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# **Britain's Future in Europe**

## **Reform, renegotiation, repatriation or secession?**

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Since any basic repatriation of this competence to member states is out of the question, the alternatives have to involve the hypothesis of secession by the UK. The report does therefore thoroughly review the landscape of alternatives, but on inspection they all reveal serious disadvantages or risks attached to them. Finally, the Review considers that the EU, with the UK outside it, would be more protectionist, and more willing to use trade defence instruments, including against the UK.

“The evidence received for stakeholders generally suggests that the balance of competences in this area allows the UK to achieve results that are in the national interest” (p.6).

*The evidence at a glance - foreign trade and investment*

*Core exclusive competence of EU in trade policy not contested*

*No advantages in changing current balance of competence*

*No good options for trade policy regimes in the event of secession*

## 2. Sectoral policies

### 2.1 *Transport\**

Transport is a competence shared between the EU and its member states, which means that both may adopt legally binding acts in this policy area but the latter only insofar as the former has not exercised its competences or has explicitly ceased to do so. Seen through this prism, the Department for Transport, which drew up this particular Review, rightly uses a broad definition of EU competence in the transport context, namely that it is about everything deriving from EU law that affects what happens to transport in the UK. As such, this Review links in with issues that are covered in others, for example those on the standardisation of goods, customs security procedures, environmental standards, employment issues, etc.

In the transport field the Council acts by qualified majority voting, meaning that the UK, like any other single member state,

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\* Section contributed by Steven Blockmans.

does not have the power of veto. The evidence collected suggests that, generally speaking, this is not problematic. British domestic transport policy and experience is seen as one of the models for EU proposals on transport market reforms and liberalisation: “[t]he UK has been a leading advocate for the development of the single market in transport across all modes, and in the 1980s and 1990s led efforts to break down national barriers within the EU to the provision of transport services across borders and within other countries, to the benefit of UK businesses and consumers” (p.13).

While respondents perceive the balance of competence to heavily favour the EU in legislation, they are generally happy with the current legislative framework and do not advocate adjustment of that balance. It was acknowledged that EU-level legislation can achieve (and has achieved) much more than UK legislation can do on its own.

EU transport policies concern all modes: road, rail, air, water, maritime, ports. The Review draws attention to some striking achievements, notably in the civil aviation sector. The UK’s largest low-cost carrier declared: “EasyJet is a product of the EU’s deregulation of the European aviation market. Without deregulation we would not exist” (p.24). A graph shows how the average fare paid by UK-resident passengers on intra-EU flights had fallen by half over the last 15 years, whereas trans-Atlantic fares had barely fallen (p.25).

The British opt-out from the Schengen area is identified as posing a challenge: “The prospect of new rail services from points of departure across the EU has created a significant challenge for both UK and Schengen border control authorities in identifying border control solutions for rail which support the rapid transit of high speed intercity services” (p.19).

While the balance of competences in transport is generally strongly supported, so too are the principles of subsidiarity and proportionality. There is broad support for the leading role of the EU in international agreements as it provides consistency, standardisation and a level playing field for markets in all 28 EU member states and relevant third countries, which in turn provides greater legal certainty. The EU is perceived as being able to amplify the voices of the component member states (e.g. in international organisations) and extract greater commitments to liberalisation of

global markets and fair competition from third countries like China or the US.

The UK government was, however, keen to reiterate its stance that any EU statement in international organisations on issues where competence is shared between the EU and the member states must make clear that it is delivered on behalf of the member states and the EU. To avoid 'representation creep', the UK also takes a more restrictive view than the Commission of the extent to which EU Delegations may deliver EU statements in line with Article 17 TEU (see below, on Foreign Policy).

There is also frustration among stakeholders about EU initiatives to legislate in areas where regulation at the global level would be preferable to creating regional systems that lead to losses of global competitiveness for European industries (e.g. maritime port services and the Emissions Trading System in aviation); but also awareness that global agreements may be unachievable.

When it comes to non-intra-European issues and greater scope for national handling of purely domestic issues, some stakeholders (e.g. in the tourism sector) urge the EU to legislate with a lighter touch, or not at all. The greater body of evidence from across all transport modes shows frustration where the creation of a single market has been held back by ineffective implementation. EU mechanisms used to implement change were often felt to create additional costs and regulatory burdens, or lack enforcement by the European Commission across the 28 member states.

While British industry recognises the value of common assessment procedures, operating standards and technical product standards in helping to reduce red tape and costs in manufacturing, in spurring innovation, facilitating interoperability and increasing the potential for exports through opening markets in other member states, and that these benefits would not exist across the EU without EU action, there was also concern at the perceived use of common standards in other fields, such as safety, environment or social policy, to claw back market freedoms and allow the potential imposition of national barriers, possibly in a protectionist way. Many of the responses to the call for evidence were centred on social standards in road transport.

As concerns the issue of better regulation, a general message from stakeholders is that the European Commission should

recognise the maturity of the EU as an organisation, focusing less on making proposals for new legislation and concentrating more on enforcement of existing legislation. The Review also states that nearly all stakeholders feel that before making proposals for legislation, the Commission should undertake more openly evidenced impact assessments that set out clearly the potential costs and benefits.

**Assessment.** The UK has generally been a leading advocate for the development of a single market in transport services, which is at the core of the EU's common transport policy. This Review suggests that the current balance of EU competences in the field of transport is broadly right. Evidence from experts shows that there is broad support for the EU common transport policy to continue yielding those benefits for Britain. There is no consensus that individual areas of EU transport law should fall outside the competence of the EU in the future. However, there is a general view among stakeholders that the way to achieve further liberalisation is, in many cases, through more effective implementation and enforcement of existing legislation rather than through continually seeking new legislation. There is evidence of frustration with some of the social, safety and environmental rules, especially where these impinge on purely domestic transport without any international dimension. The concerns expressed about new regulatory burdens and costs mean that there is still much work to be done to find the right level of legislative prescription that achieves the stated aims without imposing disproportionate costs or prohibiting innovation.

*The evidence at a glance – transport*

*UK driver of single market in transport, influential policy model*

*Striking deregulation results, e.g. UK passenger air fares in EU cut by half*

*EU competence broadly right, strongly supported by stakeholders*

*EU policy in transport judged 'mature'*

*Need for enforcement of present laws, more than for new ones*