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## FREE MOVEMENT OF GOODS WITHIN THE EU SINGLE MARKET

**GIUSEPPE VARRICA**

*University of Modena and Reggio Emilia  
Modena, Italy*

[244444@studenti.unimore.it](mailto:244444@studenti.unimore.it)

**ELENA CIGU RUSU**

*Alexandru Ioan Cuza University of Iași  
Iași, Romania*

[elena.chelaru@uaic.ro](mailto:elena.chelaru@uaic.ro)

### **Abstract**

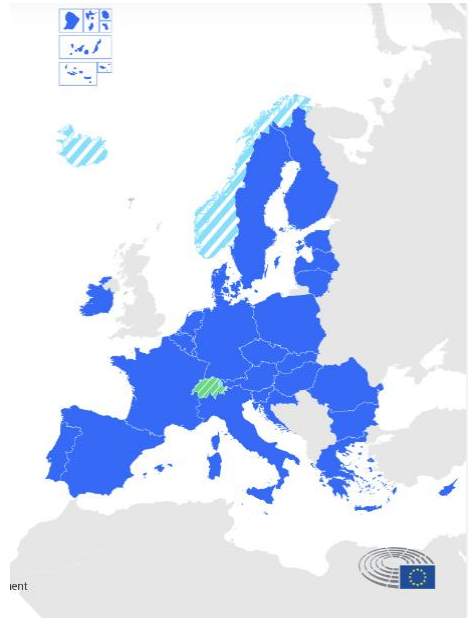
*The free movement of goods within the EU single market promotes trade and efficiency among the member states, allowing goods to flow freely between EU countries without customs duties or other barriers. The paper aims to develop the context of the free movement of goods within the EU single market based on a literature review and reports of European and international institutions and organizations.*

**Keywords:** *single market, free movements of goods, the European Union.*

**JEL Classification:** G15, G18.

### **1. INTRODUCTION**

The European Single Market, alternatively referred to as the European Internal Market or the European Common Market, represents a cohesive economic zone that primarily encompasses the 27 member states of the European Union (EU). With some limited exceptions, it also includes Iceland, Liechtenstein, and Norway through the Agreement on the European Economic Area (EEA), along with Switzerland through specific sectoral agreements (see [Figure 1](#)). This is achieved by enforcing a set of shared rules and standards to which all participating states are legally bound.



Source: [European Parliament \(2023\)](#)

**Figure 1. Countries of the European single market**

According to Figure 1, EU member states are in darker blue. Non-EU states participating via the EEA or having bilateral agreements with the EU in lighter blue. The Single Market's primary objectives are to encourage competition, facilitate specialization, and harness economies of scale. This allows goods and factors of production to flow to regions where demand is higher, thus optimizing resource allocation efficiency. Furthermore, it seeks to promote economic integration, whereby the once-separate economies of member states merge into a unified EU-level economy ([Barnard, 2013](#)). According to a 2019 estimate, the Single Market has led to an average GDP increase of around 9% ([European Commission, 2007](#)) for member countries when compared to a scenario with tariff and non-tariff constraints in place.

The Single Market aims to ensure the “four freedoms” ([Veld, 2019](#)): (i) Free movement of goods; (ii) Free movement of capital; (iii) Free movement of services; and (iv) Free movement of people.

The “free movement of goods” applies to a vast array of “products” and is as comprehensive as the variety of goods in existence. Items are classified as “goods” if and only if they possess economic value, which means they can be quantified in monetary terms and serve as subjects of commercial transactions. For instance, items such as artwork, discontinued coins, and water all fall within the category of “goods” ([EU Publications Office, 2010](#)). However, a noteworthy case arose in 1999 when the European Court of Justice ruled that fishing rights

or permits, despite their connection to a tangible commodity, do not fit the classification of "goods." Instead, they are considered a form of service provision. This ruling further clarified that both capital and services can be assessed financially and can be subjects of commercial transactions but do not fall under the category of "goods" (23rd European Court of Justice, 1999).

## 2. EEA HISTORY

At its inception in 1957, one of the central goals of the European Economic Community (EEC) was the establishment of a common market characterized by the free movement of goods, services, people, and capital. Initially, the free movement of goods was instituted through the implementation of a customs union among the six member states of that era.

However, the EEC encountered various challenges in realizing a single market, partly due to the lack of robust decision-making structures. Protectionist tendencies made it complex to replace intangible barriers with universally recognized standards and common regulations.

In the 1980s, as the EEC's economy began to lag behind the rest of the developed world, Margaret Thatcher dispatched Lord Cockfield to the Delors Commission to spearhead the revitalization of the common market. The result was a daring White Paper published in 1985, which outlined precisely 300 measures to be addressed for the completion of the single market. This White Paper was warmly embraced, leading to the adoption of the Single European Act, a treaty that reformed the EEC's decision-making mechanisms and set a deadline of December 31, 1992, for the actualization of the single market, which ultimately commenced on January 1, 1993 (Cockfield, 2017).

The new approach introduced at the Delors Commission encompassed both positive and negative integration, opting for minimization rather than maximization of harmonization. Negative integration entailed prohibitions imposed on member states, prohibiting discriminatory behaviors and other restrictive practices, while positive integration focused on harmonizing laws and standards. Of particular significance (and debate) in this context was the adoption of harmonized legislation under Article 114 of the Treaty on the Functioning of the European Union (TFEU).

The Commission also relied on the jurisprudence of the European Court of Justice, particularly the landmark *Cassis de Dijon* case, which obligated member states to recognize goods lawfully produced in another member state unless they could justify restrictions based on mandatory requirements. Harmonization was employed solely to overcome trade barriers that survived the mandatory requirements test and to ensure essential standards, particularly in matters of health and safety (Barnes, 2007/2017).

By 1992, approximately 90% of the outstanding issues had been resolved, and in the same year, the Maastricht Treaty embarked on the creation of an

Economic and Monetary Union as the next stage of European integration. Working towards the freedom of services took more time and represented the final freedom to be implemented, primarily through the Posting of Workers Directive (adopted in 1996) and the Directive on Services in the Internal Market (adopted in 2006) (European Union, 2020).

In 1997, the Amsterdam Treaty removed physical barriers within the internal market by incorporating the Schengen Area into the EU's competencies. The Schengen Agreement promoted the abolishment of border controls among most member states, the adoption of common visa rules, and enhanced police and judicial cooperation (BBC News, 2016).

The official objective of the Lisbon Treaty, which came into force in 2009, was to establish an internal market that balanced economic growth with price stability, fostering a highly competitive social market economy aimed at full employment and social progress, all while maintaining a high level of environmental protection and advancing scientific and technological innovation. Despite the Lisbon Treaty's entry into force, some issues related to the four freedoms, especially in the field of services, remained unresolved. These, in conjunction with additional efforts on economic and monetary union, would propel the European Union toward a "European Home Market," representing a significant step in the evolution of the European project (European Parliament, 2016).

In this year, 2023, the European Single Market celebrates 30 years since its foundation (Figure 2).



Source: European Parliament (2023)

**Figure 2. Differences between 1993 and 2023 EU Single Market**

### 3. CUSTOM DUTIES AND TAXATION

The European Union's Customs Union serves to eliminate customs barriers among its member states and enforces a unified customs policy for interactions with external countries, all with the overarching goal of "ensuring fair competition conditions and eliminating any fiscal constraints that could impede the smooth flow of goods within the Common Market.

Article 30 of the Treaty on the Functioning of the European Union ("TFEU") expressly prohibits customs duties between member states, regardless of whether the products originate from within the EU Customs Union or come from third countries. According to Article 29 of the TFEU, customs duties on products from third countries are levied upon their entry into the European Union. However, once these goods have crossed the external borders of the EU, they are free to circulate unrestricted among the member states ([European Commission, 2007](#)).

As a part of the Single European Act, customs controls at the borders between member states have been considerably phased out. Traditional physical inspections of imported and exported goods have been progressively supplanted by audit-based checks and risk analysis methods.

In addition to prohibiting customs duties, Article 30 of the TFEU also extends to taxes that have a similar impact to customs duties. The European Court of Justice established the concept of an "equivalent effect tax" in the *Commission/Italy* case. This definition encompasses any financial burden, irrespective of its magnitude or method of imposition, that is unilaterally placed on either domestic or foreign goods solely because they cross a border. These taxes do not fit the traditional customs duty definition but are considered equivalent effect taxes, even if they are not enforced for the benefit of the state, lack discriminatory or protective attributes, and do not affect domestic products' competitiveness.

A fee is classified as a customs duty if it is directly related to the value of the goods. Conversely, if the fee is linked to the quantity of goods, it is regarded as an equivalent effect tax to a customs duty.

There are three exceptions to the prohibition of imposing charges when goods cross a border, as outlined in the case *Commission against Germany*. A tax is not considered a customs duty or an equivalent effect tax if:

- It is part of a general system of internal taxes applied consistently and under the same criteria to both domestic and imported products.
- It is a consideration for a service provided to the economic operator, calculated in proportion to the service.
- It is subject to specific conditions if it concerns inspections carried out to fulfill obligations imposed by EU law.

Article 110 of the Treaty on the Functioning of the European Union (TFEU) states that no member state may impose, directly or indirectly, any type

of domestic taxation on products from other member states that exceeds that applied directly or indirectly to similar domestic products. Furthermore, no member state may levy domestic taxes that indirectly protect other products (European Commission).

In a case concerning the taxation of rum, the European Court of Justice clarified that Article 110 serves the overarching purpose of ensuring the free movement of goods between member states in normal conditions of competition. This objective is achieved by eliminating any potential protective measures stemming from the application of discriminatory domestic taxes on products from other member states and by ensuring that domestic taxes remain entirely impartial in terms of competition between national and imported products.

The free movement of goods within the European Union is upheld through the customs union and the principle of non-discrimination (Craig, de Búrca, 2015). The EU manages imports from non-member states, forbids customs duties among member states, and allows the unrestricted circulation of imports. Additionally, Article 34 of the Treaty on the Functioning of the European Union expressly prohibits quantitative restrictions on imports and any measures that have an equivalent effect between member states.

In a legal case concerning the taxation of rum, the European Court of Justice elucidated that Article 110 is fundamentally geared towards ensuring the unobstructed movement of goods between member states under fair competitive conditions. This overarching objective is accomplished by eradicating any potential protective measures that might result from the imposition of discriminatory domestic taxes on products originating from other member states. Moreover, it mandates that domestic taxes must remain completely impartial concerning competition between domestically produced and imported goods.

The European Union guarantees the free movement of goods through the customs union and the principle of non-discrimination (Craig and de Búrca, 2015). The EU effectively manages imports from non-member states, prohibits the levying of customs duties among its member states, and facilitates the unrestricted circulation of imports. Furthermore, Article 34 of the Treaty on the Functioning of the European Union explicitly outlaws quantitative restrictions on imports and any measures that could have an equivalent impact among member states.

#### **4. PRODUCT SECTORS**

The EEA Agreement encompasses a wide range of product sectors, each subject to specific technical regulations and legislation. These sectors (EFTA, 2023) include: Construction; Cosmetics; Cultural goods; Hazardous substances; Electrical equipment; Explosives; Fertilizers; Gas appliances; Household appliances; IT/telecommunications/data; Lifting and mechanical handling equipment; Machinery; Maritime equipment; Measuring instruments; Medical

devices; Motor vehicles and tractors; Organic production; Personal protective equipment; Pharmaceuticals; Pressure equipment; Pleasure craft; Steel; Textiles; Tobacco; Wine and spirits.

To ensure the unrestricted circulation of products within the European Economic Area, they must adhere to the standards established by EEA product legislation, which is designed to safeguard health, safety, and the environment. In many sectors, these regulations are complemented by harmonized European standards. Product compliance with the legislation and standards is verified through conformity assessment methods such as testing, inspections, and certifications. Organizations providing conformity assessment services can undergo formal accreditation procedures to validate their competence, independence, and impartiality.

Regulation (EU) No. 1025/2012 recognizes three European standardization organizations (CEN, CENELEC, and ETSI) as bodies capable of receiving requests to formulate European harmonized standards to support sector-specific product legislation or for specific policy objectives. This regulation also facilitates the initiation of standardization requests (previously referred to as mandates) within the services sector and encourages the participation of specific stakeholder representatives in the formulation of European standards, known as Annex III Organizations.

EFTA countries have a longstanding tradition of providing financial support to European standardization through the EFTA Council/Secretariat, often in coordination with the European Commission.

Three primary mechanisms link EFTA countries to European standardization (EFTA, 2023) are as following:

1. All EFTA countries engage in European standardization through their respective national standardization bodies, with Liechtenstein following the Swiss standardization system.
2. EFTA has been in cooperation with the European Commission in supporting standardization efforts since the Luxembourg Declaration was signed in 1984. The framework for this collaboration is outlined in the General Guidelines for Cooperation among EFTA, the European Commission, and European standardization organizations. These guidelines have been further detailed in separate Framework Partnership Agreements for technical and financial support, each individually signed with European Standardization Organizations.
3. European standardization plays a crucial role in the advancement of the European single market and the EEA. Within the framework of the New Approach/New Legislative Framework, standards have provided technical solutions for ensuring compliance with legal requirements established by European legislation. As EEA members, Iceland, Liechtenstein, and Norway adopt this European legislation, while Switzerland, through its

bilateral agreements with the EU, incorporates these principles and the majority of New Approach/NLF directives and regulations into its national legislation.

Annex II, Chapter XIX of the EEA Agreement serves as the legal foundation for standardization within the EEA, with Regulation 1025/2012 being especially relevant in this context.

The authorization of new standardization requests is overseen by the Technical Barriers to Trade (TBT) working group, which includes the active involvement of Iceland, Liechtenstein, and Norway. All matters related to finance and policy are managed by the EFTA Committee on Technical Barriers to Trade (TBT Committee), comprising representatives from all four EFTA nations and reporting to the EFTA Council. The annual budget for EFTA's financial backing of European standardization amounts to approximately €1 million, allocated as annual operating grants to CEN, CENELEC, and ETSI, as well as to the organizations mentioned in Annex III (ANEC, SBS, CES, and ECOS). Additional direct contributions are provided for executing mandates, other standardization work programs, and specific projects (ISO, 1991).

Collaboratively with the European Commission and the three European standardization organizations, EFTA countries are engaged in two international initiatives involving European standardization experts assigned to China (SESEC) and India (SESEI). These projects are overseen by the steering committee, with the EEA represented by the EEA Secretariat as a member.

EFTA has also actively contributed to the establishment of the China-Europe Standards Information Platform (CESIP), a database connecting European and Chinese standardization efforts. This platform facilitates the exchange of information regarding relevant standards within specific product sectors, benefiting both European and Chinese partners and promoting greater accessibility for industries, particularly SMEs, to respective markets and regulatory prerequisites.

In addition, EFTA has actively participated as a partner in the Joint Initiative on Standardization, an initiative stemming from the European Commission's Single Market Strategy. This collaborative effort aimed to modernize the European standardization system and enhance the existing public-private partnership between the Commission/EFTA and European standardization organizations and stakeholders.

Information on European standardization: European standardization serves as a crucial facilitator of the unhindered movement of goods and services within Europe. Its key objectives encompass (ISO, 1991):

- Eliminating technical trade barriers by establishing a common point of reference for trade.
- Providing a shared and transparent reference for public procurement.

- Supplying recognized benchmarks for quality, certification, and regulatory compliance.
- Promoting European technical integration by harmonizing national and European legislation.
- Fostering technical collaboration and knowledge exchange.
- Strengthening European competitiveness by establishing a common, yet adaptable, technical framework throughout the single market.
- Offering a versatile mechanism for achieving consensus on identified issues within Europe, taking into account diverse stakeholder requirements, industry sectors, regulatory contexts, and factors such as product safety and environmental impact.
- Advocating European interests in the global economy and creating avenues for global market access.
- Providing a reference tool for technical assistance and cooperation with third countries.

Key European standardization organizations include:

- CEN – responsible for general standardization across various sectors, except electrical and electronic equipment and telecommunications.
- CENELEC – focused on standardization in the field of electrical and electronic equipment.
- ETSI – responsible for standardization in the field of telecommunications.

EU/EFTA co-funded stakeholders involved in European standardization (Annex III organizations) encompass:

- ANEC – representing consumer interests.
- ECOS – representing environmental concerns.
- SBS – advocating for the interests of small and medium-sized enterprises.
- CES – representing worker interests.

Verification of compliance with regulations and standards relies on various approaches, including testing, inspections, and certifications. Entities offering these services can officially establish their competency, independence, and neutrality through accreditation.

As per Regulation (EU) 765/2008, accreditation is the formal recognition by a National Accreditation Body that a Conformity Assessment Body satisfies the requirements stipulated in harmonized standards and, when applicable, any supplementary criteria outlined in sector-specific schemes. Accreditation authorizes these bodies to conduct specific conformity assessment activities.

Accreditation serves the broader public interest across all industry sectors by ensuring that accredited entities providing services such as testing, examination, calibration, certification, inspection, and verification possess the requisite technical proficiency and maintain impartiality to verify that products

and services conform to relevant standards and regulations. For example, products are produced in accordance with specific quality, safety, or protection standards. Laboratories or certifiers evaluate and confirm this compliance. Reports and certificates attached to products are widely trusted when issued by accredited laboratories or certifiers.

Trust in products and services, regardless of their origin, is strengthened through accreditation, backed by established multilateral agreements endorsed by National Accreditation Bodies (NAB) in Europe and around the world. When signatory parties recognize that the provided accreditation is equally trustworthy, it means that products don't need to undergo repeated testing or certification for every new market. A single round of testing and certification by an accredited laboratory or certifier is adequate for acceptance anywhere. Through accreditation and the consistent application of harmonized standards, consumers can have confidence in products and services when making purchases in the European market.

Annex II, Chapter XIX of the EEA Agreement forms the legal basis for accreditation within the EEA, with Regulation 765/2008 playing a central role.

EA, the European Cooperation for Accreditation, is a non-profit organization formally designated by the European Commission under Regulation (EC) No. 765/2008 to establish and uphold a multilateral agreement for mutual recognition, known as the EA MLA. This agreement operates based on a standardized accreditation framework and aims to facilitate fair trade, ensure the quality of products and services, and reduce technical trade barriers.

EA members are National Accreditation Bodies (NAB) officially recognized by their respective national governments to assess and verify organizations engaged in conformity assessment activities, which include certification, verification, inspection, testing, and calibration, in accordance with international standards.

EFTA provides financial support to EA, in addition to the European Commission, through a framework partnership agreement and annual operational grants.

## **5. CONCLUSION**

The development of European standards and the removal of conflicting national standards have played a pivotal role in the establishment of a unified European market for goods. Standardization is a market-oriented process in which various stakeholders collaborate to define technical specifications concerning issues related to health, safety, the environment, and interoperability.

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