Government policy on freeports

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Government policy on freeports

Summary

UK Government policy on freeports

The Conservative Party Manifesto included a commitment to create up to ten freeports around the UK. According to the Government, freeports are intended to be national hubs for global trade and investment across the UK. They also aim to promote regeneration and job creation as part of the Government’s policy to level up communities. Finally, the Government sees them as hotbeds for innovation.


Freeports will benefit from incentives relating to customs, tax, planning, regeneration, infrastructure and innovation. The successful bidders in England will be able to access a share of £200 million of seed capital funding, depending on the submission of an outline business case.

Freeports in Scotland, Wales and Northern Ireland

The UK Government wants freeports in all four countries of the UK. The relevant policy areas are a mixture of reserved and devolved powers.

No freeport sites have been announced yet in Scotland, Wales or Northern Ireland. The Scottish and UK Governments have been unable to agree on how freeports should operate in Scotland. The Scottish Government has brought forward proposals for green ports, leading to the possibility that there may be two competing freeport models operating in Scotland.

Subsidy control

Now that the UK has left the EU, it is no longer subject to the EU’s state aid rules. Nevertheless, the UK remains bound by World Trade Organization rules on subsidies and its commitments under free trade agreements, including that with the EU. The Government’s Subsidy Control Bill, creating a new domestic framework for subsidies, is currently going through Parliament. The state aid provisions in the Northern Ireland Protocol may have implications for freeports in Northern Ireland.

Criticisms of freeports

Critics of freeports point to the risk that they will simply transfer business away from other areas of the UK without increasing the overall size of the economy. There have also been concerns about risks relating to money laundering and tax evasion.
1 Introduction

1.1 Background

Boris Johnson referred to freeports in his first speech as Prime Minister. He said:

as we prepare for a post-Brexit future it is time we looked not at the risks but at the opportunities that are upon us

so let us begin work now to create freeports that will drive growth and thousands of high-skilled jobs in left behind areas.¹

The 2019 Conservative Party Manifesto included a commitment to create “up to ten” freeports:

Freeports: We will aim to ensure that our new freeports benefit the people in each of the four nations. We believe that there are many places across the United Kingdom that have the opportunity to be successful innovative hubs for global trade.

[...]

As part of our commitment to making the most of the opportunities of Brexit, and levelling up the nation, we will create up to ten freeports around the UK, benefiting some of our most deprived communities.

While there are freeports in the EU (and were freeports in the UK until 2012), advocates of freeports argue that their effectiveness was limited by EU state aid rules. For example, in 2016, Rishi Sunak argued that EU rules on state aid and the single market “have ensured that modern EU Free Zones amount to little more than storage and warehouse facilities with simpler customs formalities”.²

¹ Boris Johnson’s first speech as Prime Minister in Downing Street, 24 July 2019
1.2 What are freeports?

There is no single definition of a freeport and they operate in different ways in different countries. Common features of freeports include various concessions on customs, other tax and planning advantages and reduced bureaucracy.³ As a report by the UK in a Changing Europe think tank noted:

Nowadays freeports can range from secure warehouses, as in Luxembourg and Geneva, to sites where considerable added-value manufacturing occurs before the goods are re-exported.⁴

In the UK, freeports are designated areas where a range of economic incentives are available. These include incentives related to tax, customs, business rates, planning, regeneration, innovation and trade and investment support.⁵

While being within a country’s geographical borders, freeports are effectively outside a country’s customs borders. Goods imported into the freeport customs site benefit from simplified customs documentation and can delay paying tariffs. Businesses operating in designated areas can make products using these imports and export them without paying tariffs and again benefit from simplified customs procedures.⁶

1.3 Examples of freeports

Freeports in the UK 1984-2012

Seven freeports operated in the UK at various points between 1984 and 2012. In July 2012, the Statutory Instruments that set up the remaining five freeports (Liverpool, Southampton, Port of Tilbury, Port of Sheerness and Prestwick Airport) expired.⁷

It is worth noting that other schemes are available to help with customs. As recently as 2018, the Government noted the availability of alternative ways of securing the customs advantages of freeports, as shown by this PQ:

³ There are some similarities with Enterprise Zones – see Commons Library Briefing Paper Enterprise Zones.
⁴ Freeports, UK in a Changing Europe, 2 March 2021, p3. This paper also describes freeports in the UAE (p6) and in Serbia (p8).
⁵ Department for Levelling Up, Housing and Communities, Freeports, 27 October 2021
⁶ Department for Levelling Up, Housing and Communities, Freeports, 27 October 2021
⁷ Free Zones, HC Deb 19 October 2012 c540W
Andrew Rosindell: To ask the Chancellor of the Exchequer, what assessment the Government has made of the potential merits of introducing free port schemes across the UK.

Mel Stride: The Government has been clear that it is open to ideas that deliver economic advantages for the UK. Section 100A of the Customs and Excise Management Act 1979 (CEMA) provides the legal basis for the designation of free zones by HM Treasury and will continue to do so following UK withdrawal from the EU. Applying for designation as a free zone will be a commercial decision to be taken by private port operators. It is worth noting that many of the customs-related benefits of free ports are already available through existing customs facilitations, for example inward processing relief.8

Freeports in the EU

There are a number of free zones in the EU. It has been argued, however, that the operation of these zones is limited by EU state aid rules.9 Professor Catherine Barnard and Emilija Leinarte of Cambridge University have written:

Approvals for FZ [free zones] are also subject to EU state aid rules. Under EU law, it is illegal for member states to give financial help to some companies and not others in a way which would distort fair competition. State aid must be approved by the European Commission, which effectively holds a monopoly on the decision for the creation of FZ.

The difficulty of obtaining an FZ status can be illustrated by the Shannon FZ in the Republic of Ireland. The Shannon FZ was successfully launched in 1958 but, upon Ireland’s accession to the EU in 1973, the incentives in the Shannon FZ were limited in order to comply with EU state aid rules (e.g. the 0% corporate income tax was increased to 10%).10

Having left the EU, the UK is setting up its own subsidy regime and EU state aid rules no longer apply.11 But the UK remains bound by the World Trade Organization’s rules on subsidies and its commitments under free trade agreements, including the UK-EU Trade and Cooperation Agreement (TCA) (see section 2.5 below).

8 PQ 190815, 21 November 2018
9 For more on state aid, see Commons Library Briefing Paper, EU State aid rules and WTO Subsidies Agreement
10 Catherine Barnard and Emilija Leinarte, Free Zones, 7 October 2018
11 Under Article 10 of the Withdrawal Agreement Northern Ireland Protocol, EU state aid rules continue to apply to the UK in respect of state aid which affects trade in goods and wholesale electricity market between NI and the EU.
2

Government policy on freeports

2.1 Objectives

The Government’s Bidding Prospectus described Freeports as:

... a flagship government programme that will play an important part in the UK’s post-Covid economic recovery and contribute to realising the levelling up agenda, bringing jobs, investment and prosperity to some of our most deprived communities across the four nations of the UK with targeted and effective support.\textsuperscript{12}

The policy has three objectives:

- establish Freeports as national hubs for global trade and investment across the UK
- promote regeneration and job creation – the lead policy objective
- create hotbeds for innovation.\textsuperscript{13}

\textsuperscript{12} Para 0.0.3
\textsuperscript{13} HM Treasury, Freeports: Bidding Prospectus, CP 315, November 2020, para 2.0.1. Sections 2.1, 2.2 and 2.3 of this document provide more information on these objectives.
2.2 The Government’s consultation

The Government published its Freeports Consultation in February 2020. This put forward proposals for freeports. The consultation asked for feedback on all aspects of the proposals and contained a total of 68 questions. The consultation was originally due to close on 20 April. On 8 April, the Government announced an extension to 13 July due to Covid-19.

On 7 October 2020, the Government published its response to the consultation. This said:

Overall, respondents welcomed the ambition of the proposals, the emphasis on local economic geography and regeneration, the flexibility of the customs model, and the focus on innovation. Ports and businesses shared how Freeports could contribute to their sector’s success and future growth potential, while many local authorities and public-sector bodies were optimistic about the potential of Freeports to help transform local economies.

Other respondents drew attention to risks associated with freeports, including port security, safety, workers’ rights, the environment, economic displacement, tax evasion and money laundering.

The Government opened the bidding process for freeports in England on 16 November 2020. The deadline for bids was 5 February 2021. Details were set out in Freeports: Bidding Prospectus.

The Bidding Prospectus said:

These proposals will be assessed via an open, competitive process to determine winners by Spring 2021. Successful bidders will then be granted some seed funding to support governance set-up costs and will work with the government to develop detailed business cases for their spending plans associated with the regeneration funding offered to Freeports.
2.3 Spring Budget 2021: announcement of freeport locations in England

The 2021 Budget announced the locations of eight freeports in England. 18 bids had been received. The locations are:

- East Midlands Airport
- Felixstowe & Harwich
- Humber
- Liverpool City Region
- Plymouth and South Devon
- Solent
- Teesside
- Thames.

More detail on each of these sites is available on the Department for Levelling Up, Housing and Communities' website. A map of each site is also available.

The Budget said:

Subject to agreeing their governance arrangements and successfully completing their business cases, these Freeports will begin operations from late 2021.

2.4 The Government’s proposals

A range of benefits are available to freeports in England in the following policy areas:

- Customs
- Tax, including measures on:
  - Stamp Duty Land Tax (SDLT) Relief
  - Enhanced Structures and Buildings Allowance
  - Enhanced Capital Allowances
  - Employer National Insurance Contributions Relief
  - Business rates
- Planning

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18 PQ 164433, 15 March 2021
19 Department for Levelling Up, Housing and Communities, Freeports, 27 October 2021
20 HMRC, Maps of Freeports, Freeport customs sites and Freeport tax sites, 27 October 2021
21 HM Treasury, Budget 2021, March 2021, para 2.113
• Infrastructure: each freeport will receive up to £25 million of seed capital funding to be used primarily to address gaps in infrastructure

• Innovation.22

Asked how the new policy differed from the pre-2012 freeports, Steve Barclay MP, then Chief Secretary to the Treasury, told the International Trade Committee:

The pre-2012 freeports were located within UK port boundaries. That did not mean that they were particularly attractive locations in terms of the investments on innovation that we are targeting now, particularly compared, as I say, with those inland sites that are within the 45 km outer boundary. The new freeport model permits multiple sites. Those sites can interact with one another. The pre-2012 freeport sites only offered customs benefits; there was no tax. The tax offer that we covered earlier included the employer NICs, business rates, stamp duty and so forth. There was no spending, so that seed money we have just been covering—the £175 million—was not part of the pre-2012 offer. There was no planning within that pre-2012 freeport offer, and there was no innovation offer in terms of the regulator.

If one looks at those pre-2012 freeport sites, they were very much designated within ports and for ports, which is a completely different proposition to what the new model is doing. What the new model is doing is it is asking local authorities, ports and investors to come together and develop a vision in terms of regenerating a particular area. I think it is a very helpful issue to draw out through your question because there is sometimes confusion between the 2012 position, which in essence was just a copy and paste of what EU freeports do, and what we have now designed, which is a much more bespoke and wider offer.23

According to the Office for Budget Responsibility (OBR), freeports are expected to cost around £50 million a year from 2022/23. The largest costs are those arising from the employer national insurance contribution and business rates incentives. The OBR note that this cost estimate is uncertain for a number of reasons including the extent to which the various tax reliefs will be taken up and how much freeport activity will be additional rather than displaced from other parts of the UK.24

22 Department for Levelling Up, Housing and Communities, Freeports, 27 October 2021
23 Steve Barclay MP, Oral evidence to the International Trade Committee, UK Freeports, 24 February 2021, Q233. The Bidding Prospectus says “unless a very strong case is made ... the furthest permitted distance between any two sites within the same Freeport is 45km and the largest area a Freeport Outer Boundary can cover is a circle of diameter 45km” (para 3.1.7)
24 Office for Budget Responsibility, Economic and fiscal outlook, CP 545, October 2021, para A.23
2.5 Subsidy control

The Government’s freeports policy will comply with various requirements on subsidy control:

- The UK’s domestic subsidy control regime;
- The UK’s subsidy control obligations at the WTO;
- State aid obligations in the Northern Ireland Protocol; and
- Subsidy control provisions negotiated in the UK’s free trade agreements including the Trade and Cooperation Agreement (TCA) with the EU.25

The Trade and Co-operation Agreement

Under the TCA, both the EU and UK have their own independent systems of subsidy control. Broad common principles prevent authorities giving businesses subsidies (grants, tax waivers, loans and other types of benefits), that have “material effect” on trade or investment.26 The TCA also includes a separate Joint declaration on subsidy control policies (7.44MB, PDF):

- for the development of disadvantaged areas,
- for transport (airports, roads and ports), and
- for research and development.

The Joint declaration provides non-binding guidance on what “appropriate subsidy policies” in these areas would entail. For example, beneficiaries of subsidies for disadvantaged areas should provide a substantial contribution to the investment costs of a project. The main purpose of subsidies for these areas should not be to give businesses incentives to relocate from the EU to the UK or vice versa. Regarding ports, the declaration says: “Subsidies to ports may be granted for dredging or for infrastructure projects if they are limited to the minimum amount necessary to commence the project.”27 State aid expert George Peretz QC assesses:

The value of these latter declarations is largely to make it clear that the UK government, committed to major investment in both transport and R&D, can do so within the framework of the Agreement – though it will be observed that it could also have done so within the framework of EU State aid rules.28

Other experts have argued that without the administrative constraints of EU state aid law, UK public authorities have more freedom to operate. For example, there are currently no aid ceilings to subsidies as proportion of

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26 Trade and Cooperation Agreement, Part 2, Title XI, Chapter 3, p442
27 Joint declaration on subsidy control policies (7.44MB, PDF) accompanying the Trade and Cooperation Agreement, p2527
28 George Peretz, Monckton Chambers, in The subsidy control provisions of the UK-EU trade and cooperation agreement: a framework for a new UK domestic subsidy regime, 28 December 2020
investment and prior assessment by the EU Commission is not required. But financial support has to be justified, or could be challenged in UK courts. In a more extreme scenario, the EU could introduce tariffs on some UK goods in response to UK subsidies that could damage trade or investment.29

The UK’s future subsidy regime

The Government has published guidance, setting out what public authorities have to do for now to comply with UK’s international obligations on subsidies under the new regime.30 Following a consultation in February and March, a Subsidy Control Bill was introduced in Parliament on 30 June 2021.

The bill proposes a UK domestic legal framework and sets out the requirements which public authorities must follow when granting subsidies to a business. On 18 November, the Public Bill Committee completed the consideration of this bill and it will proceed to the report stage.

The Subsidy Control Bill is a framework bill and does not have specific provisions concerning freeports. The Government would have power to issue guidance detailing, for example how subsidies might be given to support disadvantaged areas.31

In order to protect competition in the UK market, the bill would explicitly ban subsidies, which require a beneficiary business to relocate its activities from one area in the UK to another, where this relocation would not have occurred without the subsidy.32

In the Public Bill Committee, the Opposition members questioned whether the prohibition would effectively rule out freeports. The Labour Party proposed an amendment requiring the Government to explain in a report, how the prohibition would be consistent with the Government’s freeports policy.33

Paul Scully, Parliamentary Under-Secretary of State at the Department for Business, Energy and Industrial Strategy, explained that freeports would not be caught out by this prohibition because their focus was to encourage new investment and create new jobs, rather than “harmful displacement”. The tax sites would be designated only once the successful bidders had demonstrated that displacement had been mitigated.34 He said that the Government would

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29 James Webber, partner at law firm Shearman & Sterling Taking advantage of the opportunity presented by the UK’s new subsidy control regime, 27 January 2021; Freeports: What are they and where will they be? BBC, 3 March 2021

30 HM Government, Guidance on the UK’s international subsidy control commitments, updated 24 June 2021

31 Subsidy Control Bill, Explanatory Notes, para 228

32 Subsidy Control Bill, Bill 196 of 2021-22, Clause 18

33 Public Bill Committee, Subsidy Control Bill, PBC (Bill 135) 2021 – 2022 (1,5 KB, PDF), 28 October 2021, cc 125-127

34 Ibid, c128
publish guidance explaining the circumstances in which a relocation might be permitted. The Public Bill Committee rejected the amendment.

**Northern Ireland**

Under Article 10 of the Withdrawal Agreement Northern Ireland Protocol, EU state aid rules continue to apply to the UK in respect of state aid which affects trade in goods and the wholesale electricity market between Northern Ireland and the EU. Consequently, subsidies to Northern Ireland freeports may need prior European Commission approval. Differences between UK and EU regulation could lead to subsidy differences within Northern Ireland freeports compared to those offered across the rest of the UK.

The UK regime introduced by the Subsidy Control Bill would not change the status of subsidies in scope of Article 10 of the Protocol, as it would not apply to them.

In July, the Government published a [Command paper](https://www.gov.uk/government/publications/ni-protocol-commission-arrangements-bespoke-arrangements-to-benefit-northern-ireland) that set out proposals to replace the Protocol, including a plan to replace Article 10 provisions. The Command paper says that the “comprehensive and robust commitments” introduced by the TCA, and the UK Subsidy Control Bill, mean that the Article 10 provisions are “redundant in their current form”. To address EU concerns about any market distortions caused by UK subsidies, there could be “enhanced referral powers or consultation procedures for subsidies within scope” of the Protocol.

The UK and EU discussions about the implementation of the Protocol are ongoing. So far, the EU has not put forward proposals to replace the Protocol’s subsidy provisions.

The Government’s Autumn Budget and Spending Review (2021) said on this:

> If needed, the government may, at an appropriate point, introduce further guidance for businesses claiming Freeport tax reliefs, to reflect the outcome of ongoing discussions between the UK and EU about the Northern Ireland Protocol.

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35 Ibid, c127
36NI Assembly Research and Information service, [UK Freeport policy and the Protocol on Ireland/Northern Ireland](https://www.parliament.uk/documents/library/ris/rb0621/0621.pdf), Paper No. 06/21, 15 January 2021, p25; Steve Barclay, then Chief Secretary to the Treasury said that the GB freeport model will need to be adapted in order to comply with the UK’s obligations under the NIP. See [HC International Trade Committee, Oral evidence: UK Freeports, 24 February 2021, Q249](https://www.parliament.uk/business/committees/committees-summary-detail/hc-international-trade-committee/)
37 Subsidy Control Bill, Bill 196 of 2021-22, Clause 48(3)(a)
2.6 Legislation

In February 2021, Ministers were questioned by the International Trade Committee on the need for legislation to implement freeports:

Mick Whitley: What legislation will be brought forward to support the establishment of freeports in the UK? When will it be introduced?

Steve Barclay: Luke Hall [Minister for Regional Growth and Local Government, MHCLG] may want to come on this as well. On legislation, the first point to make is that the policy sits under a combination of existing and new powers. To the extent that there will be new powers, we will need to put the relevant legislation in place. We will need to do that this year.

I do not envisage any sort of freeports Bill. There are a number of areas of legislation already in place. For example, I previously mentioned that we do tax decisions through the Finance Bill, so you would not need to have separate legislation. Some of the legislation, for example around customs and excise, is already in place. We already have the power to designate areas for customs purposes. On the MCHLG side of things, there is the matter of legislation for changes to the permitted development rights for ports, but that is something that Luke Hall could speak to.

Luke Hall: Shall I jump in on that question, Chair? The Chief Secretary has summed it up pretty well. There might not be a freeports Bill; this is about a number of individual changes to be made to existing legislation. On permitted development rights, we have committed to amending the regulations by the end of this calendar year. Also under our Department there will be separate changes to business rates. We aim to implement business rates designated areas as part of the freeports package through regulations by 1 April 2022. We expect that to be delivered through a negative SI procedure and be implemented in early 2022.41

The National Insurance Contributions Bill 2021-22 includes provisions on freeports. There is further information on this Bill in a Library briefing.42

Sections 113-115 of the Finance Act 2021-22 and clause 93 and Schedule 14 of the Finance Bill (No. 2) 2021-22 contain provisions on freeports.

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41 Oral evidence to the International Trade Committee, UK Freeports, 24 February 2021, Q219
42 National Insurance Contributions Bill 2021-22 Commons Library briefing CBP-9221
Freeports policy in Scotland, Wales and Northern Ireland is complicated by the fact that it involves some policy areas which are reserved to the UK government and some which are devolved.

- **Customs**: this is generally reserved but with some exceptions such as checks on animal, food and plant products (Sanitary and Phytosanitary – SPS) checks which are mainly devolved.
- **Tax**: generally reserved with some exceptions such as business rates which are devolved in Scotland, Wales and Northern Ireland and Stamp Duty Land Tax which is devolved in Scotland and Wales.
- **Planning**: all devolved
- **Regeneration**: partly devolved
- **Innovation**: part reserved, past devolved.\(^43\)

The UK Government has said that it would like to see freeports established in Scotland, Wales and Northern Ireland and is working with the devolved administrations to achieve this. The Government’s consultation response said:

> The UK Government is working with the devolved administrations on establishing at least one Freeport in each of Wales, Scotland and Northern Ireland. […] The location of the Freeports in Wales, Scotland and Northern Ireland will be determined collectively by both the UK Government and the devolved administration and should align objectives, processes and timescale where possible.\(^44\)

The October 2021 Budget said the UK Government remained committed to creating at least one freeport in Scotland, Wales and Northern Ireland.\(^45\) No freeport locations in Scotland, Wales or Northern Ireland have been announced yet.

A recent PQ asked the Government when it planned to announce the locations of freeports across the UK. In response, the Government said it wanted to establish freeports in Scotland, Wales and Northern Ireland “as soon as possible” and this would use “a fair, open and transparent assessment process.”\(^46\)

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\(^43\) Government response to the Freeports consultation, Table 2.1, p13
\(^44\) Para 1.7
\(^45\) HM Treasury, Autumn Budget and Spending Review 2021, HC 822, October 2021, para 2.136
\(^46\) PQ 68129 [Freeports] 8 November 2021
Scotland

In January 2021, the Scottish Government announced proposals for green ports. According to the Scottish Government, these “would adapt the UK government’s freeport proposals, offering streamlined planning processes and a package of tax and customs reliefs.” Announcing these plans, Scottish Government Trade Minister Ivan McKee said:

... we propose to take the freeport model and apply Scotland’s priorities to it, so that it meets our ambition to deliver a net zero, wellbeing economy that upholds the highest standards of environmental protections and fair work practices and supports our strategy of building clusters of high productivity businesses across Scotland’s regions.

In March 2021, Mr McKee wrote to the Chief Secretary to the Treasury calling for two green ports to be established in Scotland and for these to be given the same level of seed funding as the freeports in England.

On 6 September, the Secretary of State for Scotland wrote to the Scottish Government setting out what he described as a “very generous offer” on freeports. In mid-September, the Scottish Government rejected this offer. Differences between the two governments centred on payment of the real living wage, net zero commitments, set-up funding and branding. As a result, the Scottish Government said that it would now “progress plans to develop a green port model which is designed to meet the specific needs of Scotland’s economy.”

In response to a PQ, the Secretary of State for Scotland said that the Government remained committed to “establishing its freeport programme in Scotland as soon as possible” and was “confident our model embraces the highest employment and environmental standards.”

Press commentary has suggested that Scotland could see two competing freeport schemes, promoted by the UK and Scottish Governments. This commentary points out that many of the powers over tax and tariffs, which

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47 Scottish Government, Green ports to aid economic recovery, 21 January 2021
48 Ibid
49 Ibid
50 Scottish Government, Delivering green ports, 1 March 2021
51 Glenn Campbell (@GlennBBC), Joint UK/Scottish government approach to ‘freeports’ is off (Twitter), 17 September 2021 [accessed 18 November 2021]. Available from: https://twitter.com/GlennBBC/status/1438849498353127431
52 Scottish Government, Progressing Green Ports, 17 September 2021, “Scotland set to have competing freeports”, BBC News, 1 October 2021
53 Scottish Government, Progressing Green Ports, 17 September 2021
54 PQ 57235 [Freeports: Scotland] 22 October 2021
Government policy on freeports

form an important part of the incentives on offer in freeports, are reserved to the UK Government.  

Wales

In a written statement in July, the Welsh Government said that it recognised the potential benefits of freeports and remained open to supporting their establishment in Wales. However, it also had concerns about displacement of economic activity and risks that employment and environmental standards could be undermined. It would need to be reassured the freeports offered value for money and would not be a risk to Welsh tax revenue.

The Welsh Government said that it had “consistently attempted to engage constructively with the UK Government” to find a way of “implementing freeports in Wales which is consistent with our priorities and values as a Government.” The Welsh Government wrote to the UK Government in July 2021 seeking urgent discussions to resolve the uncertainty over freeports in Wales.

According to a report by the BBC in March 2021, the Welsh Government had raised a number of concerns about freeports with the UK Government, such as joint decision-making (given the combination of devolved and reserved policy areas), level of funding and environmental standards. Provided progress could be made on these concerns, the Welsh Government could continue discussions with the UK Government over freeports.

In May 2020, the House of Commons Welsh Affairs Committee published a report on Freeports and Wales (see section 4.3 below).

Northern Ireland

The Northern Ireland Protocol, agreed as part of the Withdrawal Agreement between the UK and the EU, has implications for freeports in Northern Ireland (see section 2.5 above).

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55 “Scotland set to have competing freeports”, BBC News, 1 October 2021, “London to press on with Scottish freeports despite SNP objections”, Financial Times, 1 October 2021
56 Welsh Government Written Statement, Freeports in Wales, 15 July 2021
57 Ibid
58 Ibid.
59 “Risk freeports could drive trade away from Wales, Welsh ministers claim”, BBC News, 4 March 2021
60 See also Northern Ireland Assembly Research and Information Service, UK Freeport policy and the Protocol on Ireland/Northern Ireland, Paper No. 06/21, 15 January 2021
In its April 2021 report on UK freeports, the International Trade Committee called on the Government to set out its view on whether freeports would need to operate differently in Northern Ireland to comply with the Protocol.61

In its response, the Government said that it remained committed to establishing a freeport in Northern Ireland as soon as possible. It said that it was working with the Northern Ireland Executive to make sure that a Northern Ireland freeport would comply with the international legal obligations of the Protocol and also support businesses in Northern Ireland.62 The Government has reiterated this approach in recent PQ answers.63

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61  International Trade Committee, UK freeports, 20 April 2021, HC 258, 2019-21, para 92
63  PQ HL3296 (Freeports: Northern Ireland), 2 November 2021
### 3 Issues

#### 3.1 Displacement

One of the main criticisms of freeports is that they risk moving economic activity from one place to another rather than increasing growth overall. This risk is referred to in the Government’s consultation document which says:

> There is evidence in some cases that zone-based policy can have a displacement effect, leading to reduced job opportunities in areas which are not Freeports. We welcome your views on the risk of this, and ways to mitigate it.  

Peter Holmes, reader in economics at Sussex University and the author of a 2019 report on freeports, said that the main effect of freeports was to divert business into the port from the surrounding area, rather than creating new jobs.

In its October 2021 Economic and fiscal outlook, the OBR noted that the Government had required bidders for freeports to show how they would try to reduce displacement of economic activity.

Nevertheless, the OBR assumed, on the basis of historical and international evidence, that the main effect of freeports “will be to alter the location rather than the volume of economic activity.”

The OBR further noted that if freeports did generate additional economic activity, this would be likely to be small relative to the economy as a whole and such effects “would probably be difficult to discern even in retrospect.”

In its response to the International Trade Committee’s report on freeports, the Government said that freeports were designed to encourage new economic activity, not harmful displacement. It pointed out that the tax measures had been designed with this in mind. For example, employer National Insurance relief is only available for new employees. Furthermore, those bidding for freeports were required to explain how they would minimise displacement.

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64 P31
65 “Experts sceptical on Johnson’s plans for regional freeports”, Financial Times, 5 July 2019
66 Office for Budget Responsibility, Economic and fiscal outlook, CP 545, October 2021, para A.29
67 Ibid.
3.2 Tariff inversion

Freeports are often thought to be of particular benefit when tariffs are higher on components than on the finished product. Under these circumstances, there is an advantage in importing components tariff-free into the freeport, processing them into the final product and then exporting to the domestic market, paying the lower tariff on the final product. This situation, where tariffs are higher on components than the finished article is known as “tariff inversion”. An article by Peter Holmes and Julia Magntorn Garrett of Sussex University said:

The above analysis takes three different approaches to investigate the potential for duty savings from introducing Freeports in the UK. They all tell the same story: introducing Freeports in the UK is unlikely to generate any significant benefits to businesses in terms of duty savings. Tariffs on intermediates tend to be low in the UK, typically lower than tariffs on final goods, which rules out duty savings in most cases. In addition, in those sectors for which we have been able to identify any inversion, the benefits are small and would not have any material impact on the UK economy.  

3.3 Risk of illegal activity

The Guardian reported that the EU had introduced new rules to clamp down on free ports “after identifying that their special tariff and duty status has aided the financing of terrorism, money laundering and organised crime.”

This followed a 2018 report by the European Commission which said:

Free-trade zones may pose a risk as regards counterfeiting, as they allow counterfeiters to land consignments, adopt or otherwise tamper with loads or associated paperwork, and then re-export products without customs intervention, and thus to disguise the nature and original supplier of the goods.

The misuse of free-trade zones may be related with infringing intellectual property rights, and engaging in VAT fraud, corruption and money laundering.

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69 Peter Holmes and Julia Magntorn Garrett, Tariff inversion in UK Freeports offers little opportunity for duty savings, UK Trade Policy Observatory blog, 28 July 2020. See also “Freeport advantages for business are ‘almost non-existent’”, Financial Times, 2 August 2020

70 “EU clamps down on free ports over crime and terrorism links”, Guardian, 10 February 2020

71 European Commission, Report from the Commission to the European Parliament and the Council: on the assessment of the risk of money laundering and terrorist financing affecting the internal market and relation to cross-border activities, 24 July 2019, p5
The Government’s consultation noted that there had been concerns about links between freeports and illicit cross-border activities such as smuggling. Its response to the International Trade Committee’s report on freeports set out a number of measures the Government is taking to address these concerns. These include:

- A requirement for bidders to demonstrate how they will secure the customs site
- Businesses operating in a freeport customs site will need HMRC authorisation
- Freeport customs site operators will be required to support government agencies such as HMRC and Border Force in ensuring compliance.
- HMRC and Border Force customs checks

In addition, the Government pointed out that the UK must adhere to international obligations including its commitment to the OECD Code of Conduct for Clean Free Trade Zones.

### 3.4 Impact of free trade agreements

Some of the UK’s free trade agreements (FTAs) limit the extent to which companies can take advantage of freeports.

Freeports allow businesses to import components without paying import duties. This is known as “duty drawback”. However, a number of the UK’s free trade agreements, rolled over from previous EU agreements, contain a prohibition on duty drawback. The UK has 23 such FTAs. The trade agreement with the EU does not include such a prohibition.

As a result, businesses exporting to countries where the UK has an FTA containing these provisions will need to choose between benefiting from the duty drawback or from preferential tariffs for their exports under the FTA.

Labour described this as “a catastrophic blunder”. An article in the Guardian quoted a Government spokesperson as saying “It is not uncommon for free trade agreements to have these provisions. Businesses will not be shut out of markets we have negotiated free trade deals with.” Trade expert Dr Anna Jerzewska commented that this was “not a fiasco” and that these provisions were standard for freeports.

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72 P30  
74 “UK freeports blow as exporters face tariffs to 23 countries”, Financial Times, 9 May 2021  
75 “Post-Brexit trade deals mean firms will miss out on freeport benefits”, Guardian, 10 May 2021  
76 Dr Anna Jerzewska (@Anna Jerzewska) (Twitter), 10 May 2021 [accessed 22 November 2021]. Available from: https://twitter.com/AnnaJerzewska/status/1391672668114538505
4 Consideration by UK Parliament

4.1 Westminster Hall debate 11 October 2018

There was a Westminster Hall debate on freeports on 11 October 2018.

4.2 International Trade Committee

The International Trade Committee launched an inquiry into freeports on 1 April 2020. Its report was published on 20 April 2021. The Government’s response was published in June 2021.

In addition, the International Trade Committee held a one-off oral evidence session on freeports on 4 September 2019.

4.3 Welsh Affairs Committee

The Welsh Affairs Committee published a report, Freeports and Wales, on 8 May 2020.

The Government’s response was published on 22 July 2020.

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77 International Trade Committee, UK freeports, 20 April 2021, HC 258, 2019-21
79 Welsh Affairs Committee, Freeports and Wales, 8 May 2020, HC 205, 2019-21
80 Welsh Affairs Committee, Freeports and Wales: Government Response to the Committee’s Second Report of Session 2019-21, 22 July 2020, HC 667, 2019-21
Further reading

Catherine Barnard and Emilia Leinarte, *Free Zones*, UK in a Changing Europe, 7 October 2018

Congressional Research Service, *US Foreign-Trade Zones: Background and issues for Congress*, 19 December 2019 (R42686)


Peter Holmes, *Free ports – preparing to trade post-Brexit*, UK Trade Policy Observatory blog, 26 September 2019

Peter Holmes and Julia Magntorn Garrett, *Tariff inversion in UK Freeports offers little opportunity for duty savings*, UK Trade Policy Observatory blog, 28 July 2020

Peter Holmes and Guillermo Larbalestier, *Two key things to know about Freeports*, UK Trade Policy Observatory blog, 25 February 2021


House of Commons Library, *Enterprise Zones*

House of Commons Library Briefing Paper, *EU State Aid Rules and WTO Subsidies Agreement*


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Abbas Panjwani, *What’s a free port, and does the EU have them?* Full Fact, 2 August 2019

Ilona Serwicka and Peter Holmes, *What is the extra mileage in the reintroduction of ‘free zones’ in the UK?* UK Trade Policy Observatory Briefing Paper 29, February 2019


UK in a Changing Europe, *Freeports*, 2 March 2021

UK Trade Policy Observatory podcast, *Buccaneering Britain: Freeports, trade and the UK economy*, 25 February 2021

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