

## Joint Report on the European Free Trade Area (September 1957)


**Caption:** In September 1957, the Association of British Chambers of Commerce, the Federation of British Industries and the National Union of Manufacturers publish a Joint Report in which they set out their views on the establishment of a European Free Trade Area.

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# A joint Report on the European Free Trade Area by the Association of British Chambers of Commerce, the Federation of British Industries and the National Union of Manufacturers (September 1957)

## Introduction

1. OUR THREE ORGANIZATIONS have followed with close interest the proposals to form a European Free Trade Area for industrial goods, and we have kept in continuing touch with H M Government as these proposals have been developed.

2. In February 1957 H M Government published as a White Paper (Cmnd. 72) their memorandum to the O E E C setting out their policy on this subject; and on 25th March, 1957, the Six (Belgium, France, Germany, Holland, Italy and Luxemburg) signed the Treaty of Rome for the establishment of the European Economic Community (E E C), frequently referred to as their "common market", with which under H M Government's proposals the UK and other countries of Europe might be associated in a European Free Trade Area (E F T A) for industrial goods. H M Government are now about to resume negotiations in the O E E C about this project.

3. We therefore think it timely to present to H M Government the report that follows. The report is based upon studies made during the summer by a joint Working Party of our three organizations under the chairmanship of Sir William Palmer, K B E, C B; and it has been approved by our three governing bodies.

4. The report seeks to outline the shape which we think an E F T A Convention requires to take if it is to be acceptable to any but minority opinion in British industry and commerce. We recognize that the Convention is a matter still to be negotiated and that many points require further study and elucidation before definite opinions can be formed about them. We therefore first refer (in paragraphs 8 to 15) to certain basic requirements underlying all our thinking on this matter and discuss the kind of conditions which we think appropriate to an E F T A as so far conceived. Within the framework of this analysis we next discuss (paragraph 16 onwards) a number of matters which we think require to be covered in an E F T A Convention ; some which we think it would not be appropriate to deal with in this way; and some on which we have not yet arrived at definite opinions. Apart from the question of what matters should be covered in an E F T A Convention, we suggest in addition that in some of them H M Government should take action or pursue particular policies, either in negotiation with other countries or unilaterally.

5. We wish to draw attention to one important gap in our report. Our work has so far been concentrated on factors affecting the movement of goods as well as of persons (other than wage-earners) and of services. We have not, however, studied the problems of capital movements and of the monetary and payments arrangements needed to support the movements of goods, persons, services and capital, nor to what extent existing arrangements (under the International Monetary Fund and the European Payments Union) might require to be modified or supplemented in the new conditions that would be created if an E F T A was set up. We draw attention to these questions as ones requiring further study.

6. We wish to emphasize that neither in our organizations nor, we believe, in industry and commerce generally, is a generally accepted consensus of opinion to be found about the merits of the E F T A proposals as a whole. Such a consensus is not to be expected, for two reasons. First, the exercise of attempting to assess a project which is as yet ill-defined, and which will be put into effect, if at all, over a transitional period of some fifteen years, cannot fail to be of a highly hypothetical nature. Second, the project if adopted will undoubtedly have very different effects for different industries and trades, for different firms within the same trade, and even for different branches of the same firm. We have therefore not attempted to present an assessment of the project as a whole; and our report must be read in this light.

7. On one point we are unanimous. Whatever views are held as to where the balance of advantage for the U K may lie, it remains a balance compounded of relative advantages and disadvantages. There is no question of the U K being forced by the existence of the E E C to seek association with it at any price. The final judgment can only be taken when it is known, as a result of the forthcoming negotiations, just what manner

of association is envisaged and just what form an E F T A that the U K might join would take. Meanwhile all the views expressed necessarily remain provisional.

September 1957

### **The Convention establishing a European Free Trade Area**

8. In the autumn of 1956, when H M Government's intention to enter into negotiations for a European Free Trade Area in industrial goods was first mooted, the opinion was generally expressed, not least by those who favoured the idea, that certain basic safeguards would be necessary if it were to be realized. Since that time H M Government have outlined their own proposals in the White Paper published in February 1957 and there has also been published the text of the Treaty of Rome establishing the European Economic Community, in association with which it is proposed to build the wider free trade area. On the basis of these two documents it is possible to assess, as was not the case last autumn, the nature of the problem which is involved in providing for the safeguards without which a free trade area would be unacceptable to industry and commerce in the U K.

9. We attach the utmost importance to certain basic requirements underlying all our thinking on this matter. First, the proposed free trade area in Europe, if the U K is to enter it, should not be incompatible with the maintenance of the existing structure of Imperial Preference and the Convention establishing the E F T A should be so shaped that Imperial Preference is not jeopardized. Second, we support H M Government's declared policy not to surrender this country's right to maintain its own tariff policy *vis-à-vis* the outside world and not to join in a common external tariff with the E E C. Third, we also support H M Government's declared policy that food, feedingstuffs, drink and tobacco (i.e., according to the White Paper, "broadly the items enumerated in Chapters 1 to 24 of the Brussels Nomenclature") should not be included in the E F T A arrangements.

10. The core of the E F T A proposals is of course that tariffs and import restrictions as between the members should be progressively reduced and by the end of a transitional period of some fifteen years be abolished.

11. When the other safeguards generally demanded, apart from the basic requirements referred to above, are examined they are found to be clearly of two different kinds. In the first category come those necessary to ensure that other forms of Government intervention in operations of commerce do not frustrate the greater freedom of trade which the reductions of tariffs and import restrictions are designed to bring about. These forms of intervention include, for example, export subsidies and artificial aids to exports, export controls and discrimination in freight rates. All of these come under the general heading of rules of competition designed to ensure fair trading conditions. They should be provided for in an E F T A Convention on a basis of reciprocity, and international procedures should be set up to see that the rules are observed by the parties to the Convention.

12. Similarly, it may after further study (see paragraphs 58 and 59 below) prove to be desirable to ensure in an E F T A Convention that in the field of invisible as well as of visible trade there should, as between the members of the E F T A, be no discrimination by Governments on the ground of nationality.

13. There is, however, another category of safeguards which have been asked for which, even if they were considered to be amenable to treatment by legislation and treaty, could not be guaranteed without going a great deal further in the direction of a fusion of the economies of the countries concerned than is implied in the E F T A concept. These relate to those differences in costs in various countries which are the outcome of such factors as taxation, conditions of employment and social welfare charges. The Six have met this problem not merely by a customs union but by a Treaty which intends a thoroughgoing economic union whereby conditions will be deliberately brought about in which many of these factors will in time be harmonized. When this is achieved a manufacturer in the E E C may or may not as a result enjoy some competitive advantage compared with a U K manufacturer. There will, however, be no guarantee to U K manufacturers to safeguard them against this possibility. In the case of all these safeguards which propose an

equality of manufacturing conditions, as distinct from fair conditions of trading, such an equality could only be bought at the price the Six have shown themselves willing to pay, that is by adherence to far-reaching measures of economic integration, and probably also to supra-national institutions, such as are contained in the Treaty of Rome. That price must we think be regarded as higher than H M Government or the country at large would wish to pay, and we have no reason to think that industrial opinion would take a different view.

14. We are left, therefore, in this field with no institutional or "built-in" guarantees as to the future, and solely with the willingness and ability of H M Government to ensure that, in matters such as taxation, restrictive practices and so on, policies are not pursued in the U K which would put this country at a disadvantage with our competitors in the E F T A. That is not to say that on matters of common interest to the countries of Europe other than those covered by an E F T A Convention discussion should not proceed through existing international organisations. Indeed we think that in the new circumstances there would be an added need for H M Government to engage in such discussions, as for instance in the field of transport.

15. It is in the framework of this analysis of the whole question of safeguards that the ensuing discussion of particular points is conducted. We recognize that if this analysis is correct it places limits to the number and extent of the safeguards that can be sought consistently with the concept of a European Free Trade Area as opposed to a fully integrated European Economic Community; and that this fact may have an important bearing on the views that may be taken as to the desirability or otherwise of the whole project.

### **Matters to be covered by E F T A Convention**

#### **Tariffs and import restrictions**

16. The rules for the progressive reduction and eventual abolition of tariffs as between the members of the E F T A should be such that the timing of the dismantling operation in the E E C and the E F T A broadly coincide.

17. H M Government should seek clarification of the intentions of the Six, which for the last stage of the transitional period in particular are only sketched in the Treaty of Rome, and should work for greater precision in the plans, so that firms may have as long and as clear notice as possible of the changes that will affect them.

18. The protective element in other duties and taxes levied on imports (and exports) should be reduced and abolished *pari passu*.

19. The rules for the progressive reduction and eventual abolition of import restrictions and quotas as between the members of the E F T A should also be such that the timing of the dismantling operation in the E E C and the E F T A broadly coincide. The Treaty of Rome does not lay down a specific time-table for this operation, which it provides should be completed by the end of the transitional stage. We think it is a question whether it should not in fact proceed faster than the reduction of tariffs.

#### **Definition of origin**

20. Rules will have to be agreed defining the origin of goods qualifying for E F T A treatment. It is however a most difficult and controversial matter to settle the basis of such rules. Many industries have already acquainted H M Government with their views, and these have disclosed that, owing largely to the varying structures of different industries, rules that would be welcomed by a considerable number would be regarded by others as quite unfair. It is therefore not possible for any recommendation to be made on behalf of industry as a whole.

21. In general it would seem desirable to adopt the alternative tests of the percentage content or process, but where process by itself provides a fair basis an endeavour should be made to reach agreement on a list where

this test only should apply.

22. Whatever views as to these particular methods are expressed by different industries are dependent on a list of raw materials being conventionally accepted for E F T A treatment whatever their actual origin. All are agreed on the necessity for this list.

#### Government intervention

23. There should be a general statement or provision against artificial barriers or inducements by Governments affecting trade in goods between members of the E F T A. With this should be coupled a complaints and appeals procedure. We think that the experience of the O E E C shows that the pressure exercised by members against one of their number who offends is not without force, and this procedure should be so devised as to enable that force to be mobilized as effectively as possible. The procedure should be available in cases of breach not only of this general provision, but also of all the other rules. We recommend in paragraph 63 below that this procedure should be established within the O E E C.

24. Apart from the matters which we think should be covered by specific rules as suggested below, the general rule could be invoked against such devices as specification and registration requirements (e.g., for pharmaceutical products), safety regulations and so on, in so far as their operation has a protective effect. It would also provide the remedy against any other unfair practices by Governments not covered by specific rules.

#### Export subsidies and incentives

25. There should be rules forbidding all forms of Government export subsidies and incentives and all forms of Government aids which discriminate in favour of exports compared with goods sold or services rendered at home.

26. These rules should be developed from the existing O E E C (and G A T T) rules on the subject, which may well require to be strengthened. The aids to exporters which all members of O E E C were called upon to discontinue by the O E E C resolution of 1955 are :

- (a) currency retention schemes or any similar practices which involve a bonus on exports or re-exports ;
- (b) the provision by Governments of direct subsidies to exporters ;
- (c) the remission, calculated in relation to exports, of direct taxes or social welfare charges on industrial or commercial enterprises ;
- (d) the remission or repayment, for exported goods, of indirect taxes (whether levied at one or several stages) or of charges in connection with import, to an amount more than that paid on the same product if sold on the home market;
- (e) the charging of insurance premiums for Government export credit guarantees otherwise than in accordance with sound insurance principles (i.e., lower than is appropriate to the costs and extent of the risks covered) ;
- (f) the charging of prices below world prices when Governments or Government agencies deliver imported raw materials for export business on different terms than for domestic business. These, and any other devices of like effect should be forbidden.

#### Discrimination in transport

27. There should be a rule forbidding the use by Governments of transport as an instrument of discrimination, for example, by the enforcement of specially low or preferential transport charges for exports or as subsidies to particular producers. Similarly, frontier transit tariffs should not be used as a form of tax or tariff.

28. A study of transport policy in the E F T A is given in Appendix 1. The rule we are here suggesting should be so framed as to cover those of the recommendations in the Appendix that have to do with preventing unfair transport discrimination based on nationality. Those, on the other hand, that have to do with the objective of harmonizing European transport regulations it may well be wiser, for the reasons we give in paragraphs 46 and 47 below, to pursue separately.

#### Government export restrictions

29. We agree that there should be a rule against Government export restrictions both in general because they constitute an artificial barrier to trade of the kind which it is the purpose of the E F T A to do away with, and in particular in order to secure equal access to raw and semi-finished materials.

30. Owing to the particular circumstances of the U K, this rule would have serious and far-reaching effects for a large sector of British industry, which we think have not so far been adequately recognized. It is therefore urged on behalf of that sector of British industry that considers it will be adversely affected that in its case this rule should be brought into operation gradually and over a period longer than the 4 to 6 years envisaged in the Treaty of Rome, in order to give that sector of British industry which for historical reasons will be faced with special difficulties a reasonable time to adapt itself to the new circumstances which we expect the operation of the rule to bring about.

#### Dumping

31. While we are very conscious of the difficulties of interpretation and application which surround attempts to prevent dumping, we think that it is for consideration whether some general statement should not be included in the E F T A Convention to the effect that dumping is in principle inconsistent with the objectives of the E F T A.

32. Arising from this, members should retain the right to exercise their own powers to levy anti-dumping and countervailing duties. (As far as the U K is concerned, while it remains to be seen how effective the Customs Duties (Dumping and Subsidies) Act 1957 will prove, prevailing industrial opinion is that it will be necessary to strengthen it.)

33. In so far as dumping is in any case assisted or promoted by Government action, that would be an infringement of the rules we suggest against Government export subsidies and incentives (see paragraphs 25 and 26 above).

34. In addition we are concerned at the danger of imports from certain countries outside the E F T A, sometimes at prices governed by political rather than commercial considerations, which might seriously disrupt U K export markets in Europe unless effective counter-action was taken by the importing country. We think that in such cases, and failing such counter-action by the importing country, other members of the E F T A affected should have the right to raise the matter, perhaps under the complaints and appeals procedure we have suggested in paragraph 23 above.

#### Escape Clauses

35. In general we support the approach of H M Government to escape clauses, as expressed in their February White Paper (paragraph 20) as follows —

"... the invocation of escape clauses involves so serious a breach of the obligations undertaken by members in joining a Free Trade Area that it should rarely occur and probably only on the occasion of extremely serious balance of payments difficulties... In the event of acute balance of payments difficulties, it is clear that the imposition of quotas must be permitted and this without prior consultation, though it should be made subject to frequent and stringent examination. Apart from this, it seems unlikely that there will be circumstances in which unilateral action would be justified. In cases, if any, other than of acute balance of payments difficulties it appears that prior consultation and frequent subsequent examination should be the rule."

36. We take this view because if members were to be permitted, for example, to defer tariff reductions for the benefit of particular industries, we see no end to the exceptions that would be made by one country after another, and think that the whole scheme would rapidly break down.

Hard-hit industries and firms

37. Subject to the foregoing, the Convention should be so framed as not to prevent Governments from taking appropriate measures to assist hard-hit industries and firms.

38. We are concerned that H M Government have not yet stated their attitude to this problem, its extent as it appears to them and the nature and scope of the action they propose to take ; and we urge them to do so as soon as possible. Meanwhile we discuss the problem at greater length in Appendix 2.

39. We define hard-hit firms as firms which, however efficient they may be in making use of the resources available to them, cannot stay in business in the U K if the U K joins the E F T A.

40. We distinguish three main classes of Government assistance which may be required and which should be permitted under the Convention:

- (a) help to a particular geographical area of the country (the existing U K development area policy may not prove adequate when the protection of tariffs is gone) ;
- (b) transitional help to firms and workpeople to assist them to transfer to other activities ;
- (c) permanent help to firms which for reasons of State must be retained in their existing role but cannot continue in an E F T A without such help.

### **Matters not to be covered by E F T A Convention**

41. For the reasons advanced in paragraphs 8 to 15 above there are several matters which we do not think appropriate for inclusion in an E F T A Convention, although they are not without relevance to the full attainment of a free market in Europe. Our reasons for this conclusion were, briefly, our reluctance to be carried beyond the relatively limited scope of the E F T A as hitherto conceived into the far wider field of full economic integration of the E E C type or to surrender our freedom over large tracts of economic and financial policy to supra-national institutions. Some of these matters we refer to briefly in what follows.

Taxation

42. We think that the right approach to this problem in an E F T A is that it will be up to H M Government

to see to it that British industry is not placed at a disadvantage *vis-à-vis* E F T A competitors by reason of the burden and incidence of taxation falling upon it.

43. To compare the relative weight of taxation in the E F T A countries is a task of the greatest difficulty. We await with interest the F B I research study on this subject, which is now with the printers.

#### Wage costs and social charges

44. This is a matter which falls primarily within the province of the British Employers' Confederation. The B E C have, however, already made known to H M Government their agreement with the view expressed in the White Paper that provision for harmonization in this field, involving as it would in this country greatly increased State intervention in industrial relations, should not be regarded as necessary for the creation of an E F T A.

#### Restrictive practices

45. We welcomed the cautious approach of H M Government to this matter (February White Paper, paragraph 22). The effects of the Restrictive Trade Practices Act 1956, a radical experiment for the U K, are only now beginning to be felt; and we would view with apprehension forms of European supervision superimposed on those provided by that Act. We would hope that H M Government will consult industrial organizations at an early stage should any such proposals be contemplated.

#### Transport policy

46. We have already referred to discrimination in transport charges, which we think should be forbidden by the E F T A Convention. Apart from this there are a number of wider questions of European transport policy which will arise in the context of an E F T A. (In the Treaty of Rome the Six set themselves the goal of a common transport policy.)

47. These objectives are discussed in the study given in Appendix 1. Those of the recommendations in the Appendix which have to do with preventing unfair transport discrimination by Governments based on nationality are to be distinguished from those which involve the objective of harmonizing and aligning European transport regulations and arrangements. While the principle of harmonization (as opposed to that of non-discrimination) is applied in the Treaty of Rome to many matters including transport, it is not in our view a necessary part of the E F T A concept. We think that there may be found to be objections to seeking to embody it in the E F T A Convention in connection with transport. Therefore, while we attach importance to this latter objective, we would be content for it to be pursued separately through existing international machinery (such as the European Conference of Ministers of Transport) and in discussion with the Six, if it should prove on balance undesirable to deal with it in the Convention.

#### Standards

48. In so far as Government regulations and requirements as to standards were so operated as to discriminate against imported goods, the matter would be subject to the E F T A rules that we have suggested against protective devices. We understand that the British Standards Institution has the whole matter under review.

#### Doubtful

49. There are four other subjects, on which we are not yet in a position to express a definite opinion whether or not they should be covered, and if so in what manner, by an E F T A Convention.

## Access to raw materials

50. We draw attention to one problem to which great importance is attached by some industries. They regard it as one essential condition if the U K should join an E F T A that U K manufacturers should not be denied fair access to raw materials arising in another part of the E F T A or be discriminated against unfairly in the supply of such materials.

51. In so far as such discrimination was caused or inspired by Governments it would be an offence against either or both of the rules which we have suggested above under the headings " Government Intervention " (paragraphs 23 and 24) and " Government export restrictions " (paragraphs 29 and 30).

52. In so far as such discrimination arose from private action by enterprises, whether collectively or individually, the problem has complex and far-reaching implications, which may involve in some cases the question of restrictive practices (see paragraph 45 above) and in others the freedom of suppliers to determine their own selling policy.

53. Three possible lines of approach have been suggested:

(a) to include in the Convention some general declaration to the effect that such discrimination is in principle inconsistent with the objectives of the E F T A ;

(b) also to include in the Convention a further escape clause entitling a member Government to take steps to protect an industry which it was satisfied was being unfairly discriminated against by suppliers in another member country ;

(c) to regard the matter as one of private commercial policy and as such not suitable for treatment in the E F T A Convention.

54. We make no recommendation as to which of these three courses is to be preferred, but report the problem as one requiring serious consideration by H M Government.

## State trading

55. The problem posed in an E F T A by the purchasing policies followed by Governments or Government agencies or by nationalized industries is a difficult one. An industry supplying such goods would clearly find itself at a severe disadvantage if a nationalized industry in its own country put its purchases out to international tender, whereas the corresponding nationalized industries in the other E F T A countries " bought national ". On the other hand we doubt whether a rule prohibiting State agencies from buying national would be either workable or acceptable to some industries in the U K. Nor do we think that a rule to the opposite effect, namely that state agencies must buy national, can seriously be considered.

56. It might be argued that unfairness would be avoided if the Convention were to provide that Governments should agree on a common policy in this matter : as long as they all did the same, supplying industries in each country would meet with the same treatment. However we have little faith that such a solution would prove workable in practice.

57. We see a distinction both in principle and in practice between Government purchases for their own use on the one hand and purchases by nationalized industries on the other. As to the former we express no opinion at present and hope to study the matter further in consultation with H M Government. As to the latter, we put forward for consideration the tentative suggestion that it might suffice if the Convention were to prohibit Governments from giving directions to nationalized industries requiring them to buy national exclusively. We are aware that this would only go part of the way, but we are not able to suggest any other

way of dealing with this intractable problem.

#### Invisible trade and services

58. We have given some thought to the problems of discrimination in matters other than the movement of goods and how the Treaty of Rome deals with them. We arrive at the tentative conclusion that there may be a case for including in the Convention provisions designed to curtail the freedom of member Governments to discriminate according to nationality in the limits they may place on the right of "establishment" and the freedom of persons to render industrial and commercial services such as banking and insurance.

59. These matters are however linked with questions of capital movements and payments to which we drew attention in the Introduction to our report (paragraph 5) as problems requiring further study. We therefore feel that it would be premature for us to advance any definite recommendations on these matters.

#### Patents and trade marks

60. In so far as Government regulations affecting patents and trade marks were so operated as to discriminate against imported goods, the matter would be subject to the E F T A rules that we have suggested against protective devices.

61. We consider that in E F T A conditions the question of compulsory working requirements will require attention, and more generally, that there may be a need to improve existing international conventions in this field. We understand that the Trade Marks, Patents and Designs Federation has this matter under review.

#### Institutions

62. We do not relish supra-national institutions of the E C S C or E E C type nor the "dirigiste" tendencies that go with them; and we do not believe that opinion in the U K would be prepared to surrender our freedom of action to anything like the extent envisaged by the Six in their Treaty of Rome. This is a main reason, in our view, for not advocating inclusion in the E F T A Convention of matters such as those discussed in paragraphs 41-48 above; and it may also have an important bearing upon the views that are taken as to the matters referred to in paragraphs 49-61.

63. In general, therefore, we agree with H M Government (February White Paper, paragraph 24) that the E F T A should be established within the O E E C. The machinery of the O E E C is well-tried and should be strengthened and extended as necessary, in particular so as to provide for the complaints and appeals procedure we have recommended in paragraph 23 above.