The European single market stands as the crowning achievement of European integration since the process of deepening economic and political ties between former historical adversaries began following World War II. This success also stands in marked contrast to the European single currency, which has created fissures and antagonism between its member states rather than prosperity over the last decade.

As the world’s largest free trade area in which goods can move seamlessly across national borders, unimpacted by tariff and non-tariff regulatory barriers, the single market, regulated by the European Commission executive in Brussels, has led to a dramatic increase in regional trade since its official establishment in 1993.

Through enhanced competition generated by the about 21 million small and medium-sized businesses incorporated within the bloc, the reduction of trade barriers has also driven down costs and bolstered the purchasing power of the more than 500 million consumers residing within the single market’s 32 member states.

Services no better off

Yet, notwithstanding its overall success, enhanced regional economic interdependency has removed barriers to trade in merchandise rather than services, with the latter sector still facing a much greater volume of non-tariff regulatory barriers restricting intra-EU trade, despite representing about 70 percent of regional GDP.

While trade in goods is regulated by the European Commission, with firms adhering to a single set of harmonized rules, national governments have managed to retain a large degree of control over the services sector. With regulations sometimes varying significantly between different regional economies, the capacity of firms to operate across national borders remains restricted. In this regard, the single market remains incomplete.

“The remaining barriers to (intra-EU) trade are now in the services sectors, and are much more difficult to eliminate, since services are and should be regulated,” was a finding of a February 2017 report co-published by think tanks Bruegel and the French Conseil d’Analyse Economique.

“It is estimated that remaining non-tariff obstacles, in particular in services sectors, limit intra-EU trade to a level about four times smaller than the intensity of trade between U.S. states,” the report continued.

The incompleteness of the European single market for services, and restrictions that this can present on cross-border business, is no better highlighted than within elements of the project cargo transportation sector, with movement of abnormally large equipment and goods that surpass EU maximum size and weight limits still regulated by national authorities rather than the European Commission.

Abnormal Definitions

According to the European Commission, abnormal road cargo is defined as a vehicle, or vehicle combination, which can only be transported by exceeding at least one of the dimensions and/or axle, bogie or total weights authorized by EU Directive 96/53. In practical terms, this refers to total vehicle, trailer and load combinations weighing more than 40
tons, or with dimensions larger than 16.5 meters by 2.55 meters by 4 meters. With a standard project cargo-carrying truck and trailer weighing about 16 tons, cargoes more than 24 tons therefore usually require a special permit.

While firms are not prohibited from moving cargoes across national borders, bureaucracy is enhanced by the need to obtain separate permits for each individual national territory crossed. The European Commission states, however, that permits must be awarded on a strictly non-discriminatory basis.

According to the same EU directive, abnormal cargoes may only operate “on the basis of special permits issued without discrimination by the competent authorities, or on the basis of similar non-discriminatory arrangements agreed on a case-by-case basis with those authorities.”

In addition to requiring a permit for each sovereign territory through which cargo is transported, operators are also subject to a multitude of different rules, regulations and procedures, rather than the single set of harmonized rules that have so effectively stimulated intra-EU merchandise trade over the last 25 years. In this regard, the challenges facing transporters of large project cargo goods are reminiscent of the complexities associated with intra-EU trade prior to the single market’s establishment.

ANGLING FOR COMPETITIVE ADVANTAGE?

Requirements for individual permits, and accompanying different national regulations largely reflect the need to ensure cargoes can move seamlessly and safely through each individual EU member state. National regulations are therefore designed to ensure the capacity of public roads and bridges to handle heavier axle and vehicle loads, as well as guaranteeing the safety of public vehicles using the same roads.

However, while technically prohibited by EU law, leaving the power
to award permits with national regulators increases the prospects that legislation may be framed – consciously or not – to enable domestic firms to gain a competitive advantage over overseas rivals. Industry participants also suggest that the volume of differing intra-EU regulations is unnecessarily complex.

ESTA, a pan-European trade association whose core members comprise the national associations that represent mobile crane and abnormal road transport companies throughout the EU, has long highlighted the difficulties associated with the volume and diversity of regulations facing its membership. It has placed particular importance on the need to harmonize legislation at the EU level, or, as a “second-best” option, reduce some of the more extreme intra-EU regulatory discrepancies.

“A plethora of different national rules and regulations makes the industry less safe, less competitive and puts up costs for our clients, and ultimately the end users, the general public,” said David Collett, ESTA president. “The difficulties regarding permit granting in the transport industry remain as entrenched as ever.”

EMBRACING GUIDELINES

To deal with the lack of a unitary set of regulations, covering salient issues such as escort rules and signaling requirements, the European Commission has drawn up the European Best Practice Guidelines for Abnormal Road Transport, comprising a set of strictly non-binding guidelines for national authorities.

“In the absence of European harmonization in this field, international transporters are confronted with a panoply of rules and procedures … for obtaining an abnormal road transport permit. Often, this results in delays and difficulties for carriers to make precise cost calculations, or to meet their contractual obligations to shippers and customers,” state the European Commission’s non-binding guidelines.

If adhered to, the guidelines would greatly simplify the operations for many project cargo handlers. The Special European Registration for Trucks and Trailers, or SERT, within the guidelines, aims to reduce paperwork and bureaucracy, considered particularly important.

So far, however, ESTA has had limited success in lobbying for wide adoption of the guidelines by regional national governments.

“We will continue to lobby for EU member states to adopt the European Best Practice Guidelines for Abnormal Road Transport, published by the European Commission’s Transport Directive, but the simple truth is that we have struggled to persuade national governments to adopt it,” Collett said.

The capacity of EU project cargo firms to operate across national borders has been further complicated by the introduction of new legislation by several EU states over the last five years, which, in addition to changes in the way some existing rules are interpreted and enforced, come across as protectionist measures designed to support domestic businesses.

“Increasingly, in many European countries, we see a lot of ‘new’ or revived national regulations and documentation,” Collett noted.

PROTECTIONISM ON THE RISE

Consistent with the gradual but discernable return of economic protectionism throughout much of the wider global economy during the same period, an increase in non-tariff barriers within the large project cargo sector reflects economic frailties since the global financial crisis in 2008.

An explanation for increased protectionism may be cost pressures and reduced profit margins for abnormally large project cargo transportation since the accession to the EU of countries such as Poland, just over a decade ago. This move reduced the competitiveness of transportation of West European economies with higher wage costs.
“It is difficult to be certain as to why protectionist measures have increased, but they may well be related to increased competition and more operators in the European market following the entry of Central and East European states to the EU in the mid-2000s,” said Łukasz Chwalczuk, president of the Polish Heavy Transport Association and ESTA transport section executive.

Chwalczuk highlighted Spain and Germany as two of the most prominent EU states that have attempted to protect local markets by introducing complex, new and arguably discriminatory regulations over the last several years.

In the case of Germany, a less flexible interpretation of a 20-year law regarding haulage drivers’ capacity in German language communication skills, has been used by regulators to clamp down on foreign operators, with many firms having received substantial fines.

“We have more than 20 languages in Europe, so it is completely unrealistic to expect drivers to know each one of them,” Chwalczuk said.

Additionally, German regulators have dramatically increased insurance requirements for abnormally large cargoes, which again appear to favor domestic firms.

“All over Europe there is a minimum sum of insurance of approximately €5 million and unfortunately in Germany they now require €25 million, which only German insurance companies are willing to provide,” Chwalczuk said.

Arguably the most glaring example of protectionism relates to restrictions introduced in 2016 by the Spanish government. Here, instead of long-term project permits for abnormal transport, non-Spanish firms are offered more expensive, short-term licenses, reducing the financial viability for foreign businesses to operate in the domestic market. International construction businesses that have been awarded contracts in Spain are thereby increasingly reliant on subcontracting the transit of project cargo to local transportation firms.

“When it comes to Spain, it is very difficult, almost impossible, to obtain the long-term, cheaper permits required to operate in the domestic market on long term contracts,” confirmed Chwalczuk.

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In response to national legislation restricting international project cargo business operations in Europe, ESTA has raised its complaints with the European Commission. In response to the apparent discrimination against foreign firms operating in Spain, the European Commission sent a formal complaint to the government in Madrid in late 2016.

However, given the length of time that can frequently elapse before authorities in Brussels process and investigate complaints, directly approaching national governments is often a more efficient way to lobby for regulation alterations, according to Polish Heavy Transport Association’s Łukasz Chwalczuk.

“‘It can be more effective to deal with national governments and transport departments, because project cargo heavy transportation is less visible and not large enough to necessarily make a difference at the European Commission,’ he said.

In addition to recently introduced legislation discriminating against foreign project cargo firms, Chwalczuk highlighted particularly glaring examples of differences between regulations and procedures applied by EU member states that severely restrict cross-border business.

These include a variety of rules on load-axle pressure limits for abnormally heavy carriers on public roads, with Germany and the Netherlands allowing for 12-ton axle pressure, while other countries restrict this to eight, 10 or 11.5 tons. Signaling rules and escort procedures are other key areas that vary considerably throughout the EU, and make life extremely challenging for abnormally large project cargo handlers.

“This makes life difficult for individual companies to operate across national borders, and to grow and develop their businesses. The unification and standardization of regulations across the EU should be something that Europe in general, and we at ESTA, must focus on,” Chwalczuk concluded.