member States can justify their approach under either the Article 36 derogations or through the concept of 'mandatory requirements'. This is a non-exhaustive list of grounds for exemption that covers public interest aspects such as defence of the consumer and has developed through CJEU jurisprudence.<sup>7</sup>

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<sup>6</sup>See also Directive 70/50, <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A31970L0050>

## State Aid and Public Procurement

As part of the move towards a single market, the EU has established competition and state aid rules to ensure appropriate conditions under which the Single Market can operate effectively. Title VII of the TFEU outlines the common rules on competition and prohibits agreements and decisions that may affect trade between Member States or prevent, restrict or distort competition within the internal market. The EU's 'state aid' policy seeks to ensure a level playing field across the Single Market i.e. that all companies can compete equally without unfair advantage. It seeks to limit public funding to companies for activities where the market can intervene, promote economic liberalisation and prevent monopolies and cartel behaviour in order to benefit consumers across the EU.

Public procurement also aims to create a level playing field for all business. EU law sets out minimum harmonised rules on the way public authorities and operators purchase goods (and works and services) in order to ensure that they comply with the EU principles of free movement, mutual recognition and non-discrimination.<sup>8</sup> It ensures that tenders are open to all firms in all Member States, though it may be perceived as placing undesirable restrictions on purchasing by the public sector, as an automatic preference for local, UK products would not be permitted.

## WHAT POWERS DOES THE UK AND WALES HAVE IN THE AREA OF INTERNAL TRADE IN GOODS?

The EU has power to legislate both on the Single Market and on the Customs Union: the EU's power to legislate on the Customs Union is exclusive – only the EU can introduce rules here. The EU's power to legislate on the Single Market is shared with Member States – though Member States must ensure they comply with any existing EU rules if they do act. During the last Government, an extensive review of the powers held by the EU was undertaken, to consider whether this was appropriately allocated. This was the Balance of Competence Review. The report on the Single Market<sup>9</sup> highlighted that it was difficult to establish a clear division of competence between EU Member States and the EU in the area of the Single Market. Any situation where there

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<sup>8</sup> [http://ec.europa.eu/growth/single-market/public-procurement/rules-implementation/index\\_en.htm](http://ec.europa.eu/growth/single-market/public-procurement/rules-implementation/index_en.htm)

<sup>9</sup> <https://www.gov.uk/government/consultations/call-for-evidence-on-the-governments-review-of-the-balance-of-competences-between-the-united-kingdom-and-the-european-union>

is a national restriction to the movement of peoples, goods, services, and financial flows is potentially unlawful and must be shown to be justified in the public interest. Where the EU has legislated on a specific matter, Member States no longer have the right to act or to behave in a way that is contrary to that legislation.

Under positive integration and the establishment of harmonisation legislation Member State governments and EU institutions together agree the regulatory framework. As with the other devolved administrations, Wales is able to feed into this process through national channels, but formally has no role in negotiations at this level. The UK government must consult with the Devolved Administrations to ensure that their views are taken into account when developing the UK line.<sup>10</sup> Devolved Administrations' positions on EU matters are discussed and agreed in the JMC (Europe) which meets quarterly to discuss matters bearing on devolved responsibilities that are under discussion within the EU. Responsibility for transposition of the regulatory framework and implementation falls either to the UK Government or where matters are devolved, e.g. food, to the Welsh Ministers in line with section 2(2) of the European Communities Act 1972.

Under negative integration the Member State or Devolved Administration should not introduce any laws conflicting with the EU free movement principles,<sup>11</sup> and should remove any measures that fall foul of Treaty provisions on the internal market. Otherwise the measures can be challenged by both national courts and the CJEU. The development of case law in this area by the CJEU can work to the interests of the UK Government or UK producers and consumers or to the detriment of certain UK-based concerns. The *Commission v Italy (chocolate)* case directly benefitted UK chocolate producers through the consideration of Article 34 TFEU as relevant in relation to the marketing of products. Italian law regarding the marketing of UK-produced chocolate as 'chocolate substitute' due to their inclusion of vegetable fats was judged an obstacle to the free movement of goods as it could affect the consumer's perception of the product. A 'neutral and objective statement' as to the presence of vegetable fats was considered adequate.

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<sup>10</sup> The Memorandum of Understanding between the UK government and the Devolved Administrations in Northern Ireland, Scotland and Wales establishes a Joint Ministerial Committee (JMC) for the purposes on consultation and coordination of the overall relationship between the administrations. It specifically considers non-devolved matters which impinge on devolved responsibilities, and devolved matters which impinge on non-devolved responsibilities.

<sup>11</sup> The Government of Wales Act 2006, s80 and s108 make it clear that the Welsh Assembly and Welsh Ministers only have power to adopt laws which comply with EU law.

At a devolved level, the power held by administrations to adopt policies needs to be exercised in compliance with EU law. The Alcohol (Minimum Pricing) (Scotland) Act 2012 was referred to the Court of Justice of the European Union for a consideration as to whether it constituted an obstacle to the free movement of goods provisions (Art 34) by depriving producers and importers of the commercial advantage that could result from lower prices. The law was reviewed on the basis of whether it could be considered appropriate and proportional in relation to the objective of protecting human health through combatting alcohol abuse. The European Commission proposed that the alternative measure of increasing excise duty would be more appropriate and least restrictive to trade across the EU and this was in fact the decision finally reached by the Court in December 2015. It is now for the national court to determine the most effective measure bearing in mind the judgement of the Court of Justice of the European Union. In Wales, a challenge was brought to Regulations introduced by the Welsh Ministers to ban electronic pet collars.<sup>12</sup> These regulations were introduced under the Ministers' powers under the Animal Welfare Act, and were notified to the European Commission, as is required of product standards introduced by the Member States.<sup>13</sup> The legislation was nevertheless challenged by a manufacturer and their right to free movement across the EU for their products was one of the bases for their challenge.<sup>14</sup> The High Court found that whilst trade could be affected, the rules were necessary and proportionate to ensure animal welfare. Similar concerns about possible restrictions on trade may be raised to the ban on vaping on public health grounds, proposed during the last Welsh Assembly under the promotion of health powers that have been devolved to it.

## **WHERE WOULD POWER AND RESPONSIBILITY FOR INTERNAL TRADE IN GOODS RETURN TO IN THE EVENT OF BREXIT?**

Should the UK leave the EU, certain powers currently held by the EU in relation to the free movement of goods would return to the UK Government. This would be expected to be the case for the area of customs rules, for example. The Government of Wales Act rules out the adoption of laws by the Welsh Assembly on fiscal,

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<sup>12</sup> Animal Welfare (Electronic Collars) (Wales) Regulations 2010, SI 2010/943.

<sup>13</sup> Technical Standards Directive 98/34; see also now Directive 2015/1535.

<sup>14</sup> *R on the application of Petsafe Ltd, The Electronic Collar Manufacturers Association v The Welsh Ministers*, 2010 WL 4503327.

economic and monetary policy and the regulation of international trade'.<sup>15</sup> UK and Welsh regulatory competence<sup>16</sup> would no longer be subject to the wider single market requirements or be liable to challenge for falling foul of EU Treaty provisions – unless a form of trading relationship is sought which involves participation in the single market, as with the EEA/EFTA.

State aid and competition policy is not devolved to Welsh Government. In the case of a UK withdrawal from the EU, it would be at the discretion of the UK government to maintain the EU provisions and approach, or devise a new competition regime. Continued, or replacement international legal commitments may require the maintained operation of these regimes – WTO rules for example would limit the ability to provide state aid to UK firms. EU Public Procurement measures (which have recently been simplified) are implemented for England, Wales and Northern Ireland through the Public Contracts Regulations 2015.<sup>17</sup> In the event of a Brexit, the UK would no longer be required to maintain procurement rules, unless these are part of any continuing legal obligation, under EEA/EFTA membership for example. The UK may also decide to become a member in its own right of the WTO Government Procurement Agreement, which it is currently party to through the EU.

## **ISSUES FOR WALES IN RELATION TO REMAINING OR LEAVING THE EU**

A number of analyses recognise that the costs and regulatory requirements of EU rules would not disappear overnight should the UK withdraw from the EU. In the absence of single market membership or access, the UK could decide to repeal all relevant EU law and either leave these areas with lower regulatory requirements or else, more likely, replace legislation with a UK version. The result of Brexit would not be the absence of regulation in areas currently covered by EU Single Market regulations but rather regulation at a national level. Additionally, in order for UK goods to be accepted in EU Member States' markets, UK businesses would need to comply with EU standards and regulations whether or not the UK was part of the Single Market, and the UK would remain subject to international agreements and obligations under international law in the same way as all other EU Member States (e.g. for intellectual

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<sup>15</sup> GOWA, Schedule 7.4.

<sup>16</sup> The Welsh Assembly has a range of powers to pass laws on such matters as food and food packaging, agricultural products, animal health and welfare – see Schedule 7 GOWA.

<sup>17</sup> SI 2015/102. Policy Guidance operates at a Welsh level, see Welsh Procurement Policy Statement, <http://prp.gov.wales/docs/prp/toolkit/june15walesprocurementpolicystatement2015v1.pdf>

property). Additionally, possible participation in international level organisations, such as the WTO, may create obligations for the UK.

If the UK negotiated a future relationship with the EU that included access to the single market, the majority of single market legislation will remain in place, depending on the depth and breadth of the agreement with the EU e.g. sectors covered etc. In the case of Norway and Switzerland, the Four Freedoms and EU single market policies are transposed into national law in full – both are required to contribute financially to the EU in return for access to the single market, whilst neither enjoy any of the opt-outs that the UK has been able to negotiate as a full EU member. UK companies would still be required to comply with all relevant single market legislation: 93 out of the 100 costliest EU-derived regulations identified by OpenEurope would remain in place if the UK left the EU but remained within the EEA. In addition, global, rather than strictly EU, rules on trade, environmental, product, veterinary and marketing standards would still apply to sectors wishing to export.<sup>18</sup> The UK would, in these circumstances, have additionally lost its ability to fully participate in the processes of EU law making in these areas but would have to transpose and comply with it in order to have access to the EU market.<sup>19</sup>

In addition, it should be noted that non-EU countries that have a significant trading relationship with the EU i.e. the EEA and EFTA countries are required to be compliant with EU competition/state aid policy.<sup>20</sup> Under The European Commission's Regional Aid Guidelines, West Wales and the Valleys has 'Assisted Area' status, allowing government to offer additional financial support, typically to business, under European Commission state aid rules. If the state aid policy was to be repatriated to the UK level following a Brexit, it is unclear whether the UK government would categorise regions in a similar manner and hence enable greater levels of public assistance in 'less advantaged regions'.

## POLICY AND REGULATORY CONSIDERATIONS

Overall, according to the Balance of Competences Review, EU and UK action seemed to strike the right balance between facilitating trade and regulating it. A single, clear set of common rules and a lack of financial or quantitative barriers was seen to provide legal certainty whilst EU enforcement was considered more effective than wider WTO

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<sup>18</sup> <http://www.nfuonline.com/news/eu-referendum/qa-the-eu/>

<sup>19</sup> <http://openeurope.org.uk/intelligence/britain-and-the-eu/top-100-eu-rules-cost-britain-33-3bn/>

<sup>20</sup> <http://www.eftasurv.int/state-aid/state-aid-in-the-eea/>

mechanisms. Access to EU markets does bring a regulatory burden but “the obligations are not necessarily any greater than would have been imposed nationally”, nor dissimilar - businesses would face broadly the same regulatory requirements arising from 28 different national regimes as they do now without the benefits of dealing with a single regulatory framework. A level playing field for UK businesses and a single transparent set of rules outweighed the costs arising from administrative burdens, regulatory costs or policy trade-offs.<sup>21</sup> Whilst businesses who are not active abroad share the same costs of EU action as those that trade internationally, business is seen to have benefited from liberalisation within the Single Market and in fact this was seen as a success of UK influence on its development.<sup>22</sup>

However, it was argued that the EU could exercise its competence over the Single Market more efficiently and that more consistent implementation and enforcement of Single Market law and procedures by Member States is required. OpenEurope claim that the top 100 most burdensome EU-derived rules cost the UK economy £33.3bn a year in 2014 prices, although they note that many of these rules have other benefits resulting from the facilitation of trade across the single market.<sup>23</sup> The commitment achieved by the Prime Minister under the February 2016 Council decision, in relation to his demands over ‘scaling back unnecessary legislation’ and cutting ‘the total burden on business’<sup>24</sup> could help address concerns over regulatory burden in the EU and reflect UK leadership in progressing this area. The appointment of Frans Timmermans as Vice-President of the European Commission for Better Regulation<sup>25</sup> and the launch of the European Commission’s REFIT programme (Regulatory Fitness and Performance) clearly demonstrate a move towards lightening regulatory and administrative burdens.<sup>26</sup>

Interestingly, in its 2014 Global Competitiveness Report, the World Economic Forum ranked the UK 37th overall for the burden of government regulation out of 144 countries surveyed. This is the lowest ranking of any of the G7 countries, meaning that it is less burdensome for companies to comply with the UK’s public administration requirements than in any of the other G7 members. In the context of the EU, the UK

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<sup>21</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/288194/2901479\\_BoC\\_SingleMarket\\_acc5.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/288194/2901479_BoC_SingleMarket_acc5.pdf)

<sup>22</sup> <https://www.gov.uk/government/consultations/call-for-evidence-on-the-governments-review-of-the-balance-of-competences-between-the-united-kingdom-and-the-european-union>

<sup>23</sup> <http://openeurope.org.uk/intelligence/britain-and-the-eu/top-100-eu-rules-cost-britain-33-3bn/>

<sup>24</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/475679/Donald\\_Tusk\\_letter.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/475679/Donald_Tusk_letter.pdf)

<sup>25</sup> within the first 5 months of his appointment he proposed scrapping 80 out of 450 pending legislative proposals.

<sup>26</sup> <https://www.gov.uk/government/news/foreign-secretary-travels-to-brussels-for-eu-reform-talks>

comes 8<sup>th</sup> in the ranking of 'burden of government regulation' on business, behind Finland, Luxembourg, Estonia, Cyprus, Sweden, Ireland and the Netherlands.<sup>27</sup>

## ECONOMIC CONSIDERATIONS

The EU is the UK's most important trading partner, with UK exports and imports of goods/services with the EU in 2014 accounting for 44.6% and 53.2% respectively of the total. Exports from the UK to EU countries have grown on average by 3.6% each year between 1999 and 2014, and imports to the UK from the EU at the rate of 4.7% p.a. Whilst the trade balance with the EU, and the trade deficit, has been deteriorating due to the faster growth in the value of UK imports compared to exports, the 27 other countries that make up the EU mean it is a larger market than any individual country to which the UK might export.<sup>28</sup>

Both the Coalition government and the previous Labour government stated that over three million jobs were linked, directly or indirectly, to the export of goods and services to the EU.<sup>29</sup> Analysis by the Centre for Economics and Business Research (CEBR) identified, in 2011, 4.2 million jobs (13.3% of the UK workforce) associated with demand from exports to the EU - 3.1 million directly supported and 1.1 million jobs indirectly supported. Total income associated with demand from EU exports was £211 billion or £3,500 per head of the population.<sup>30</sup> The Confederation of British Industry (CBI) states that the direct net economic benefits of membership to the UK are between £62bn and £78bn every year.<sup>31</sup> According to the Centre for Economic Policy (CEP) British exports to the EU correspond to almost 15% of the country's GDP.<sup>32</sup>

Welsh companies exported more than £13.2bn worth of goods worldwide in 2014, of which more than £5.6bn or 42.8% went to the EU. The Welsh Government claims that 150,000 jobs in Wales depend on access to the Single Market and the distinct benefits this provides in facilitating trade and investment.<sup>33</sup> CEBR analysis puts this figure at closer to 190,000 jobs in 2011 and 14% of the Welsh workforce.<sup>34</sup> It should be noted

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<sup>27</sup> <http://reports.weforum.org/global-competitiveness-report-2014-2015/rankings/>

<sup>28</sup> <http://www.publications.parliament.uk/pa/cm201314/cmselect/cmfaff/87/8709.htm>

<sup>29</sup> House of Commons Briefing Paper UK-EU economic relations, available at: <http://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN06091>

<sup>30</sup> <http://www.cebr.com/reports/british-jobs-and-the-single-market/>

<sup>31</sup> <http://www.cbi.org.uk/campaigns/our-global-future/factsheets/factsheet-2-benefits-of-eu-membership-outweigh-costs/>

<sup>32</sup> <http://money.cnn.com/2016/02/02/news/economy/uk-eu-membership-new-deal/?iid=EL>

<sup>33</sup> <http://gov.wales/newsroom/international/2014/140313euspeech/?lang=en>. Whilst this figure has been criticised in some quarters as being over-exaggerated, no alternative figures have been proposed by critics.

<sup>34</sup> The data is however caveated due to the nature of its extrapolation.

that these jobs would not necessarily disappear should the UK withdraw from the EU – the jobs are linked to trade with the EU not dependent upon the EU and some form of trading relation is likely to replace the current one.

The impact of a Brexit and UK withdrawal from the single market is difficult to determine. It is estimated that if the UK left the EU, “its GDP could be hit by a permanent loss of up to 2.2% in a worst case scenario or, depending on certain choices, a permanent boost of up to 1.6%. Within this the most likely range is between -0.8% and +0.6% GDP impact”.<sup>35</sup> The CER argues that the regional impact of Brexit will be asymmetrical – that the effects will be greatest in regions that have larger manufacturing bases and heavier reliance on exports to the EU.<sup>36</sup> Areas with significant investment from non-EU manufacturing industry could face greater pain should the firms chose to relocate to EU locations. In Wales, Airbus and Siemens support the UK remaining in the EU arguing that the economic uncertainty would impact on long-term investment decisions.<sup>37</sup> A changed relationship with the EU could result in structural changes to the economy and a change in the nature/type of jobs available<sup>38</sup>. A significant reorientation of the Welsh economy and of Welsh economic policy could be foreseen.

A withdrawal from the Single Market would mean that UK exporters to the EU would be required to pay the EU’s common external tariff and, in the absence of any new relationship being established, the UK would be constrained to acting within the boundaries of WTO rules and its most favoured nation treatment. This is not generally considered a particularly beneficial arrangement for the UK<sup>39</sup>: in the case of food, exporters would be required to pay an average tariff of 15% on exports to the EU, whilst cars (the UK’s largest goods export) would be subject to a tariff of 10%<sup>40</sup>. Business for New Europe (BNE) suggested that if the UK was not a party to the free movement of goods within the Single Market, over £40bn of UK exports to other EU Member States could be liable to import duties of between 4.5% and 10%.

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<sup>35</sup><http://openeurope.org.uk/intelligence/britain-and-the-eu/what-if-there-were-a-brexit/>

<sup>36</sup>

[https://www.cer.org.uk/sites/default/files/publications/attachments/pdf/2015/pw\\_disunited\\_js\\_april15-11076.pdf](https://www.cer.org.uk/sites/default/files/publications/attachments/pdf/2015/pw_disunited_js_april15-11076.pdf)

<sup>37</sup> <http://www.bbc.co.uk/news/uk-politics-eu-referendum-36426165>

<sup>38</sup> Ryan Bourne (2015) *The EU jobs myth*, available at: <http://www.iea.org.uk/publications/research/the-eu-jobs-myth-0>

<sup>39</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/279629/bis-13-865-balance-of-competences-review-trade-and-investment.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/279629/bis-13-865-balance-of-competences-review-trade-and-investment.pdf);  
<http://thebrexitblog.ideasoneurope.eu/2015/12/13/eu-responds-british-withdrawal-will-determined-five-key-factors/>

<sup>40</sup>[https://www.cer.org.uk/sites/default/files/publications/attachments/pdf/2014/pb\\_britishtrade\\_16jan14-8285.pdf](https://www.cer.org.uk/sites/default/files/publications/attachments/pdf/2014/pb_britishtrade_16jan14-8285.pdf)

Others argue that membership of the Single Market removes the ability of the UK to set its own external tariff and prevents the UK from adopting a genuinely free trade attitude, without tariff or quota and having a wider set of global trading partners. EU consumer prices are inflated through the customs tariff applied to imports from non-EU countries.