

Title:	Balance of Competencies Internal Market Synopsis	Date:	05/03/2012
To:	Rosie Kenny Balance of Competencies Review Team Department for Business, Innovation and Skills	Contact:	Gail.Soutar@nfu.org.uk
		Tel:	02476858542

The Government's review of the balance of competencies between the United Kingdom and the European Union: call for evidence on internal market synoptic review

1. ***What are the essential elements of an Internal Market and against what criteria should we judge its economic benefits? How deep does it need to be to be effective?***

The NFU believes that the essential elements of an internal market are encompassed in the following principles: 1) fairness 2) transparency 3) effectiveness and relevance and 4) coherence.

- 1) Fairness – We believe that the foundation of the internal market must consist of a set of harmonised rules aimed ultimately at creating a level playing field and prevent market distortions. In short, if UK farmers are required to face regulatory conditions to access the common market then our competitors should be required to take commensurate actions.
- 2) Transparency – There must be a minimum level of standard to operate on the common market. For agricultural products these should consist of minimum food safety and plant and animal health regulations (SPS) rules, processing methods, product labelling and marketing standards. EU marketing standards inform the producers about the expected product quality; they also enable buyers to agree prices on paper or electronically without having to inspect every lot of the goods in question. Without common standards, trading in commodities would become more complex and costly.
- 3) Effectiveness and relevance – We believe that rules to operate on the common market must be effective in terms of their stated objectives. We support science based rules which have periodic review and sunset clauses.
- 4) Coherence - It is essential that the rules agreed across the market are coherent with each other as well as the objectives of the European Treaties. When considering the impact of action, legislators should consider coherence and the cumulative impact of legislation.

2. ***To what extent is EU action in other areas – for example, environment, social, employment – necessary for the operation of the Internal Market, as opposed to desirable in its own right?***

We believe that EU action in “other areas” are less central to the functioning of the common market in agricultural products. However there is certainly a role for these actions to be decided at a European level. They should underpin and facilitate the operation of the single market, and in effect, ensure that UK farmers operate on a level playing field.

We believe that agricultural production should be sustainable and therefore support science based rules relating to the environment and animal welfare. In short we believe that if farmers, are to face rules that introduce cost, bureaucracy and limitations, for example in the areas of environmental conditions, animal welfare standards, restriction in the use of labour and technical controls on the use of machinery or input products, then it is correct that all EU farmers face commensurate rules. Unfortunately we make this judgement largely from our experience that successive UK Governments have introduced or threatened costly legislation which has placed our farmers at a

competitive disadvantage. We see similar gold-plating tendencies from the UK authorities when Member States are given flexibility to implement EU legislation. Some examples of this are included in response to question 8.

3. How have the EU's mechanisms for delivering an Internal Market worked? In particular, what do you believe is the right balance between harmonisation and mutual recognition? What evidence is there that harmonisation has worked well or badly? What are your views on the scope and effect of the EU's powers under Articles 114 and the use of Article 115 for non-tax measures?

With regards to the placing of agricultural products onto the market, EC Regulation 1234/2007 "the Common Market Organisation in certain agricultural products" establishes much of the relevant rules. The "single CMO" as it is known, includes rules on marketing standards which relate, in particular, to quality, grading, weight, sizing, packaging, wrapping, storage, transport, presentation, origin and labelling of agricultural products. In the main, these rules are harmonised, meaning that member states have to follow one single rule.

The NFU believes that the CMO regulation has been an effective way of ensuring a fair and transparent functioning of the EU Internal Market for agricultural products. Further EU legislation relating to sanitary and phytosanitary (SPS) rules for example, banning the use of hormones in livestock, rules on the control of salmonella and other specified food-borne zoonotic agents and the marketing of plant protection products have further added to the integrity of the common market.

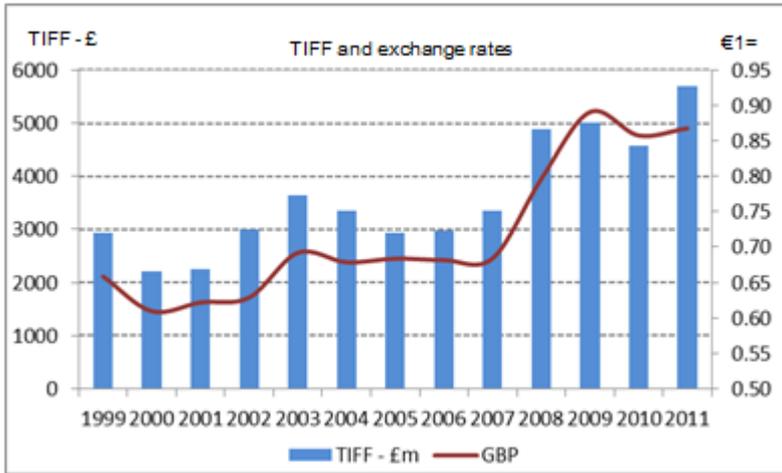
4. Why is the Internal Market so much deeper in some areas than others? How effective has implementation of the Internal Market been, and what do you feel has helped or hindered implementation of Internal Market rules?

The Agriculture sector has always held an important position in the founding principles and development of the EU. The creation of the common market in agricultural goods, and the accompanying Common Agricultural Policy was written into the founding Treaty of Rome.

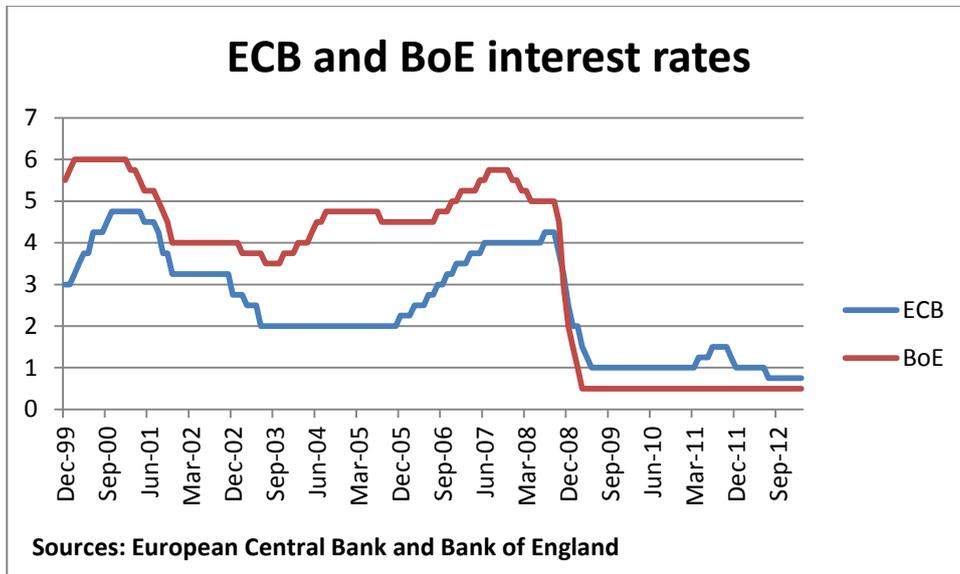
The EU food market is heavily regulated to ensure a safe and reliable supply of food for consumers at reasonable costs. Without the CAP and the internal market rules, individual countries may be more inclined to put in place protectionist measures which may result in food prices increasing for consumers and disruption of supplies.

5. To what extent do you feel that the Internal Market has been positively or adversely affected by other forms of integration of which the UK is not part, for example the Eurozone or the Schengen Area?

Farmers are acutely aware of the importance of currency movement on their businesses. Agriculture is a heavily traded sector and EU payments are established in Euros therefore currency exchange rates between member states has a big impact on farm incomes. Chart 1 shows the close correlation between the value of sterling against the euro and "total income from farming." Having a system where currency fluctuations impact on the value of payments introduces a risk into the CAP direct payments structure. In essence, a key tool to help farmers manage risk is subject to exchange rate risks itself.



Since the introduction of the euro, interest rates have in the main remained at higher levels in the UK. We make this observation without passing judgement on whether the UK farming industry would be better in or outside of the Eurozone.



6. Has the Internal Market been helped or hindered by UK involvement in other groupings, such as the G20, the G8, the OECD, or the Commonwealth?

The involvement in a range of international groupings is undoubtedly a positive for the UK in an international policy context. In regard to the development and operation of the internal market, it is not apparent how membership is either a help or a hindrance.

7. To what extent has the Internal Market brought additional costs and/or benefits when trading with countries outside of the EU?

The EU's high agricultural products and food requirements has largely meant that the EU has had access to third countries markets. These standards facilitate EU exports, by contributing to the reputation of EU produce and thus conferring on them a competitive advantage, or by avoiding import bans for reason of non-compliance with the requirements (SPS measures in particular). Some standards, notably environmental and animal welfare standards, are more difficult to valorise outside of

the EU, but we believe are of critical importance in terms of differentiating EU produce in a trading environment where there is increased globalisation of agricultural goods.

8. To what extent has the UK kept requirements over and above the EU minimum, and what effect has that had on the UK's place in the Internal Market? Have other Member States done so, and if so with what consequences?

The NFU has responded to a number of Government and independent inquiries into “red-tape.” The full NFU submissions are available on request. We believe that there are many examples of where UK Government requirements place UK farmers at a competitive disadvantage. Several examples are summarised below:

Tether and Sow Stall Ban

In 1999, the UK Government introduced legislation that banned tethers and close-confinement stalls for breeding sows to improve pig welfare. The UK bans were introduced ahead of EU wide bans on tethers in 2006 and sow stalls in 2013, set by Council Directives 91/630/EEC and 2001/88/EC and Commission Directive 2001/93/EC. The UK went from being around 70% self-sufficient in pig meat down to 40%, losing just under half of the UK breeding sow herd.

In 2008, an EFRA committee inquiry found that “there can be no doubt that the early introduction of a ban on stalls and tethers ahead of most of the EU, and without assistance from the Government, placed a heavy financial burden on the industry. Many farmers are still recovering from the capital cost of the outlay necessary to comply with the welfare standards. It appears that the analysis of the cost on businesses likely to be imposed by the animal welfare measures introduced in 1999 significantly underestimated the capital costs to the pig industry. The Government must accept that its decision to introduce welfare legislation many years ahead of most of the EU was a significant factor in driving many farms out of business. The decision has placed English producers at a serious disadvantage to their EU counterparts, as our predecessor the Agriculture Committee predicted in 1999.”

Cross Compliance

The Good Agricultural and Environmental conditions within Cross Compliance is another example of where over implementation has occurred. According to independent surveys Defra has implemented 24 required standards to fulfil the common EU requirement to prescribe GAEC – the highest number when compared to other member states. An example of over-implementation relates to the existence of 2m margins next to hedgerows.

The Welfare of Meat Chickens.

This Directive gave member states the option to allow producers to stock up to 42kg/m² providing certain high welfare standards can be demonstrated over a sustained period. Defra chose to gold plate the directive and allow English producers only to stock up to 39kg/m² meaning that European counterparts, for instance those in the Irish Republic and even within the UK in Northern Ireland will have the potential to get an additional 8% productivity from their farm capital investment.

The Environmental Liability Directive

This Directive allows member states to decide whether to extend the scope of the definition of damage to biodiversity to nationally protected habitats and species (as well as those protected under EU designations). 14 MS, including the UK, extended the scope of their national legislation.

9. What future challenges/opportunities might we face in the Internal Market and what impact might these have on the national interest? What impact would any future enlargement of the EU have on the Internal Market?

The internal market and its rules are firmly established. This facilitates free trade negotiations with potential partners, offering opportunity to UK based producers in third country export markets. With regard to future expansion of the EU, the established internal market rules give clarity to any new

members to help transition, whilst also facilitating trade of existing EU members with any new member states.

10. Are there any general points you wish to make which are not captured above?

The National Farmers Union welcomes this opportunity to comment on the balance of competencies review. The NFU represents more than 55,000 farming and growing members and in addition some 40,000 countryside members with an interest in the countryside and rural affairs. Regulation is a key issue for farm businesses who regularly report (see NFU Confidence Survey <http://www.nfonline.com/Our-work/Economics-and-International/News/Weather-and-costs-cast-cloud-on-confidence/>) that administrative burdens and bureaucracy are stifling their ability to become more productive and competitive. Much of the regulation that impacts on farmers' and growers' businesses stems from policy and legislation set in Brussels, so this review is an important opportunity to re-establish clear boundaries between domestic and EU competency.

The Government's review should recognise that farmers and growers operate in a single market with the principles of equal access at its heart. This is especially important for primary food producers as the European single market in food is the bedrock of the European Union. There is a persuasive logic to establishing common rules that remove barriers to the free movement of goods and services within this single market and facilitate fair competition. However these common rules should apply the principles of better regulation.

The NFU objective is to ensure that the right framework is in place to allow our members' businesses to grow and remain competitive; thereby ensuring that UK farmers can continue to make a meaningful contribution towards addressing the global challenges that society face.

For this to happen, we firstly believe that the operating conditions under which our members operates must be fair. Whilst we operate on the EU common market, we seek a common, level playing field where UK farmers are able to compete on an equal footing with our European competitors, respond to market signals and increase farm competitiveness in a sustainable way. As a result of successive reforms of the CAP, the EU's internal market in agricultural products is increasingly aligned with the global market. We support this direction of travel and ultimately we seek actions and outcomes that ensure UK farmers are able to compete on global markets.

The following principles of commonality, simplification, market orientation and enhanced competitiveness guides NFU policy. To this end we firmly support

- Commonality /fairness
 - Equitable rules applied in a way which allows the market to operate on a fair and transparent basis.
 - Timely enforcement of EU legislation with meaningful infraction powers, including exclusion from operating on the EU common market, for those who fail to take the necessary agreed actions.
 - On-going assessment of the functioning of the common market to ensure that distortions in competition are not able to prevail as a result of differences in member state enforcement of agreed EU law
- Simplification / effectiveness and relevance
 - Science based rules that provide minimum levels of entry onto the market and are implemented in a way across the EU to prevent competitive disadvantage to any operators on the common market.
 - Periodic review of EU rules to ensure that legislation is kept abreast of scientific change and changes in market behaviour.
- Market orientations

- Our preference is for the continued harmonisation of powers relating to the production and sale of agricultural products, including food safety requirements, marketing standards and labelling requirements.
- Accompany these, we support the continuation of market driven, voluntary approaches that go beyond minimum levels, allowing competitive gain for those willing to guarantee higher minimum standards
- Increased competitiveness
 - We believe that environmental, animal welfare and social rules, where deemed necessary for the functioning of the common market, should be agreed at a European level with the flexibility to adapt to local conditions.
 - What is critically important to us is that there are safeguards to ensure that these rules are implemented in an equitable way by all participants on the common market to ensure no distortions in competition can prevail.